

Information to be given when receiver is appointed in certain circumstance

430. (1) Where a receiver of the whole, or substantially the whole, of the property of a company and 432 as the “receiver”) is appointed on behalf of the holders of any debentures of the company secured by a floating charge, then subject to the provisions of this section and section 431—

(a) the receiver shall forthwith send notice to the company of his or her appointment,

(b) there shall, within 14 days after the date of receipt of the notice, or such longer period as may be allowed by the court or by the receiver, be made out and submitted to the receiver in accordance with section 431 a statement in the prescribed form as to the affairs of the company, and

(c) the receiver shall, within 2 months after the date of receipt of that statement, send to:

(i) the Registrar;

(ii) the court;

(iii) the company;

(iv) any trustees for the debenture holders on whose behalf he or she was appointed; and

(v) so far as he or she is aware of their addresses, all such debenture holders;

a copy of the statement and of any comments he or she sees fit to make on it.

(2) In subsection (3) “initial period of 6 months”, in relation to the receiver, means the period of 6 months falling after the date of his or her appointment.

(3) The receiver shall send to the Registrar—

(a) within 30 days after the expiration of—

(i) the initial period of 6 months, and

(ii) each subsequent period of 6 months,

and

(b) within 30 days after the date on which he or she ceases to act as receiver of the property of the company,

an abstract in the prescribed form showing—

(i) the assets of the company of which he or she has taken possession since his or her appointment, their estimated value and the proceeds of sale of any such assets since his or her appointment,

(ii) his or her receipts and payments during that period of 6 months or, where he or she ceases to act as mentioned above, during the period from the end of the period to which the last preceding abstract related up to the date of his or her so ceasing, and

(iii) the aggregate amounts of his or her receipts and of his or her payments during all preceding periods since his or her appointment.

(4) Where a receiver ceases to act as receiver of the property of the company, the abstract under subsection (3) shall be accompanied by a statement from the receiver of his or her opinion as to whether or not the company is solvent and the Registrar shall, on receiving the statement, forward a copy of it to the Director of Corporate Enforcement.

(5) Where a receiver is appointed under the powers contained in any instrument, this section shall have effect with the omission of the references to the court in subsection (1), and in any other case, references to the court shall be taken as referring to the court by which the receiver was appointed.

(6) Subsection (1) shall not apply in relation to the appointment of a receiver to act with an existing receiver or in place of a receiver dying or ceasing to act, except that, where that subsection applies to a receiver who dies or ceases to act before it has been fully complied with, the references in paragraphs (b) and (c) of it to the receiver shall (subject to subsection (7)) include references to his or her successor and to any continuing receiver. Nothing in this subsection shall be taken as limiting the meaning of the "receiver" where used in or in relation to subsection (3).

(7) This section and section 431, where the company is being wound up, shall apply notwithstanding that the receiver and the liquidator are the same person, but with any necessary modifications arising from that fact.

(8) Nothing in subsection (3) shall be taken to prejudice the duty of the receiver to render proper accounts of his or her receipts and payments to the persons to whom, and at the times at which, he or she may be required to do so apart from that subsection.

(9) Where the Registrar becomes aware of the appointment of a receiver referred to in this section, he or she shall forthwith inform the Director of Corporate Enforcement of the appointment.

(10) If the receiver makes default in complying with this section, he or she shall be guilty of a category 4 offence.