

Circumstances in which floating charge is invalid

597. (1) Where a company is being wound up, a floating charge on the undertaking or property of the company created within 12 months before the date of commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid.

(2) Subsection (1) does not apply to—

(a) money actually advanced or paid, or the actual price or value of goods or services sold or supplied, to the company at the time of or subsequently to the creation of, and in consideration for, the charge, nor

(b) interest on that amount at the appropriate rate.

(3) For the purposes of subsection (2), the value of any goods or services sold or supplied by way of consideration for a floating charge is the amount in money which at the time they were sold or supplied could reasonably have been expected to be obtained for the goods or services in the ordinary course of business and on the same terms (apart from the consideration) as those on which they were sold or supplied to the company.

(4) Where a floating charge on the undertaking or property of a company is created in favour of a connected person, subsection (1) shall apply to such a charge as if the period of 12 months mentioned in that subsection were a period of 2 years.