

50. Unfair preferences

- (1) Subject to this section and sections 51 and 51A, where a debtor is adjudged bankrupt and he has at a relevant time (defined in section 51) given an unfair preference to any person, the trustee may apply to the court for an order under this section.
- (2) The court shall, on such an application, make such order as it thinks fit for restoring the position to what it would have been if that debtor had not given that unfair preference.
- (3) For the purposes of this section and sections 51 and 51A, a debtor gives an unfair preference to a person if—
 - (a) that person is one of the debtor's creditors or a surety or guarantor for any of his debts or other liabilities; and
 - (b) the debtor does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event of the debtor's bankruptcy, will be better than the position he would have been in if that thing had not been done.
- (4) The court shall not make an order under this section in respect of an unfair preference given to any person unless the debtor who gave the unfair preference was influenced in deciding to give it by a desire to produce in relation to that person the effect mentioned in subsection (3)(b).
- (5) A debtor who has given an unfair preference to a person who, at the time the unfair preference was given, was an associate of his (otherwise than by reason only of being his employee) is presumed, unless the contrary is shown, to have been influenced in deciding to give it by such a desire as is mentioned in subsection (4).
- (6) The fact that something has been done in pursuance of the order of a court does not, without more, prevent the doing or suffering of that thing from constituting the giving of an unfair preference.

(Replaced 76 of 1996 s. 36)