

79. Payment of certain debts out of assets subject to floating charge in priority to claims under the charge

- (1) Where a receiver is appointed on behalf of the holders of any debentures of a company secured by a charge which, as created, was a floating charge, or 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 course of being wound up, the debts, which in every winding-up are under the provisions of Part V relating to preferential payments to be paid in priority to all other debts, shall, according to their respective priorities under section 265, be paid out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures. *(Amended 10 of 1987 s. 3)*
- (1A) In the application of the provisions of Part V, section 265 shall be construed 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 aforesaid. *(Added 6 of 1984 s. 45)*
- (2) The periods of time mentioned in the said provisions of Part V shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.
- (2A) Where the date referred to in subsection (2) occurred before the commencement[#] of the Companies (Amendment) Ordinance 1984 (6 of 1984), subsections (1) and (2) shall have effect with the substitution, for references to the provisions of Part V, of references to the provisions which, by virtue of section 265(7) are deemed to remain in force in the case therein mentioned, and subsection (1A) shall not apply. *(Added 6 of 1984 s. 45)*
- (3) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors.

(Amended 6 of 1984 s. 45)

[cf. 1925 c. 23 s. 78 U.K.]

Editorial Note:

[#] Commencement date: 31 August 1984.
