



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART XVIII

#### INTERPRETATION

#### **435 Meaning of “associate”.**

(1) For the purposes of this Act any question whether a person is an associate of another person is to be determined in accordance with the following provisions of this section (any provision that a person is an associate of another person being taken to mean that they are associates of each other).

[<sup>F1</sup>(2) A person is an associate of an individual if that person is—

- (a) the individual’s husband or wife or civil partner,
- (b) a relative of—
  - (i) the individual, or
  - (ii) the individual’s husband or wife or civil partner, or
- (c) the husband or wife or civil partner of a relative of—
  - (i) the individual, or
  - (ii) the individual’s husband or wife or civil partner.]

(3) A person is an associate of any person with whom he is in partnership, and of the husband or wife [<sup>F2</sup>or civil partner] or a relative of any individual with whom he is in partnership; and a Scottish firm is an associate of any person who is a member of the firm.

(4) A person is an associate of any person whom he employs or by whom he is employed.

(5) A person is in his capacity as trustee of a trust other than—

- (a) a trust arising under any of the second Group of Parts or the Bankruptcy (Scotland) Act [<sup>F3</sup>2016], or
- (b) a pension scheme or an employees’ share scheme <sup>F4</sup>. . . ,

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is an associate of another person if the beneficiaries of the trust include, or the terms of the trust confer a power that may be exercised for the benefit of, that other person or an associate of that other person.

- (6) A company is an associate of another company—
- (a) if the same person has control of both, or a person has control of one and persons who are his associates, or he and persons who are his associates, have control of the other, or
  - (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.
- (7) A company is an associate of another person if that person has control of it or if that person and persons who are his associates together have control of it.
- (8) For the purposes of this section a person is a relative of an individual if he is that individual’s brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, treating—
- (a) any relationship of the half blood as a relationship of the whole blood and the stepchild or adopted child of any person as his child, and
  - (b) an illegitimate child as the legitimate child of his mother and reputed father; and references in this section to a husband or wife include a former husband or wife and a reputed husband or wife [<sup>F5</sup>and references to a civil partner include a former civil partner][<sup>F6</sup>and a reputed civil partner].
- (9) For the purposes of this section any director or other officer of a company is to be treated as employed by that company.
- (10) For the purposes of this section a person is to be taken as having control of a company if—
- (a) the directors of the company or of another company which has control of it (or any of them) are accustomed to act in accordance with his directions or instructions, or
  - (b) he is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company of or another company which has control of it;
- and where two or more persons together satisfy either of the above conditions, they are to be taken as having control of the company.
- (11) In this section “company” includes any body corporate (whether incorporated in Great Britain or elsewhere); and references to directors and other officers of a company and to voting power at any general meeting of a company have effect with any necessary modifications.

#### Textual Amendments

- F1** S. 435(2) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, [Sch. 27 para. 122\(2\)](#); [S.I. 2005/3175](#), [art. 2\(2\)](#), [Sch. 1](#) (subject to [art. 2\(3\)-\(5\)](#))
- F2** Words in s. 435(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, [Sch. 27 para. 122\(3\)](#); [S.I. 2005/3175](#), [art. 2\(2\)](#) [Sch. 1](#) (subject to [art. 2\(3\)-\(5\)](#))
- F3** Word in s. 435(5)(a) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), [art. 1](#), [Sch. 1 para. 4\(10\)](#)

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- F4** Words in s. 435(5)(b) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 82(2)} (with art. 10, Sch. 1 para. 84)
- F5** Words in s. 435(8) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 122(4)**; S.I. 2005/3175, **art. 2(2)**, Sch. 1 (subject to art. 2(3)-(5))
- F6** Words in s. 435(8) inserted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), art. 4(4), **Sch. 4 para. 8**

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**Modifications etc. (not altering text)**

- C1** S. 435 applied (with modifications) by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**  
S. 435 applied by Social Security Pensions Act 1975 (c. 60, SIF 113:1), **s. 57A(4)** (as inserted by Social Security Act 1990 (c. 27, SIF 113:1), s. 14, **Sch. 4 Pt. I para. 3**)  
S. 435 applied by Social Security Pensions Act 1975 (c. 60, SIF 113:1), **s. 57C(4)** (as inserted by Social Security Act 1990 (c. 27, SIF 113:1), s. 14, **Sch. 4 Pt. I para. 1**)  
S. 435 applied (7.2.1994) by 1993 c. 48, **ss. 112(4)**, 119(4) (with s. 6(8)); S.I. 1994/86, **art. 2**  
S. 435 applied (6.4.1997) by 1995 c. 26, **s. 123(1)** (with s. 121(5)); S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with arts. 3-14)  
S. 435 applied (1.10.2000) by S.I. 2000/1403, **reg. 1**  
S. 435 applied (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 38(10)(b)**, **51(3)(b)**, **53(6)(b)**, 322(1) (with s. 313); S.I. 2005/275, **art. 2(7)**, Sch. Pt. 7 (subject to art. 2(12))
- C2** S. 435: power to apply (with modifications) conferred (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 57**, 322(1) (with s. 313); S.I. 2005/275, **art. 2(7)**, Sch. Pt. 3 (subject to art. 2(12))
- C3** S. 435 applied (31.5.2021 for specified purposes) by 2004 c. 35, **s. 69A(14)(b)** (as inserted by Pension Schemes Act 2021 (c. 1), **ss. 109(2)**, 131(1); S.I. 2021/620, **reg. 2(1)(b)**)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by [S.I. 2017/1119 Sch. 3 para. 1](#)
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172 Regulations](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by [2018 c. 14 s. 1\(3\)\(b\)](#)