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STATUTORY INSTRUMENTS

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**1986 No. 1925**

**The Insolvency Rules 1986**

THE SECOND GROUP OF PARTS

PART 6

BANKRUPTCY

CHAPTER 4

THE INTERIM RECEIVER

**Application for appointment of interim receiver**

**6.51.**—(1) An application to the court for the appointment of an interim receiver under section 286 may be made by a creditor or by the debtor, or by an insolvency practitioner appointed under section 273(2).

(2) The application must be supported by an affidavit stating—

- (a) the grounds on which it is proposed that the interim receiver should be appointed,
- (b) whether or not the official receiver has been informed of the application and, if so, has been furnished with a copy of it,
- (c) whether to the applicant's knowledge there has been proposed or is in force a voluntary arrangement under Part VIII of the Act, and
- (d) the applicant's estimate of the value of the property or business in respect of which the interim receiver is to be appointed.

(3) If an insolvency practitioner has been appointed under section 273, and it is proposed that he (and not the official receiver) should be appointed interim receiver, and it is not the insolvency practitioner himself who is the applicant under this Rule, the affidavit under paragraph (2) must state that he has consented to act.

(4) The applicant shall send copies of the application and the affidavit to the person proposed to be appointed interim receiver. If that person is the official receiver and an insolvency practitioner has been appointed under section 273 (and he is not himself the applicant), copies of the application and affidavit shall be sent by the applicant to the insolvency practitioner.

If, in any case where a copy of the application is to be sent to a person under this paragraph, it is for any reason not practicable to send a copy, that person must be informed of the application in sufficient time to enable him to be present at the hearing.

(5) The official receiver and (if appointed) the insolvency practitioner may attend the hearing of the application and make representations.

(6) The court may on the application, if satisfied that sufficient grounds are shown for the appointment, make it on such terms as it thinks fit.

### **Order of appointment**

**6.52.**—(1) The order appointing the interim receiver shall state the nature and a short description of the property of which the person appointed is to take possession, and the duties to be performed by him in relation to the debtor's affairs.

(2) The court shall, forthwith after the order is made, send 2 sealed copies of it to the person appointed interim receiver (one of which shall be sent by him forthwith to the debtor).

### **Deposit**

**6.53.**—(1) Before an order appointing the official receiver as interim receiver is issued, the applicant for it shall deposit with him, or otherwise secure to his satisfaction, such sum as the court directs to cover his remuneration and expenses.

(2) If the sum deposited or secured subsequently proves to be insufficient, the court may, on application by the official receiver, order that an additional sum be deposited or secured. If the order is not complied with within 2 days after service on the person to whom the order is directed, the court may discharge the order appointing the interim receiver.

(3) If a bankruptcy order is made after an interim receiver has been appointed, any money deposited under this Rule shall (unless it is required by reason of insufficiency of assets for payment of remuneration and expenses of the interim receiver, or the deposit was made by the debtor out of his own property) be repaid to the person depositing it (or as that person may direct) out of the bankrupt's estate, in the prescribed order of priority.

### **Security**

**6.54.**—(1) The following applies where an insolvency practitioner is appointed to be interim receiver under section 286(2).

(2) The cost of providing the security required under the Act shall be paid in the first instance by the interim receiver; but—

- (a) if a bankruptcy order is not made, the person so appointed is entitled to be reimbursed out of the property of the debtor, and the court may make an order on the debtor accordingly, and
- (b) if a bankruptcy order is made, he is entitled to be reimbursed out of the estate in the prescribed order of priority.

### **Failure to give or keep up security**

**6.55.**—(1) If the interim receiver fails to give or keep up his security, the court may remove him, and make such order as it thinks fit as to costs.

(2) If an order is made under this Rule removing the interim receiver, or discharging the order appointing him, the court shall give directions as to whether any, and if so what, steps should be taken for the appointment of another person in his place.

### **Remuneration**

**6.56.**—(1) The remuneration of the interim receiver (other than the official receiver) shall be fixed by the court from time to time on his application.

(2) In fixing the interim receiver's remuneration, the court shall take into account—

- (a) the time properly given by him (as interim receiver) and his staff in attending to the debtor's affairs,
- (b) the complexity (or otherwise) of the case,

- (c) any respects in which, in connection with the debtor's affairs, there falls on the interim receiver any responsibility of an exceptional kind or degree,
  - (d) the effectiveness with which the interim receiver appears to be carrying out, or to have carried out, his duties as such, and
  - (e) the value and nature of the property with which he has to deal.
- (3) The interim receiver's remuneration (whether the official receiver or another) shall be paid to him, and the amount of any expenses incurred by him reimbursed—
- (a) if a bankruptcy order is not made, out of the property of the debtor (and the court may make an order on the debtor accordingly), and
  - (b) if a bankruptcy order is made, out of the estate in the prescribed order of priority, or, in either case (the relevant funds being insufficient), out of the deposit under Rule 6.53.

### **Termination of appointment**

**6.57.**—(1) The appointment of the interim receiver may be terminated by the court on his application, or on that of the official receiver, the debtor or any creditor.

(2) If the interim receiver's appointment terminates, in consequence of the dismissal of the bankruptcy petition or otherwise, the court may give such directions as it thinks fit with respect to the accounts of his administration and any other matters which it thinks appropriate.

(3) The court may under paragraph (2)—

- (a) direct that any expenses properly incurred by the interim receiver during the period of his appointment, and any remuneration to which he is entitled, be paid out of property of the debtor, and
- (b) authorise him to retain out of that property such sums as are required for meeting his expenses and remuneration.

Alternatively, the court may make such order as it thinks fit with respect to those matters.