



Companies Act 1985

1985 CHAPTER 6

PART XVIII

FLOATING CHARGES AND RECEIVERS (SCOTLAND)

CHAPTER I

FLOATING CHARGES

462 Power of incorporated company to create floating charge

- (1) It is competent under the law of Scotland for an incorporated company (whether a company within the meaning of this Act or not), for the purpose of securing any debt or other obligation (including a cautionary obligation) incurred or to be incurred by, or binding upon, the company or any other person, to create in favour of the creditor in the debt or obligation a charge, in this Part referred to as a floating charge, over all or any part of the property (including uncalled capital) which may from time to time be comprised in its property and undertaking.
- (2) A floating charge may be created, in the case of a company which the Court of Session has jurisdiction to wind up, only by the execution, under the seal of the company, of an instrument or bond or other written acknowledgment of debt or obligation which purports to create such a charge.
- (3) Execution in accordance with this section includes execution by an attorney authorised for such purpose by the company by writing under its common seal; and any such execution on behalf of the company binds the company.
- (4) References in this Part to the instrument by which a floating charge was created are, in the case of a floating charge created by words in a bond or other written acknowledgment, references to the bond or, as the case may be, the other written acknowledgment.

Status: This is the original version (as it was originally enacted).

- (5) Subject to this Act, a floating charge has effect in accordance with this Part in relation to any heritable property in Scotland to which it relates, notwithstanding that the instrument creating it is not recorded in the Register of Sasines or, as appropriate, registered in accordance with the Land Registration (Scotland) Act 1979.