Insolvency Act 1986

1986 CHAPTER 45

PART III

RECEIVERSHIP

CHAPTER II

RECEIVERS (SCOTLAND)

53 Mode of appointment by holder of charge.

(1) The appointment of a receiver by the holder of the floating charge under section 51(1) shall be by means of **[**[F1]an instrument subscribed in accordance with the Requirements of Writing (Scotland) Act 1995**]** ("the instrument of appointment"), a copy (certified in the prescribed manner to be a correct copy) whereof shall be delivered by or on behalf of the person making the appointment to the registrar of companies for registration within 7 days of its execution and shall be accompanied by a notice in the prescribed form.

(2) If any person without reasonable excuse makes default in complying with the requirements of subsection (1), he is liable to a fine **[**[F2]and, for continued contravention, to a daily default fine**]**.

[F3](3) . . . . . .

[[F4](4) If the receiver is to be appointed by the holders of a series of secured debentures, the instrument of appointment may be executed on behalf of the holders of the floating charge by any person authorised by resolution of the debenture-holders to execute the instrument.**]**

(5) On receipt of the certified copy of the instrument of appointment in accordance with subsection (1), the registrar shall, on payment of the prescribed fee, enter the particulars of the appointment in the **[**[F5]register**]**.

Changes to legislation: *Insolvency Act 1986, Section 53 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) The appointment of a person as a receiver by an instrument of appointment in accordance with subsection (1)—

(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 paragraph (a), is deemed to be made on the day on and at the time at which the instrument of appointment is so received, as evidenced by a written docquet by that person or on his behalf;

and this subsection applies to the appointment of joint receivers subject to such modifications as may be prescribed.

(7) On the appointment of a receiver under this section, the floating charge by virtue of which he was appointed attaches to the property then subject to the charge; and such attachment has effect as if the charge was a fixed security over the property to which it has attached.

Textual Amendments

F1 Words in s. 53(1) substituted (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), **Sch. 4 para. 58(a)** (with ss. 9(3)(5)(7), 13, 14(3), Sch. 2 para. 3(2))

F2 Words repealed (*prosp.*) by Companies Act 1989 (c. 40, SIF 27), ss. 107, 212, 213(2), 215(2), Sch. 16 para. 3(3), **Sch. 24**

F3 S. 53(3) repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, Sch. 8 Pt. II para. 35, **Sch. 9**

F4 S. 53(4) substituted (1.8.1995) by 1995 c. 7, ss. 14(1), 15(2), **Sch. 4 para. 58(b)** (with ss. 9(3)(5)(7), 13, 14(3), Sch. 2 para. 3(2))

F5 Word in s. 53(5) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 2(2)** (with reg. 6)

Modifications etc. (not altering text)

C1 S. 53 applied in part (with modifications) (4.1.2024) by S.I. 2021/716, **Sch. 1 para. 3** (as amended by The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023 (S.I. 2023/1399), regs. 1(2), **20**)

C2 S. 53(1) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 23(2)(3)**; S.I. 1998/3178, **art. 2** (as amended (28.6.2016) by The Building Societies (Floating Charges and Other Provisions) Order 2016 (S.I. 2016/679), arts. 1(1), **6**)

C3 S. 53(1)(2)(4)(6)(7) applied (with modifications) (6.4.2001) by S.S.I. 2001/128, reg. 4, **Sch. 2**

C4 S. 53(6) modified by S.I. 1986/1917, **reg. 5**

Changes to legislation:
Insolvency Act 1986, Section 53 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act amendment to earlier affecting provision S.I. 1986/1999, art. 3, Sch. 1 Pt. 2 by S.I. 2017/1119 Sch. 3 para. 1
- Act savings and transitional provisions for amendments by S.I. 2022/1166 by S.I. 2022/1172 Regulations

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 41HB(2) words substituted by 2018 c. 14 s. 1(3)(b)