
Status: Point in time view as at 01/01/2006.

Changes to legislation: The Insolvency (Northern Ireland) Order 1989, Cross Heading: Receivers and managers appointed out of court is up to date with all changes known to be in force on or before 10 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)

STATUTORY INSTRUMENTS

1989 No. 2405

The Insolvency (Northern Ireland) Order 1989

PART IV

RECEIVERSHIP

RECEIVERS AND MANAGERS

Receivers and managers appointed out of court

Time from which appointment is effective

43.—(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 Article applies to the appointment of 2 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.

Liability for invalid appointment

44. 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 High Court may order the person by whom or on whose behalf the appointment was made to indemnify the person appointed against any liability which arises solely by reason of the invalidity of the appointment.

Application to High Court for directions

45.—(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 High 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 High Court may give such directions, or may make such order declaring the rights of persons before the Court or otherwise, as it thinks just.

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Power of High Court to fix remuneration

46.—(1) The High 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 High Court's power under paragraph (1), where no previous order has been made with respect thereto under that paragraph—

- (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) subject to paragraph (3), 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.

(3) The power conferred by sub#paragraph (2)(c) shall not be exercised as respects any period before the making of the application for the order under this Article, unless in the opinion of the High Court there are special circumstances making it proper for the power to be exercised.

(4) The High Court may on an application made either by the liquidator or by the receiver or manager, vary or amend an order made under paragraph (1).

Liability for contracts, etc.

47.—(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 High 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.

(2) For the purposes of paragraph (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 from his appointment.

(3) Paragraph (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 a 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.

Receivership accounts to be delivered to registrar

48.—(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 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 Article, 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) A receiver or manager who contravenes this Article shall be guilty of an offence and, for continued contravention, shall be guilty of a continuing offence.

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