

51. Relevant time under sections 49 and 50

- (1) Subject to subsections (2) and (3), the time at which a debtor enters into a transaction at an undervalue or gives an unfair preference is a relevant time if the transaction is entered into or the unfair preference given—
 - (a) in the case of a transaction at an undervalue, at a time in the period of 5 years ending with the day of the presentation of the bankruptcy petition on which the debtor is adjudged bankrupt;
 - (b) in the case of an unfair preference which is not a transaction at an undervalue and is given to a person who is an associate of the debtor (otherwise than by reason only of being his employee), at a time in the period of 2 years ending with that day; and
 - (c) in any other case of an unfair preference which is not a transaction at an undervalue, at a time in the period of 6 months ending with that day.
- (2) Where a debtor enters into a transaction at an undervalue or gives an unfair preference at a time mentioned in subsection (1)(a), (b) or (c) (not being, in the case of a transaction at an undervalue, a time less than 2 years before the end of the period mentioned in subsection (1)(a)), that time is not a relevant time for the purposes of sections 49 and 50 unless the debtor—
 - (a) is insolvent at that time; or
 - (b) becomes insolvent in consequence of the transaction or preference,but the requirements of this subsection are presumed to be satisfied, unless the contrary is shown, in relation to any transaction at an undervalue which is entered into by a debtor with a person who is an associate of his (otherwise than by reason only of being his employee).
- (3) For the purposes of subsection (2), a debtor is insolvent if—
 - (a) he is unable to pay his debts as they fall due; or
 - (b) the value of his assets is less than the amount of his liabilities, taking into account his contingent and prospective liabilities.

(Replaced 76 of 1996 s. 36)