



Insolvency (No. 2) Act 1994

1994 CHAPTER 12

1 Adjustment of certain transactions in case of liquidation etc: England and Wales.

(1) In subsection (2) of section 241 of the ^{M1}Insolvency Act 1986 (which relates to orders under section 238 or 239 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 company 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 connected with, or was an associate of, either the company in question or the person with whom that company entered into the transaction or to whom that company 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 (3) of that section there shall be substituted the following subsections—

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

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

and subsections (3A) to (3C) have effect to determine whether, for those purposes, a person has notice of the relevant proceedings.

Changes to legislation: There are currently no known outstanding effects for the Insolvency (No. 2) Act 1994, Section 1. (See end of Document for details)

- (3A) In a case where section 238 or 239 applies by reason of the making of an administration order, a person has notice of the relevant proceedings if he has notice—
- (a) of the fact that the petition on which the administration order is made has been presented; or
 - (b) of the fact that the administration order has been made.
- (3B) In a case where section 238 or 239 applies by reason of the company in question going into liquidation immediately upon the discharge of an administration order, a person has notice of the relevant proceedings if he has notice—
- (a) of the fact that the petition on which the administration order is made has been presented;
 - (b) of the fact that the administration order has been made; or
 - (c) of the fact that the company has gone into liquidation.
- (3C) In a case where section 238 or 239 applies by reason of the company in question going into liquidation at any other time, a person has notice of the relevant proceedings if he has notice—
- (a) where the company goes into liquidation on the making of a winding-up order, of the fact that the petition on which the winding-up order is made has been presented or of the fact that the company has gone into liquidation;
 - (b) in any other case, of the fact that the company has gone into liquidation.”

Marginal Citations

M1 1986 c. 45.

Changes to legislation:

There are currently no known outstanding effects for the Insolvency (No. 2) Act 1994, Section 1.