

**264B. Extortionate credit transactions**

- (1) This section applies, in relation to a company being wound up where the company is, or has been, a party to a transaction for, or involving, the provision of credit to the company.
- (2) The court may, on the application of the liquidator, make an order with respect to the transaction if the transaction is or was extortionate and was entered into in the period of 3 years ending on, in the case of—
  - (a) a winding up by court—
    - (i) where the company has by special resolution resolved that the company be wound up, the date of the resolution; and
    - (ii) in any other case, the date of the winding-up order; and
  - (b) a voluntary winding up, the commencement of the winding up (which must be construed having regard to section 228A(5)(a) or 230, as may be appropriate).  
*(Amended 28 of 2003 s. 90)*
- (3) For the purposes of this section a transaction is extortionate if, having regard to the risk accepted by the person providing the credit—
  - (a) the terms of it are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of credit; or
  - (b) it otherwise grossly contravenes ordinary principles of fair dealing,  
and it shall be presumed, unless the contrary is proved, that a transaction with respect to which an application is made under this section is or, as the case may be, was extortionate.
- (4) An order under this section with respect to any transaction may contain such one or more of the following as the court thinks fit, that is to say—
  - (a) provision setting aside the whole or part of any obligation created by the transaction;
  - (b) provision otherwise varying the terms of the transaction or varying the terms on which any security for the purposes of the transaction is held;
  - (c) provision requiring any person who is or was a party to the transaction to pay to the liquidator any sums paid to that person, by virtue of the transaction, by the company;
  - (d) provision requiring any person to surrender to the liquidator any property held by him as security for the purposes of the transaction; or
  - (e) provision directing accounts to be taken between any persons.

*(Added 3 of 1997 s. 43)*

*[cf. 1986 c. 45 s. 244 U.K.]*