



# Insolvency Act 2000

## 2000 CHAPTER 39

### *Miscellaneous*

#### **12 Insolvent estates of deceased persons.**

- (1) After section 421 of the <sup>M1</sup>Insolvency Act 1986 (power to apply provisions of Act to insolvent estates of deceased persons) there is inserted—

**“421A Insolvent estates: joint tenancies.**

- (1) This section applies where—
- (a) an insolvency administration order has been made in respect of the insolvent estate of a deceased person,
  - (b) the petition for the order was presented after the commencement of this section and within the period of five years beginning with the day on which he died, and
  - (c) immediately before his death he was beneficially entitled to an interest in any property as joint tenant.
- (2) For the purpose of securing that debts and other liabilities to which the estate is subject are met, the court may, on an application by the trustee appointed pursuant to the insolvency administration order, make an order under this section requiring the survivor to pay to the trustee an amount not exceeding the value lost to the estate.
- (3) In determining whether to make an order under this section, and the terms of such an order, the court must have regard to all the circumstances of the case, including the interests of the deceased’s creditors and of the survivor; but, unless the circumstances are exceptional, the court must assume that the interests of the deceased’s creditors outweigh all other considerations.
- (4) The order may be made on such terms and conditions as the court thinks fit.
- (5) Any sums required to be paid to the trustee in accordance with an order under this section shall be comprised in the estate.

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*Changes to legislation: There are currently no known outstanding effects for the Insolvency Act 2000, Section 12. (See end of Document for details)*

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- (6) The modifications of this Act which may be made by an order under section 421 include any modifications which are necessary or expedient in consequence of this section.
- (7) In this section, “survivor” means the person who, immediately before the death, was beneficially entitled as joint tenant with the deceased or, if the person who was so entitled dies after the making of the insolvency administration order, his personal representatives.
- (8) If there is more than one survivor—
- (a) an order under this section may be made against all or any of them, but
  - (b) no survivor shall be required to pay more than so much of the value lost to the estate as is properly attributable to him.
- (9) In this section—
- “insolvency administration order” has the same meaning as in any order under section 421 having effect for the time being,
- “value lost to the estate” means the amount which, if paid to the trustee, would in the court’s opinion restore the position to what it would have been if the deceased had been adjudged bankrupt immediately before his death.”
- (2) In subsection (1) of section 421, after “apply” there is inserted “ in relation ”.

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**Commencement Information**

**II** S. 12 wholly in force at 2.4.2001, see s. 16(1) and S.I. 2001/766, art. 2(1)(b) (subject to art. 3)

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**Marginal Citations**

**M1** 1986 c. 45.

**Changes to legislation:**

There are currently no known outstanding effects for the Insolvency Act 2000, Section 12.