



Insolvency Act 1986

1986 CHAPTER 45

PART IX

BANKRUPTCY

CHAPTER V

EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS TRANSACTIONS, ETC.

Adjustment of prior transactions, etc.

^{F1}[^{F2}342A] **Recovery of excessive pension contributions.**

- (1) Where an individual who is ^{F3}made bankrupt—
 - (a) has rights under an approved pension arrangement, or
 - (b) has excluded rights under an unapproved pension arrangement,the trustee of the bankrupt's estate may apply to the court for an order under this section.
- (2) If the court is satisfied—
 - (a) that the rights under the arrangement are to any extent, and whether directly or indirectly, the fruits of relevant contributions, and
 - (b) that the making of any of the relevant contributions ("the excessive contributions") has unfairly prejudiced the individual's creditors,the court may make such order as it thinks fit for restoring the position to what it would have been had the excessive contributions not been made.
- (3) Subsection (4) applies where the court is satisfied that the value of the rights under the arrangement is, as a result of rights of the individual under the arrangement or any other pension arrangement having at any time become subject to a debit under section 29(1)(a) of the Welfare Reform and Pensions Act 1999 (debits giving effect to pension-sharing), less than it would otherwise have been.

Changes to legislation: Insolvency Act 1986, Section 342A is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) Where this subsection applies—
- (a) any relevant contributions which were represented by the rights which became subject to the debit shall, for the purposes of subsection (2), be taken to be contributions of which the rights under the arrangement are the fruits, and
 - (b) where the relevant contributions represented by the rights under the arrangement (including those so represented by virtue of paragraph (a)) are not all excessive contributions, relevant contributions which are represented by the rights under the arrangement otherwise than by virtue of paragraph (a) shall be treated as excessive contributions before any which are so represented by virtue of that paragraph.
- (5) In subsections (2) to (4) “relevant contributions” means contributions to the arrangement or any other pension arrangement—
- (a) which the individual has at any time made on his own behalf, or
 - (b) which have at any time been made on his behalf.
- (6) The court shall, in determining whether it is satisfied under subsection (2)(b), consider in particular—
- (a) whether any of the contributions were made for the purpose of putting assets beyond the reach of the individual’s creditors or any of them, and
 - (b) whether the total amount of any contributions—
 - (i) made by or on behalf of the individual to pension arrangements, and
 - (ii) represented (whether directly or indirectly) by rights under approved pension arrangements or excluded rights under unapproved pension arrangements,
 is an amount which is excessive in view of the individual’s circumstances when those contributions were made.
- (7) For the purposes of this section and sections 342B and 342C (“the recovery provisions”), rights of an individual under an unapproved pension arrangement are excluded rights if they are rights which are excluded from his estate by virtue of regulations under section 12 of the Welfare Reform and Pensions Act 1999.
- (8) In the recovery provisions—
- “approved pension arrangement” has the same meaning as in section 11 of the Welfare Reform and Pensions Act 1999;
- “unapproved pension arrangement” has the same meaning as in section 12 of that Act.]]

Textual Amendments

- F1** Ss. 342A-342C inserted (6.4.1996 for the purpose only of authorising the making of regulations) by 1995 c. 26, s. 95(1) (with s. 121(5)); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**
- F2** Ss. 342A-342C substituted (11.11.1999 for certain purposes and otherwise 6.4.2002) by 1999 c. 30, ss. 15, 89(5)(a); S.I. 2002/153, art. 2(e)
- F3** Word in s. 342A(1) substituted (6.4.2016) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 19 para. 35**; S.I. 2016/191, art. 2 (with art. 3)

Modifications etc. (not altering text)

- C1** S. 342A applied (with modifications) (4.4.2006) by The Cross-Border Insolvency Regulations 2006 (S.I. 2006/1030), reg. 2, **Sch. 1 Art. 23 paras. 1-3** (subject to Sch. 1 Art. 23 paras. 6-9)

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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\(3\)\(b\)](#)