

Table of Contents

<i>Preface</i>	v
<i>Table of Cases</i>	xxix
1. Introduction	1
1. History.....	1
2. Method and Purpose of Appointment	6
3. Engaging a Consultant and Monitor	10
4. Court-appointed Monitor and Interim Receiver.....	15
5. Effect of Receivership.....	19
6. Personal Liability of Receiver and Manager	21
7. Other Problem Areas.....	22
(a) Receivership as a Final Remedy.....	23
(b) Accessibility to the Court.....	24
(c) Restricting Receiver's Power to Sell.....	24
(d) Effects of Receivership on Third Parties.....	26
(e) Deemed Agency Clause	26
(f) Liens and Deemed Trusts	27
(g) Protection of Creditors.....	28
(h) Accountability of Receiver	29
(i) Qualifications of Receiver	30
(j) Re-floating a Charge.....	31
(k) Standard of Care When Realizing	31
(l) Overlapping Jurisdiction, Paramountcy, Powers, and Terminology	33
(m) Abuse of the Court Appointment.....	35
(n) The Need for Rules Governing Inter-Provincial Receiverships	36
(o) The Use of the Investigative Receiver	37
(p) Discretion and Inherent Jurisdiction	38
(q) The Receiver's Neutrality.....	40
(r) Appeal Routes.....	42
2. Court and Private Appointments — Practical and Legal Considerations	45
1. Method of Appointment.....	46
(a) Court Appointment.....	46
(b) Private Appointment.....	50
2. Duties and Powers of the Receiver	51
(a) Court Appointment.....	52
(b) Private Appointment.....	54
3. Status.....	56
(a) Court Appointment.....	56
(b) Private Appointment.....	58

4. Realization	60
(a) Court Appointment.....	60
(b) Private Appointment.....	61
5. Costs	63
(a) Court Appointment.....	63
(b) Private Appointment.....	63
6. Discharge	64
(a) Court Appointment.....	64
(b) Private Appointment.....	64
Schedule	66
3. The Charge.....	69
1. The Debt.....	69
2. The Collateral Secured	71
3. The Fixed Charge.....	75
(a) Type of Property.....	75
(b) Limited Receivership Appointment	79
4. The Floating Charge	80
(a) Definition and History	80
(b) Use of the Floating Charge in Debentures	81
(c) Property Under the Floating Charge	83
(d) Property Excluded Under the Floating Charge.....	85
(i) Trust Property	85
(ii) Constructive Trust	88
(iii) Reservation of Title	90
(e) Crystallization.....	91
(f) Acts of Crystallization	93
(i) Automatic and Partial Crystallization	93
(ii) Intervention by Security Holder	97
(iii) Events of Default.....	100
(g) General Effects of Crystallization.....	102
(i) The Debtor and Title to the Assets	104
(ii) Extent of Property	105
(iii) Effect on Secured Creditors	105
(iv) Effect on Trade Creditors	106
(v) Set-off.....	106
(vi) Execution Creditors and Garnishors.....	107
(vii) Employees.....	107
(viii) Property Acquired After Crystallization	107
5. Security under Section 427 of the Bank Act.....	108
6. The Effects of Personal Property Security Act Legislation	111
4. Preliminary Steps on Enforcement	115
1. Review of Security.....	115
(a) Forbearance Agreement	117

TABLE OF CONTENTS xiii

(b) Guidelines for Reviewing the Security.....	118
(c) Validity—Execution and Registration.....	120
(i) Debentures	120
(ii) Personal Property Security Agreements.....	125
(iii) Security Under Section 427 of the Bank Act	128
(d) Validity—Advances.....	129
(i) Debentures	129
(ii) Personal Property Security Agreements.....	132
(iii) Security Under Section 427 of the Bank Act	132
2. Enforcement.....	132
(a) Default	132
(b) Events of Default.....	133
(c) Conditions Precedent—Calling the Loan	135
(i) Demand Loan	135
(ii) Term Loan	137
(iii) Notice of Default.....	138
(iv) Statutory Conditions.....	138
(v) Presentment	141
(vi) Demand	142
(vii) Time to Pay or Time to Rectify	144
(viii) Section 244 Notice, Bankruptcy and Insolvency Act.....	154
(ix) Section 21 Notice, Farm Debt Mediation Act	157
(x) Period Between Demand and Enforcement.....	159
(xi) The Pledge and the Debenture	160
Appendix	163
5. Remedies	169
1. Introduction	169
2. Legal Proceedings for Arrears of Payments	171
3. Foreclosure	171
4. Proceedings for Winding-up or Liquidation.....	173
5. Application for Bankruptcy Order.....	173
6. Appointment of Private Receiver and Manager Under Security Instrument.....	174
7. Court Appointment of Receiver and Manager.....	177
(a) Jurisdiction	178
(i) Action or Application.....	178
(ii) Special Legislation	185
(iii) Preservation Order.....	187
(b) Under What Circumstances—Who May Apply.....	187
(i) Situations Where the Court Will Appoint a Receiver and Manager	199
(ii) Situations Where the Court Will Refuse to Appoint a Receiver and Manager	210
(c) Commencement of Action.....	217

