



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART III

#### RECEIVERSHIP

### CHAPTER II

#### RECEIVERS (SCOTLAND)

#### **51 Power to appoint receiver.**

- (1) It is competent under the law of Scotland for the holder of a floating charge over all or any part of the property (including uncalled capital), which may from time to time be comprised in the property and undertaking of an incorporated company (whether <sup>F1</sup>a company registered under the Companies Act 2006] or not)
  - <sup>F2</sup>(a) which the Court of Session has jurisdiction to wind up; or
  - (b) where paragraph (a) does not apply, in respect of which a court of a member state <sup>F3</sup>... has under the EU Regulation jurisdiction to open insolvency proceedings,to appoint a receiver of such part of the property of the company as is subject to the charge.]
- (2) It is competent under the law of Scotland for the court, on the application of the holder of such a floating charge, to appoint a receiver of such part of the property of the company as is subject to the charge.

<sup>F4</sup>(2ZA) .....

<sup>F5</sup>(2A) Subsections (1) and (2) are subject to section 72A.]

- (3) The following are disqualified from being appointed as receiver—
  - (a) a body corporate;
  - (b) an undischarged bankrupt; and

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*Changes to legislation: Insolvency Act 1986, Section 51 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*

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- [<sup>F6</sup>(ba) a person subject to a bankruptcy restrictions order;]  
 (c) a firm according to the law of Scotland.
- (4) A body corporate or a firm according to the law of Scotland which acts as a receiver is liable to a fine.
- (5) An undischarged bankrupt [<sup>F7</sup>or a person subject to a bankruptcy restrictions order] who so acts is liable to imprisonment or a fine, or both.
- (6) In this section, “receiver” includes joint receivers [<sup>F8</sup>; and  
 “bankruptcy restrictions order” means—
- (a) a bankruptcy restrictions order made under section [<sup>F9</sup>155 of the Bankruptcy (Scotland) Act 2016];
  - (b) <sup>F10</sup> ...
  - (c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to this Act; or
  - (d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.
- [<sup>F11</sup>“the EU Regulation” is [<sup>F12</sup>Regulation (EU) 2015/848 of the European Parliament and of the Council] on insolvency proceedings [<sup>F13</sup>as that Regulation has effect in the law of the European Union];  
 “court” is to be construed in accordance with [<sup>F14</sup>Article 2(6)] of the EU Regulation;  
 “insolvency proceedings” is to be construed in accordance with [<sup>F15</sup>Article 2(4)] of the EU Regulation.]]

### Textual Amendments

- F1** Words in s. 51(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009, (S.I. 2009/1941) arts. 2(1), 8, {Sch. 1 para. 74(5)} (with art. 10, Sch. 1 para. 84)
- F2** Words in s. 51(1) substituted (17.3.2011) by [The Insolvency Act 1986 Amendment \(Appointment of Receivers\) \(Scotland\) Regulations 2011](#) (S.S.I. 2011/140), **reg. 2(a)**
- F3** Words in s. 51(1)(b) omitted (31.12.2020) by virtue of [The Insolvency \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019](#) (S.S.I. 2019/94), regs. 1, **2(2)(a)** (with reg. 9) (as amended by S.S.I. 2020/337, regs. 1, 2); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 51(2ZA) repealed (1.4.2016) by [The Public Services Reform \(Insolvency\) \(Scotland\) Order 2016](#) (S.S.I. 2016/141), arts. 1(2), **2** (with arts. 14, 15)
- F5** S. 51(2A) inserted (15.9.2003) by 2002 c. 40, ss. 248(3), 279, Sch. 17 para. 13 (with s. 249(1)-(3)(6)); S.I. 2003/2093, **art. 2(1)**, Sch. 1 (subject to arts. 3-8 (as amended by S.I. 2003/2332, art. 2))
- F6** S. 51(3)(ba) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), **ss. 3(2), 227(3)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 5, 6, 10); as amended by S.S.I. 2011/31, **art. 5**
- F7** Words in s. 51(5) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), **ss. 3(3), 227(3)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 5, 6, 10); as amended by S.S.I. 2011/31, **art. 5**
- F8** Words in s. 51(6) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), **ss. 3(4), 227(3)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 5, 6, 10); as amended by S.S.I. 2011/31, **art. 5**
- F9** Words in s. 51(6) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016](#) (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 4(2)**

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- F10** Words in s. 51(6) repealed (1.4.2015) by [Bankruptcy and Debt Advice \(Scotland\) Act 2014 \(asp 11\)](#), s. 57(2), [sch. 4](#); [S.S.I. 2014/261](#), art. 3 (with arts. 4-712) (as amended by [S.S.I. 2015/54](#), art. 2)
- F11** Words in s. 51(6) inserted (17.3.2011) by [The Insolvency Act 1986 Amendment \(Appointment of Receivers\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/140\)](#), [reg. 2\(c\)](#)
- F12** Words in s. 51(6) substituted (26.6.2017) by [The Insolvency \(Regulation \(EU\) 2015/848\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/210\)](#), regs. 1, [2\(2\)\(a\)](#) (with reg. 9)
- F13** Words in s. 51(6) inserted (31.12.2020) by [The Insolvency \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/94\)](#), regs. 1, [2\(2\)\(b\)](#) (with reg. 9) (as amended by [S.S.I. 2020/337](#), regs. 1, 2); 2020 c. 1, [Sch. 5 para. 1\(1\)](#))
- F14** Words in s. 51(6) substituted (26.6.2017) by [The Insolvency \(Regulation \(EU\) 2015/848\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/210\)](#), regs. 1, [2\(2\)\(b\)](#) (with reg. 9)
- F15** Words in s. 51(6) substituted (26.6.2017) by [The Insolvency \(Regulation \(EU\) 2015/848\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/210\)](#), regs. 1, [2\(2\)\(c\)](#) (with reg. 9)

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**Modifications etc. (not altering text)**

- C1** [Ss. 50-52](#) applied (with modifications) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(1), [Sch. 2](#)
- C2** [Ss. 50-52](#) applied (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](#))

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[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\(3\)\(b\)](#)