

CHAPTER 3 Powers and Duties of Receivers

Powers of receiver

437. (1) Subject to the provisions of this section, a receiver of the property of a company has power to do, in the State and elsewhere, all things necessary or convenient to be done for or in connection with, or as incidental to, the attainment of the objectives for which the receiver was appointed.

(2) Without limiting the generality of subsection (1) but subject to subsection (4), a receiver of the property of a company has (in addition to any powers conferred by the order or instrument referred to in subsection (4) or by any other law) power to do one or more of the following things for the purpose of attaining the objectives for which he or she was appointed.

(3) Those things are:

(a) to enter into possession and take control of property of the company in accordance with the terms of the order or instrument referred to in subsection (4);

(b) to lease, let on hire or dispose of property of the company;

(c) to grant options over property of the company on such conditions as the receiver thinks fit;

(d) to borrow money on the security of property of the company;

(e) to insure property of the company;

(f) to repair, renew or enlarge property of the company;

(g) to convert property of the company into money;

(h) to carry on any business of the company;

(i) to take on lease or on hire, or to acquire, any property necessary or convenient in connection with the carrying on of a business of the company;

(j) to execute any document, bring or defend any proceedings or do any other act or thing in the name of and on behalf of the company;

(k) to draw, accept, make and endorse a bill of exchange or promissory note;

(l) to use a seal of the company;

(m) to engage or discharge employees on behalf of the company;

(n) to appoint a solicitor, accountant or other professionally qualified person to assist the receiver;

(o) to appoint an agent to do any business that the receiver is unable to do, or that it is unreasonable to expect the receiver to do, in person;

(p) where a debt or liability is owed to the company, to prove the debt or liability in a bankruptcy, insolvency or winding up and, in connection therewith, to receive dividends and to assent to a proposal for a composition or a scheme of arrangement;

(q) if the receiver was appointed under an instrument that created a charge on uncalled share capital of the company—

(i) to make a call in the name of the company for the payment of money unpaid on the company's shares, or

(ii) on giving a proper indemnity to a liquidator of the company, to make a call in the liquidator's name for the payment of money unpaid on the company's shares;

(r) to enforce payment of any call that is due and unpaid, whether the calls were made by the receiver or otherwise;

(s) to make or defend an application for the winding up of the company;

(t) to refer to arbitration or mediation, any question affecting the company.

(4) Subsections (1) and (2) are subject to any provision of the order of the court by which, or the instrument under which, the receiver was appointed, being a provision that limits the receiver's powers in any way.

(5) The conferral on a receiver, by this section, of powers in relation to property of a company does not affect any rights in relation to that property of any other person other than the company.

(6) In subsections (3) and (5) a reference, in relation to a receiver, to property of a company is a reference to the property of the company in relation to which the receiver was appointed; this subsection is in addition to section 2 (9) providing for construction of references to a receiver of property of a company.