

# COURT'S POWER TO APPOINT A RECEIVER

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### 69.1 Scope of this Part

- (1) This Part contains provisions about the court's power to appoint a receiver.
- (2) In this Part 'receiver' includes a manager.

### 69.2 Court's power to appoint receiver

- (1) The court may appoint a receiver –
  - (a) before proceedings have started;
  - (b) in existing proceedings; or
  - (c) on or after judgment.
- (2) A receiver must be an individual.
- (3) The court may at any time –
  - (a) terminate the appointment of a receiver; and
  - (b) appoint another receiver in his place.

(The practice direction describes the powers for the court to appoint a receiver.)

### 69.3 How to apply for the appointment of a receiver

An application for the appointment of a receiver –

- (a) may be made without notice ; and
- (b) must be supported by written evidence.

#### **69.4 Service of order appointing receiver**

An order appointing a receiver must be served by the party who applied for it on –

- (a) the person appointed as receiver;
- (b) unless the court orders otherwise, every other party to the proceedings; and
- (c) such other persons as the court may direct.

#### **69.5 Security**

- (1) The court may direct that before a receiver begins to act or within a specified time he must either –
  - (a) give such security as the court may determine; or
  - (b) file and serve on all parties to the proceedings evidence that he already has in force sufficient security,  
to cover his liability for his acts and omissions as a receiver.
- (2) The court may terminate the appointment of the receiver if he fails to –
  - (a) give the security; or
  - (b) satisfy the court as to the security he has in force,  
by the date specified.

#### **69.6 Receiver's application for directions**

- (1) The receiver may apply to the court at any time for directions to assist him in carrying out his function as a receiver.
- (2) The court, when it gives directions, may also direct the receiver to serve on any person –
  - (a) the directions; and
  - (b) the application for directions.

(The practice direction makes provision for the form of applications by, and directions to, a receiver.)

#### **69.7 Receiver's remuneration**

- (1) A receiver may only charge for his services if the court –
  - (a) so directs; and
  - (b) specifies the basis on which the receiver is to be remunerated.
- (2) The court may specify –
  - (a) who is to be responsible for paying the receiver; and
  - (b) the fund or property from which the receiver is to recover his remuneration.
- (3) If the court directs that the amount of a receiver's remuneration is to be determined by the court –
  - (a) the receiver may not recover any remuneration for his services without a determination by the court; and
  - (b) the receiver or any party may apply at any time for such a determination to take place.
- (4) Unless the court orders otherwise, in determining the remuneration of a receiver the court shall award such sum as is reasonable and proportionate in all the circumstances and which takes into account –
  - (a) the time properly given by him and his staff to the receivership;

- (b) the complexity of the receivership;
  - (c) any responsibility of an exceptional kind or degree which falls on the receiver in consequence of the receivership;
  - (d) the effectiveness with which the receiver appears to be carrying out, or to have carried out, his duties; and
  - (e) the value and nature of the subject matter of the receivership.
- (5) The court may refer the determination of a receiver's remuneration to a costs judge.

## **69.8 Accounts**

- (1) The court may order a receiver to prepare and serve accounts.
- (The practice direction contains provisions about directions for the preparation and service of accounts.)
- (2) A party served with such accounts may apply for an order permitting him to inspect any document in the possession of the receiver relevant to those accounts.
- (3) Any party may, within 14 days of being served with the accounts, serve notice on the receiver –
- (a) specifying any item in the accounts to which he objects;
  - (b) giving the reason for such objection; and
  - (c) requiring the receiver, within 14 days of receipt of the notice, either –
    - (i) to notify all the parties who were served with the accounts that he accepts the objection; or
    - (ii) if he does not accept the objection, to apply for an examination of the accounts in relation to the contested item.
- (4) When the receiver applies for the examination of the accounts he must at the same time file –
- (a) the accounts; and
  - (b) a copy of the notice served on him under this rule.
- (5) If the receiver fails to comply with paragraph (3)(c) of this rule, any party may apply to the court for an examination of the accounts in relation to the contested item.
- (6) At the conclusion of its examination of the accounts the court will certify the result.
- (The practice direction supplementing Part 40 provides for inquiries into accounts.)

## **69.9 Non-compliance by receiver**

- (1) If a receiver fails to comply with any rule, practice direction or direction of the court the court may order him to attend a hearing to explain his non-compliance.
- (2) At the hearing the court may make any order it considers appropriate, including –
- (a) terminating the appointment of the receiver;
  - (b) reducing the receiver's remuneration or disallowing it altogether; and
  - (c) ordering the receiver to pay the costs of any party.
- (3) Where –
- (a) the court has ordered a receiver to pay a sum of money into court; and
  - (b) the receiver has failed to do so,
- the court may order him to pay interest on that sum for the time he is in default at such rate as it considers appropriate.

#### **69.10 Application for discharge of receiver**

- (1) A receiver or any party may apply for the receiver to be discharged on completion of his duties.
- (2) The application notice must be served on the persons who were required under rule 69.4 to be served with the order appointing the receiver.

#### **69.11 Order discharging or terminating appointment of receiver**

- (1) An order discharging or terminating the appointment of a receiver may –
  - (a) require him to pay into court any money held by him; or
  - (b) specify the person to whom he must pay any money or transfer any assets still in his possession; and
  - (c) make provision for the discharge or cancellation of any guarantee given by the receiver as security.
- (2) The order must be served on the persons who were required under rule 69.4 to be served with the order appointing the receiver.