

Power of court to fix remuneration of receiver

444. (1) Where a person has, under the powers contained in any instrument, been appointed as receiver of the property of a company the court may, on an application made by the liquidator of a company or by any creditor or member of the company, make the following order.

(2) That order of the court is one fixing the amount to be paid by way of remuneration to that receiver and such an order may be made notwithstanding that his or her remuneration has been fixed by or under that instrument.

(3) Subject to subsection (4), the power of the court under subsection (1) shall, where no previous order has been made in relation to the matter concerned under that subsection—

(a) extend to fixing the remuneration for any period before the making of the order or the application for it,

(b) be exercisable notwithstanding that the receiver has died or ceased to act before the making of the order or the application for it, and

(c) if the receiver has been paid or has retained for his or her remuneration for any period before the making of the order any amount in excess of that fixed by the court for that period, extend to requiring him or her or his or her personal representatives to account for the excess or such part of it as may be specified in the order.

(4) The power conferred by subsection (3)(c) shall not be exercised in relation to any period before the making of the application for the order unless, in the opinion of the court, there are special circumstances making it proper for the power to be so exercised.

(5) The court may from time to time, on an application made by the liquidator or by any creditor or member of the company or by the receiver, vary or amend an order made under subsection (1).

(6) Nothing in this section shall affect a receiver's right to indemnity out of the assets of the company provided by section 438.