

267. Effect of floating charge

- (1) This section applies in relation to a company if the company goes into liquidation.
- (2) If the company creates a floating charge on its undertaking or property at a relevant time (within the meaning of section 267A), the charge is invalid except to the extent of the amount specified in subsection (3).
- (3) The amount is the aggregate of—
 - (a) the value of so much of the consideration for the creation of the charge that consists of—
 - (i) money paid to the company at the same time as, or after, the creation of the charge;
 - (ii) money paid at the direction of the company at the same time as, or after, the creation of the charge; or
 - (iii) property or services supplied to the company at the same time as, or after, the creation of the charge; and
 - (b) the amount of any interest that is payable on the amount mentioned in paragraph (a)(i), (ii) or (iii) pursuant to the charge or consideration agreement, at—
 - (i) the rate specified in the charge or consideration agreement; or
 - (ii) the rate of 12% per annum,whichever is the lesser.
- (4) For the purposes of subsection (3)(a)(iii), the value of any property or services supplied as consideration for a floating charge is the amount in money which, at the time they were supplied, could reasonably have been expected to be obtained—
 - (a) for supplying the property or services in the ordinary course of business; and
 - (b) on the same terms (apart from the consideration) as those on which they were supplied to the company.
- (5) In this section—

consideration agreement (代價協議)—

 - (a) in relation to the value mentioned in subsection (3)(a)(i), means the agreement pursuant to which the money was paid to the company;
 - (b) in relation to the value mentioned in subsection (3)(a)(ii), means the agreement pursuant to which the money was paid at the direction of the company; or
 - (c) in relation to the value mentioned in subsection (3)(a)(iii), means the agreement pursuant to which the property or services were supplied to the company;

floating charge (浮動押記) means a charge which, when created, was a floating charge.

(Replaced 14 of 2016 s. 91)