
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

**The Insolvency (Scotland) (Receivership
and Winding up) Rules 2018**

PART 2

RECEIVERSHIP

CHAPTER 1

Appointment of receiver by the holder of the floating charge under section 51(1)

[Note: a document required by the Act or these Rules must also contain the standard contents required as set out in Part 1.]

Receipt of instrument of appointment and acceptance of appointment

2.1.—(1) This rule applies where a person is appointed a receiver by the holder of a floating charge under section 51(1)(1) by an instrument of appointment under section 53(1)(2).

(2) The person's acceptance (which need not be in writing) of the appointment for the purposes of paragraph (a) of section 53(6) must be intimated by the person to the holder of the floating charge or the holder's agent within the period specified in that paragraph.

(3) The person must, as soon as possible after the person's acceptance of the appointment, endorse a written docquet of acceptance of the appointment on the instrument of appointment.

(4) The written docquet evidencing receipt of the instrument of appointment required by section 53(6)(b) must also be endorsed on the instrument of appointment.

(5) The person must, as soon as possible after the person's acceptance of the appointment, deliver a copy of the endorsed instrument of appointment to the holder of the floating charge or the holder's agent.

(6) Where 2 or more persons are appointed joint receivers—

(a) where the written docquet evidencing receipt of the instrument of appointment and the written docquet of acceptance of the appointment are endorsed by each of the joint receivers, or 2 or more of them, on the same instrument of appointment, it is the joint receiver who last endorses the joint receiver's written docquets who is required by paragraph (5) to deliver a copy of the instrument of appointment to the holder of the floating charge or the holder's agent; and

(b) section 53(6) applies subject to the following modifications—

(i) the appointment of any of the joint receivers is of no effect unless the appointment is accepted by all of them in accordance with section 53(6)(a) and paragraph (2); and

(1) Section 51(1) was amended by [S.S.I. 2011/140](#).

(2) Section 53(1) was amended by the Requirements of Writing (Scotland) Act [1995 \(c.7\)](#), schedule 4, para. 58(a) and modified by the Scotland Act 1998, schedule 8, paragraph 23, resulting in reference to the Accountant in Bankruptcy as well as the registrar of companies.

- (ii) the appointment of the persons as joint receivers is deemed to be made on the day on and at the time at which the instrument of appointment is received by the last of them, as evidenced by the written docquet evidencing receipt of the instrument of appointment required by section 53(6)(b) and paragraph (4).

Certified copy instrument of appointment

2.2.—(1) The certified copy instrument of appointment which is required to be delivered to the registrar of companies and AiB by or on behalf of the person making the appointment under section 53(1) must be a certified copy of the instrument of appointment with the written docquet evidencing receipt of the instrument of appointment and the written docquet of acceptance endorsed on it(3).

(2) The certified copy instrument of appointment must be certified to be a correct copy by or on behalf of the person making the appointment.

Notice under section 53(1)

2.3.—(1) The notice which is required to be delivered to the registrar of companies and AiB by or on behalf of the person making the appointment under section 53(1) must—

- (a) state the name and address of the holder of the floating charge;
 - (b) state that the receiver was appointed by the holder of the floating charge as receiver of that part of the property of the company which is subject to the floating charge;
 - (c) contain the information about the floating charge described in paragraph (2);
 - (d) contain the information about the circumstances justifying the appointment described in paragraph (3).
- (2) The information about the floating charge is—
- (a) the name of the person first named in the charge among the persons entitled to the benefit of it (or, in the case of a series of secured debentures, the name of the holder of the first such debenture to be issued);
 - (b) the amount secured by the charge;
 - (c) the date of registration of the charge.
- (3) The information about the circumstances justifying the appointment is—
- (a) where the circumstances justifying the appointment are provided for in the instrument creating the floating charge, the event which by the provisions of the instrument entitles the holder of the floating charge to make the appointment; or
 - (b) where the circumstances justifying the appointment are not provided for in the instrument creating the floating charge, which of the events in section 52(1) entitles the holder of the floating charge to make the appointment.

(3) Rule 2.2 is included in the Rules by virtue of article 2 of the Public Services Reform (Scotland) Order 2017 (S.S.I. 2017/209) - see section 70 and 71 of the Act.