



Insolvency Act 1986

1986 CHAPTER 45

PART XII

PREFERENTIAL DEBTS IN COMPANY AND INDIVIDUAL INSOLVENCY

Modifications etc. (not altering text)

- C1** Pt. XII (ss. 386, 387) extended with modifications by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), [ss. 54\(3\)\(a\)\(5\)\(a\)](#), 90, 126(3), [Sch. 15](#)
Pt. XII (ss.386, 387) applied (with modifications) (1.2.1993) by [Friendly Societies Act 1992 \(c. 40\)](#), [ss. 21\(1\)](#), 22, 23, [Sch. 10 Pt. I para. 1\(a\)](#) (with [ss. 7\(5\)](#), 93(4)); [S.I. 1993/16](#), [art. 2](#), [Sch.3](#)
Pt. XII (ss. 386, 387) modified (1.2.1993) by [Friendly Societies Act 1992 \(c. 40\)](#), [s. 23](#), [Sch. 10 Pt. I para. 1\(a\)](#) (with [ss. 7\(5\)](#), 93(4)); [S.I. 1993/16](#), [art. 2](#), [Sch.3](#)
Pt. XII (ss. 386-387) applied (1.12.1994) by [S.I. 1994/2421](#), [art. 4\(3\)\(e\)](#)
Pt. XII (ss. 386-387) applied (with modifications) (1.12.1994) by [S.I. 1994/2421](#), [art. 8\(3\)\(4\)\(5\)\(8\)\(9\)](#), 10(2)(3)(6), [Sch. 4 Pt. II](#), [Sch. 7](#)
- C2** Third Group of Parts (Pts. 12-19) applied to limited liability partnerships (with modifications) (E.W.S.) (6.4.2001) by [S.I. 2001/1090](#), [reg. 5](#), [Schs. 3, 4](#) (as amended (4.3.2004) by [S.I. 2004/355](#), [art. 10](#) and (1.10.2005) by [S.I. 2005/1989](#), [reg. 3](#), [Sch. 2](#) (with [reg. 4](#)))

386 Categories of preferential debts.

- (1) A reference in this Act to the preferential debts of a company or an individual is to the debts listed in Schedule 6 to this Act (money owed to the Inland Revenue for income tax deducted at source; VAT, [^{F1}insurance premium tax,]^{F2}landfill tax,]^{F3}climate change levy,]^{F4}aggregates levy, car tax, betting and gaming duties [^{F5},beer duty]^{F6}, lottery duty]^{F7}, air passenger duty]; social security and pension scheme contributions; remuneration etc. of employees [^{F8};levies on coal and steel production]); and references to preferential creditors are to be read accordingly.
- (2) In that Schedule “the debtor” means the company or the individual concerned.
- (3) Schedule 6 is to be read with [^{F9}Schedule 4 to the Pension Schemes Act 1993](occupational pension scheme contributions).

Status: Point in time view as at 31/05/2002.

Changes to legislation: Insolvency Act 1986, Part XII is up to date with all changes known to be in force on or before 19 July 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)

Textual Amendments

- F1** Words in s. 386(1) inserted (3.5.1994) by 1994 c. 9, s. 64, **Sch. 7 Pt. III para. 7(2)**
- F2** Words in s. 386(1) inserted (29.4.1996) by 1996 c. 8, s. 60, **Sch. 5 Pt. III para. 12(1)**
- F3** Words in s. 386(1) inserted (28.7.2000) by 2000 c. 17, s. 30, **Sch. 7 para. 3(1)(a)**
- F4** Words in s. 386(1) inserted (11.5.2001) by 2001 c. 9, s. 27, **Sch. 5 para. 17(1)(a)**
- F5** Words in s. 386(1) inserted (1.6.1993) by Finance Act 1991 (c. 31), s. 7, **Sch. 2, para. 21A** (as inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 9(2)); S.I. 1993/1152, art. 3(2), **Sch. 1 Pt. II**
- F6** Words in s. 386(1) inserted (1.12.1993) by 1993 c. 34 (1.12.1993), s. 36(1) (with art. 40(2)(3)); S.I. 1993/2842, **art. 3(1)**
- F7** Words in s. 386(1) inserted (1.5.1995) by 1995 c. 4, s. 17
- F8** Words inserted by S.I. 1987/2093, **reg. 2(1)(3)**
- F9** Words in s. 386(3) substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 18** (with s. 6(8)); S.I. 1994/86, **art. 2**

Modifications etc. (not altering text)

- C3** S.386 applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**

387 “The relevant date”.

