



Insolvency Act 1986

1986 CHAPTER 45

PART III

RECEIVERSHIP

CHAPTER I

RECEIVERS AND MANAGERS (ENGLAND AND WALES)

Provisions applicable to every receivership

39 Notification that receiver or manager appointed.

- (1) When a receiver or manager of the property of a company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the company or the receiver or manager or the liquidator of the company, being a document on or in which the company's name appears, shall contain a statement that a receiver or manager has been appointed.
- (2) If default is made in complying with this section, the company and any of the following persons, who knowingly and wilfully authorises or permits the default, namely, any officer of the company, any liquidator of the company and any receiver or manager, is liable to a fine.

40 Payment of debts out of assets subject to floating charge.

- (1) The following applies in the case of a company, where a receiver is appointed on behalf of the holders of any debentures of the company secured by a charge which, as created, was a floating charge.
- (2) If the company is not at the time in course of being wound up, its preferential debts (within the meaning given to that expression by section 386 in Part XII) shall be paid

Status: Point in time view as at 05/09/2003.

Changes to legislation: Insolvency Act 1986, Cross Heading: Provisions applicable to every receivership is up to date with all changes known to be in force on or before 05 August 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)

out of the assets coming to the hands of the receiver in priority to any claims for principal or interest in respect of the debentures.

- (3) Payments made under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.

Modifications etc. (not altering text)

- C1** S. 40 excluded (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), reg. 46, [Sch. para. 2\(1\)](#)
- C2** S. 40 applied (11.12.1999) by [The Financial Market and Insolvency \(Settlement Finality\) Regulations 1999 \(S.I. 1999/2979\)](#), reg. 14(5)(a)(iii) (as substituted (1.10.2009) by [The Financial Markets and Insolvency \(Settlement Finality\) \(Amendment\) Regulations 2009 \(S.I. 2009/1972\)](#), [reg. 4\(d\)\(iii\)](#))
- C3** S. 40 excluded by [S.I. 2003/3226](#), reg. 10(2A) (as inserted (6.4.2011) by [The Financial Markets and Insolvency \(Settlement Finality and Financial Collateral Arrangements\) \(Amendment\) Regulations 2010 \(S.I. 2010/2993\)](#), [reg. 4\(8\)\(a\)](#))

41 Enforcement of duty to make returns.

- (1) If a receiver or manager of a company's property—
- (a) having made default in filing, delivering or making any return, account or other document, or in giving any notice, which a receiver or manager is by law required to file, deliver, make or give, fails to make good the default within 14 days after the service on him of a notice requiring him to do so, or
 - (b) having been appointed under powers contained in an instrument, has, after being required at any time by the liquidator of the company to do so, failed to render proper accounts of his receipts and payments and to vouch them and pay over to the liquidator the amount properly payable to him,

the court may, on an application made for the purpose, make an order directing the receiver or manager (as the case may be) to make good the default within such time as may be specified in the order.

- (2) In the case of the default mentioned in subsection (1)(a), application to the court may be made by any member or creditor of the company or by the registrar of companies; and in the case of the default mentioned in subsection (1)(b), the application shall be made by the liquidator.

In either case the court's order may provide that all costs of and incidental to the application shall be borne by the receiver or manager, as the case may be.

- (3) Nothing in this section prejudices the operation of any enactment imposing penalties on receivers in respect of any such default as is mentioned in subsection (1).

Modifications etc. (not altering text)

- C4** S. 41(1)(a) amended (1.12.2001) by [2000 c. 8, s. 363\(3\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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