



# 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 [<sup>F1</sup>(contributions to occupational pension schemes; remuneration, &c. of employees; 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 [<sup>F2</sup>Schedule 4 to the Pension Schemes Act 1993] (occupational pension scheme contributions).

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#### Textual Amendments

- F1** Words in s. 386(1) substituted (15.9.2003) by 2002 c. 40, ss. 251(3), 279 (with s. 249(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F2** 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
- C4** S. 386 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 103, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 2
- C5** S. 386 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2009 (c. 1), ss. 145, 263(1)(2) (with s. 247); S.I. 2009/296, arts. 2, 3, Sch. para. 3

### 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—
- [<sup>F3</sup>(a) if the company is in administration, the date on which it entered administration, and
- (b) if the company is not in administration, the date on which the voluntary arrangement takes effect.]
- [<sup>F4</sup>(2A) For the purposes of paragraph 31 of Schedule A1 (meetings to consider company voluntary arrangement where a moratorium under section 1A is in force), the relevant date in relation to a company is the date of filing.]
- (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 [<sup>F5</sup>the date on which the company entered administration];
- [<sup>F6</sup>(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 [<sup>F5</sup>the date on which the company entered administration];
- (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 [<sup>F5</sup>the date on which the company entered administration];]
- (b) if the case does not fall within paragraph (a) [<sup>F7</sup>, (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,
- 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;

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- [<sup>F8</sup>(ba) if the case does not fall within paragraph (a), (aa), (ab) or (b) and the company is being wound up following administration pursuant to paragraph 83 of Schedule B1, the relevant date is the date on which the company entered administration;]
- (c) if the case does not fall within [<sup>F9</sup>paragraph (a), (aa), (ab), (b) or (ba)], the relevant date is the date of the passing of the resolution for the winding up of the company.
- [<sup>F10</sup>(3A) In relation to a company which is in administration (and to which no other provision of this section applies) the relevant date is the date on which the company enters administration.]
- (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
- [<sup>F11</sup>(a) where an interim order has been made under section 252 with respect to his proposal, the date of that order, and
- (b) in any other case, the date on which the voluntary arrangement takes effect.]
- (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

- F3** S. 387(2)(a)(b) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 34(2) (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F4** S. 387(2A) inserted (1.1.2003) by 2000 c. 39, s. 1, Sch. 1 para. 9; S.I. 2002/2711, art. 2 (subject to transitional provisions in arts. 3-5)
- F5** Words in s. 387(3)(a)(aa)(ab) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 34(3)(a) (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F6** S. 387(3)(aa)(ab) inserted (31.5.2002) by S.I. 2002/1240, reg. 16(a)
- F7** Words in s. 387(3)(b) inserted (31.5.2002) by S.I. 2002/1240, reg. 16(b)
- F8** S. 387(3)(ba) inserted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 34(3)(b) (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F9** Words in s. 387(3)(c) substituted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 34(3)(c) (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F10** S. 387(3A) inserted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 34(4) (with s. 249(1)-(3)(6)); S.I. 2003/2093, art. 2(1), Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F11** S. 387(5)(a)(b) substituted (1.1.2003) for words in s. 387(5) by 2000 c. 39, s. 3, Sch. 3 para. 15; S.I. 2002/2711, art. 2 (subject to transitional provisions in arts. 3-5)

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

- C6** S. 387 applied (7.2.1994) by 1993 c. 48, s. 128, **Sch. 4 para. 4(1)(a)**; S.I. 1994/86, **art. 2**
- C7** S. 387 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009 (c. 1), ss. 103, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 2**
- C8** S. 387 applied (with modifications) (17.2.2009 for certain purposes, otherwise 21.2.2009) by **Banking Act 2009 (c. 1), ss. 145, 263(1)(2)** (with s. 247); S.I. 2009/296, **arts. 2, 3, Sch. para. 3**
- C9** S. 387(1)(5)(6) applied (with modifications) by S.I. 1986/1999, **art. 3, Sch. 1 Pt. II**

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