



# Insolvency Act 1986

## 1986 CHAPTER 45

The First Group of Parts Company Insolvency ; Companies Winding Up

### PART III

#### RECEIVERSHIP

#### CHAPTER I

##### RECEIVERS AND MANAGERS (ENGLAND AND WALES)

##### *Receivers and managers appointed out of court*

### **33 Time from which appointment is effective**

- (1) The appointment of a person as a receiver or manager of a company's property under powers contained in an instrument—
  - (a) is of no effect unless it is accepted by that person before the end of the business day next following that on which the instrument of appointment is received by him or on his behalf, and
  - (b) subject to this, is deemed to be made at the time at which the instrument of appointment is so received.
- (2) This section applies to the appointment of two or more persons as joint receivers or managers of a company's property under powers contained in an instrument, subject to such modifications as may be prescribed by the rules.

### **34 Liability for invalid appointment**

Where the appointment of a person as the receiver or manager of a company's property under powers contained in an instrument is discovered to be invalid (whether by virtue of the invalidity of the instrument or otherwise), the court may order the person by whom or on whose behalf the appointment was made to indemnify the person

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appointed against any liability which arises solely by reason of the invalidity of the appointment.

### **35 Application to court for directions**

- (1) A receiver or manager of the property of a company appointed under powers contained in an instrument, or the persons by whom or on whose behalf a receiver or manager has been so appointed, may apply to the court for directions in relation to any particular matter arising in connection with the performance of the functions of the receiver or manager.
- (2) On such an application, the court may give such directions, or may make such order declaring the rights of persons before the court or otherwise, as it thinks just.

### **36 Court's power to fix remuneration**

- (1) The court may, on an application made by the liquidator of a company, by order fix the amount to be paid by way of remuneration to a person who, under powers contained in an instrument, has been appointed receiver or manager of the company's property.
- (2) The court's power under subsection (1), where no previous order has been made with respect thereto under the subsection—
  - (a) extends to fixing the remuneration for any period before the making of the order or the application for it,
  - (b) is exercisable notwithstanding that the receiver or manager has died or ceased to act before the making of the order or the application, and
  - (c) where the receiver or manager has been paid or has retained for his remuneration for any period before the making of the order any amount in excess of that so fixed for that period, extends to requiring him or his personal representatives to account for the excess or such part of it as may be specified in the order.

But the power conferred by paragraph (c) shall not be exercised as respects any period before the making of the application for the order under this section, unless in the court's opinion there are special circumstances making it proper for the power to be exercised.

- (3) The court may from time to time on an application made either by the liquidator or by the receiver or manager, vary or amend an order made under subsection (1).

### **37 Liability for contracts, etc.**

- (1) A receiver or manager appointed under powers contained in an instrument (other than an administrative receiver) is, to the same extent as if he had been appointed by order of the court—
  - (a) personally liable on any contract entered into by him in the performance of his functions (except in so far as the contract otherwise provides) and on any contract of employment adopted by him in the performance of those functions, and
  - (b) entitled in respect of that liability to indemnity out of the assets.

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- (2) For the purposes of subsection (1)(a), the receiver or manager is not to be taken to have adopted a contract of employment by reason of anything done or omitted to be done within 14 days after his appointment.
- (3) Subsection (1) does not limit any right to indemnity which the receiver or manager would have apart from it, nor limit his liability on contracts entered into without authority, nor confer any right to indemnity in respect of that liability.
- (4) Where at any time the receiver or manager so appointed vacates office—
  - (a) his remuneration and any expenses properly incurred by him, and
  - (b) any indemnity to which he is entitled out of the assets of the company,shall be charged on and paid out of any property of the company which is in his custody or under his control at that time in priority to any charge or other security held by the person by or on whose behalf he was appointed.

### **38 Receivership accounts to be delivered to registrar**

- (1) Except in the case of an administrative receiver, every receiver or manager of a company's property who has been appointed under powers contained in an instrument shall deliver to the registrar of companies for registration the requisite accounts of his receipts and payments.
- (2) The accounts shall be delivered within one month (or such longer period as the registrar may allow) after the expiration of 12 months from the date of his appointment and of every subsequent period of 6 months, and also within one month after he ceases to act as receiver or manager.
- (3) The requisite accounts shall be an abstract in the prescribed form showing—
  - (a) receipts and payments during the relevant period of 12 or 6 months, or
  - (b) where the receiver or manager ceases to act, receipts and payments during the period from the end of the period of 12 or 6 months to which the last preceding abstract related (or, if no preceding abstract has been delivered under this section, from the date of his appointment) up to the date of his so ceasing, and the aggregate amount of receipts and payments during all preceding periods since his appointment.
- (4) In this section "prescribed" means prescribed by regulations made by statutory instrument by the Secretary of State.
- (5) A receiver or manager who makes default in complying with this section is liable to a fine and, for continued contravention, to a daily default fine.