

PART 69

COURT'S POWER TO APPOINT A RECEIVER

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SCOPE OF THIS PART

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

COURT'S POWER TO APPOINT RECEIVER

- 69.2 | (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.)

HOW TO APPLY FOR THE APPOINTMENT OF A RECEIVER

- 69.3 | An application for the appointment of a receiver –
- (a) may be made without notice ; and
 - (b) must be supported by written evidence.

SERVICE OF ORDER APPOINTING RECEIVER

- 69.4 | 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.

SECURITY

- 69.5 |
- (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.

RECEIVER'S APPLICATION FOR DIRECTIONS

- 69.6 |
- (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.)

RECEIVER'S REMUNERATION

- 69.7
- (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.

ACCOUNTS

- 69.8
- (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.)

NON-COMPLIANCE BY RECEIVER

69.9

- (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.

APPLICATION FOR DISCHARGE OF RECEIVER

69.10

- (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.

ORDER DISCHARGING OR TERMINATING APPOINTMENT OF RECEIVER

- 69.11 |
- (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.

