



Insolvency (No. 2) Act 1994

1994 CHAPTER 12

2 Adjustment of certain transactions in case of bankruptcy: England and Wales.

(1) In subsection (2) of section 342 of the ^{M1}Insolvency Act 1986 (which relates to orders under section 339 or 340 and, in paragraphs (a) and (b), protects certain interests and certain persons who received benefits) in each of paragraphs (a) and (b), for the words “in good faith, for value and without notice of the relevant circumstances” there shall be substituted “in good faith and for value”.

(2) After that subsection there shall be inserted the following subsection—

“(2A) Where a person has acquired an interest in property from a person other than the individual in question, or has received a benefit from the transaction or preference, and at the time of that acquisition or receipt—

- (a) he had notice of the relevant surrounding circumstances and of the relevant proceedings, or
- (b) he was an associate of, or was connected with, either the individual in question or the person with whom that individual entered into the transaction or to whom that individual gave the preference,

then, unless the contrary is shown, it shall be presumed for the purposes of paragraph (a) or (as the case may be) paragraph (b) of subsection (2) that the interest was acquired or the benefit was received otherwise than in good faith.”

(3) For subsection (4) of that section there shall be substituted the following subsections—

“(4) For the purposes of subsection (2A)(a), the relevant surrounding circumstances are (as the case may require)—

- (a) the fact that the individual in question entered into the transaction at an undervalue; or
- (b) the circumstances which amounted to the giving of the preference by the individual in question.

(5) For the purposes of subsection (2A)(a), a person has notice of the relevant proceedings if he has notice—

- (a) of the fact that the petition on which the individual in question is adjudged bankrupt has been presented; or

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(b) of the fact that the individual in question has been adjudged bankrupt.

(6) Section 249 in Part VII of this Act shall apply for the purposes of subsection (2A)(b) as it applies for the purposes of the first Group of Parts.”

Marginal Citations

M1 1986 c. 45.

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