- (1) This section explains references in Schedule 6 to the relevant date (being the date which determines the existence and amount of a preferential debt).
- (2) For the purposes of section 4 in Part I (meetings to consider company voluntary arrangement), the relevant date in relation to a company which is not being wound up is—
 - (a) where an administration order is in force in relation to the company, the date of the making of that order, and
 - (b) where no such order has been made, the date of the approval of the voluntary arrangement.
- (3) In relation to a company which is being wound up, the following applies—
 - (a) if the winding up is by the court, and the winding-up order was made immediately upon the discharge of an administration order, the relevant date is the date of the making of the administration order;
 - [^{F10}(aa) if the winding up is by the court and the winding-up order was made following conversion of administration into winding up by virtue of Article 37 of the EC Regulation, the relevant date is the date of the making of the administration order;
 - (ab) if the company is deemed to have passed a resolution for voluntary winding up by virtue of an order following conversion of administration into winding up under Article 37 of the EC Regulation, the relevant date is the date of the making of the administration order;]
 - (b) if the case does not fall within paragraph (a) [^{F11}, (aa) or (ab)] and the company—
 - (i) is being wound up by the court, and
 - (ii) had not commenced to be wound up voluntarily before the date of the making of the winding-up order,

Status: Point in time view as at 31/05/2002.

Changes to legislation: Insolvency Act 1986, Part XII is up to date with all changes known to be in force on or before 19 July 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)

- the relevant date is the date of the appointment (or first appointment) of a provisional liquidator or, if no such appointment has been made, the date of the winding-up order;
- (c) if the case does not fall within [F12 paragraph (a), (aa), (ab) or (b)], the relevant date is the date of the passing of the resolution for the winding up of the company.
- (4) In relation to a company in receivership (where section 40 or, as the case may be, section 59 applies), the relevant date is—
- (a) in England and Wales, the date of the appointment of the receiver by debenture-holders, and
- (b) in Scotland, the date of the appointment of the receiver under section 53(6) or (as the case may be) 54(5).
- (5) For the purposes of section 258 in Part VIII (individual voluntary arrangements), the relevant date is, in relation to a debtor who is not an undischarged bankrupt, the date of the interim order made under section 252 with respect to his proposal.
- (6) In relation to a bankrupt, the following applies—
- (a) where at the time the bankruptcy order was made there was an interim receiver appointed under section 286, the relevant date is the date on which the interim receiver was first appointed after the presentation of the bankruptcy petition;
- (b) otherwise, the relevant date is the date of the making of the bankruptcy order.

Textual Amendments

- F10** S. 387(3)(aa)(ab) inserted (31.5.2002) by S.I. 2002/1240, **reg. 16(a)**
- F11** Words in s. 387(3)(b) inserted (31.5.2002) by S.I. 2002/1240, **reg. 16(b)**
- F12** Words in s. 387(3)(c) substituted (31.5.2002) by S.I. 2002/1240, **reg. 16(c)**

Modifications etc. (not altering text)

- C4** S. 387 applied (7.2.1994) by 1993 c. 48, s. 128, **Sch. 4 para. 4(1)(a)**; S.I. 1994/86, **art. 2**
- C5** S. 387(1)(5)(6) applied with modifications by S.I. 1986/1999, art. 3, **Sch. 1 Pt. II**

Status:

Point in time view as at 31/05/2002.

Changes to legislation:

Insolvency Act 1986, Part XII is up to date with all changes known to be in force on or before 19 July 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.