



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART IX

#### BANKRUPTCY

#### CHAPTER IV

##### ADMINISTRATION BY TRUSTEE

##### *Distribution of bankrupt's estate*

#### **323 Mutual credit and set-off.**

- (1) This section applies where before the commencement of the bankruptcy there have been mutual credits, mutual debts or other mutual dealings between the bankruptcy and any creditor of the bankrupt proving or claiming to prove for a bankruptcy debt.
- (2) An account shall be taken of what is due from each party to the other in respect of the mutual dealings and the sums due from one party shall be set off against the sums due from the other.
- (3) Sums due from the bankrupt to another party shall not be included in the account taken under subsection (2) if that other party had notice at the time they became due that <sup>[F1]</sup>proceedings on a bankruptcy application relating to the bankrupt were ongoing or that ] a bankruptcy petition relating to the bankrupt was pending.
- (4) Only the balance (if any) of the account taken under subsection (2) is provable as a bankruptcy debt or, as the case may be, to be paid to the trustee as part of the bankrupt's estate.

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**Changes to legislation:** *Insolvency Act 1986, Section 323 is up to date with all changes known to be in force on or before 05 September 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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#### **Textual Amendments**

- F1** Words in s. 323(3) inserted (6.4.2016) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 19 para. 27](#); S.I. 2016/191, art. 2 (with art. 3)
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#### **Modifications etc. (not altering text)**

- C1** S.323 applied with modifications by S.I. 1986/1999, art. 3, [Sch. 1 Pt. II](#)
- C2** S. 323 modified (25.4.1991) by [Companies Act 1989 \(c. 40\)](#), [ss. 154, 155, 163\(2\)\(b\), 182\(4\)](#), [Sch. 22 para. 6\(2\)\(b\)](#); S.I. 1991/878, art. 2, [Sch.](#)

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