



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER V

##### EFFECT OF BANKRUPTCY ON CERTAIN RIGHTS TRANSACTIONS, ETC.

##### *Adjustment of prior transactions, etc.*

#### **343 Extortionate credit transactions.**

- (1) This section applies where a person is [<sup>F1</sup>made] bankrupt who is or has been a party to a transaction for, or involving, the provision to him of credit.
- (2) The court may, on the application of the trustee of the bankrupt's estate, make an order with respect to the transaction if the transaction is or was extortionate and was not entered into more than 3 years before the commencement of the bankruptcy.
- (3) For the purposes of this section a transaction is extortionate if, having regard to the risk accepted by the person providing the credit—
  - (a) the terms of it are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of the credit, or
  - (b) it otherwise grossly contravened ordinary principles of fair dealing;and it shall be presumed, unless the contrary is proved, that a transaction, with respect to which an application is made under this section is or, as the case may be, was extortionate.
- (4) An order under this section with respect to any transaction may contain such one or more of the following as the court thinks fit, that is to say—

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**Changes to legislation:** *Insolvency Act 1986, Section 343 is up to date with all changes known to be in force on or before 21 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*

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- (a) provision setting aside the whole or part of any obligation created by the transaction;
  - (b) provision otherwise varying the terms of the transaction or varying the terms on which any security for the purposes of the transaction is held;
  - (c) provision requiring any person who is or was party to the transaction to pay to the trustee any sums paid to that person, by virtue of the transaction, by the bankrupt;
  - (d) provision requiring any person to surrender to the trustee any property held by him as security for the purposes of the transaction;
  - (e) provision directing accounts to be taken between any persons.
- (5) Any sums or property required to be paid or surrendered to the trustee in accordance with an order under this section shall be comprised in the bankrupt's estate.
- (6) <sup>F2</sup> . . .

<sup>F2</sup> . . . the powers conferred by this section are exercisable in relation to any transaction concurrently with any powers exercisable under this Act in relation to that transaction as a transaction at an undervalue.

#### Textual Amendments

- F1** Word in s. 343(1) substituted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 19 para. 36](#); S.I. 2016/191, art. 2 (with art. 3)
- F2** Words in s. 343(6) repealed (6.4.2007) by [Consumer Credit Act 2006 \(c. 14\), ss. 69\(1\), 70, 71, Sch. 4](#) (with [Sch. 3 para. 15\(5\)](#)); S.I. 2007/123, [art. 3\(2\)](#), Sch. 2 (as amended by S.I. 2007/387, [art. 2\(3\)\(e\)](#) **(iii)**)

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

- C1** Ss. 342-345 applied (with modifications) by [S.I. 1986/1999, art. 3, Sch. 1 Pt. II](#)  
 S. 343 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\(3\)\(b\)](#)