

Preferential payments when receiver is appointed under floating charge

440. (1) Where either—

(a) a receiver of the property of a company is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or

(b) possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge,

then, if the company is not at the time in the course of being wound up, the debts which in every winding up are, under the provisions of Part 11 relating to preferential payments, to be paid in priority to all other debts, shall be paid out of any assets coming to the hands of the receiver or other person taking possession as mentioned above in priority to any claim for principal or interest in respect of the debentures.

(2) In the application of the foregoing provisions, section 621 (2)(c) shall be read as if the provision for payment of accrued holiday remuneration becoming payable on the termination of employment before or by the effect of the winding-up order or resolution were a provision for payment of such remuneration becoming payable on the termination of employment before or by the effect of the appointment of the receiver or possession being taken as mentioned above.

(3) For the purposes of this section, the periods of time mentioned in the foregoing provisions of Part 11 shall be reckoned as beginning after the date of the appointment of the receiver or of possession being taken as mentioned above, as the case may be.

(4) Any payments made under this section shall be recouped so far as may be out of the assets of the company available for payment of general creditors.