(i) Conditions Precedent	217
(ii) Relief Claimed	217
(iii) Defendants	218
(d) The Motion or Application.....	219
(e) Form of Order	225
(i) Parties and Service.....	228
(ii) Powers.....	228
(iii) Injunctions, Possession, and Access to Property	229
(iv) The Stay of Proceedings.....	229
(v) Employment	229
(vi) Receiver's Liability for Environmental Damages	229
(vii) Funding the Receivership	230
(viii) Come-back Clause	230
(ix) Term of the Appointment	232
(x) Name of Receiver and Manager.....	232
(xi) Receiver's Remuneration.....	233
(xii) When Appointment Takes Effect and the Timing of Crystallization.....	235
(xiii) Undertaking as to Damages	236
(xiv) Security for Performance.....	237
(xv) Other Terms.....	239
(xvi) Appeal from Receivership Order	239
(f) A Motion under Section 101 of the Courts of Justice Act.....	242
(g) An Application under Rules of Civil Procedure.....	243
(h) An Application under Part II of the Bankruptcy and Insolvency Act	243
(i) An Application under Section 243 of the Bankruptcy and Insolvency Act.....	244
(j) Other Provincial, Territorial and Federal Legislation	246
(i) Staying the order under appeal	246
(ii) Deference.....	247
8. Invalid Appointment	248
Appendix	255
6. Status of the Receiver and Manager	259
1. Office of Receiver and Manager	259
(a) Who May Be Receiver and Manager.....	259
(i) Receivership and Bankruptcy—Dual Role	263
(ii) Proposed Receiver	266
(b) Differences Between Receiver and Manager	267
2. Status of a Receiver and Manager	269
(a) Court Appointment.....	269
(i) Receiver as a Principal.....	269
(ii) Title.....	273
(iii) Consolidation	273

TABLE OF CONTENTS xv

(iv) Powers of the Directors and Officers	276
(v) The Receiver's Power to Manage the Debtor's Business	279
(vi) Environmental Concerns	280
(vii) Employees	282
(viii) New Contracts	282
(ix) Stay of Proceedings	283
(x) Interference with the Receiver	284
(b) Private Appointment	286
(i) Agency	287
(ii) Termination of Agency	292
3. Powers and Duties	293
(a) Powers	293
(i) Court Appointment	293
(ii) Private Appointment	296
(b) Duties	296
(i) Court Appointment	298
(ii) Private Appointment	304
(c) Types of Powers and Corresponding Duties	307
(i) Power to Take Possession of the Debtor's Property or Any Part Thereof	307
(ii) Power to Manage, Carry On, or Continue to Carry On the Business	315
(iii) Power to Borrow Money in Order to Preserve and Protect the Assets and in Order to Carry on the Business	321
(iv) Power to Sell, Lease, or Dispose of the Assets as a Whole or in Part	323
(v) Power to Execute Deeds, Enter Contracts and Other Documents as Irrevocable Attorney of Debtor for Purpose of Carrying On the Business or Any Sale	326
(vi) Power to Institute, Defend, or Continue Proceedings for the Protection of Assets	327
(vii) Power to Recover Property	337
(viii) Power to Settle or Compromise Any Indebtedness by or to Debtor	337
(ix) Power to Apply to the Court for Advice and Directions	339
(x) Power to Do Any Act Deemed Necessary in the Realization of the Security or Related to the Performance of Any of the Preceding Powers	347
(d) Statutory Duties—General	347
(i) Under the Income Tax Act	349
(ii) Under the Canada Business Corporations Act	351
(iii) Under Environmental Protection Legislation	352
4. Legal Proceedings Against a Receiver and Manager Other Than by Debtor	359

(a) Proceedings Against the Debtor	360
(b) Proceedings Against the Receiver	361
(c) No Exercise of Rights or Remedies	362
(d) Who is Affected by the Order	369
(i) Situations Where Leave Granted	370
(ii) Situations Where Leave Refused	374
(e) Proceedings Against an Interim Receiver Under the Bankruptcy and Insolvency Act	376
Appendix	377
7. Realization — Types of Sales	383
1. Receiver's Conduct on Realization	383
2. Types of Sales	389
3. Tender Sales	395
4. Auction Sales	397
5. Private Sales	397
6. Who May Purchase Assets	399
7. Court Approval	404
(a) Private Receiver	404
(b) Court-appointed Receiver	406
(c) The Hearing	411
(i) Unsuccessful Purchasers	415
(ii) Vesting Order	419
(iii) Sealing of Information	421
(iv) Appeal from Sale Approval Order and Vesting Order	421
(v) Where Receivership is Governed under the Bankruptcy and Insolvency Act	422
(vi) Where the Receivership is Not Governed under the Bankruptcy and Insolvency Act	425
8. Standard of Care on Court Approval	426
(a) Soundair Test	428
(b) Quick Sales and Quick Flips or Pre-Packaged Sales	437
(c) Completing the Sale	439
(d) Vesting Order	439
(e) Appeals from the Motion Court Judge Approving the Sale and Vesting Order	441
Appendix	442
8. Realization — Sales under Legislation	451
1. Sale of Personal Property Under Security Agreements — Personal Property Security Act (PPSA)	451
(a) Notices	452
(i) PPSA Notice	452
(ii) Section 244 Notice	454
(b) The Sale	456

TABLE OF CONTENTS xvii

2. Sale Under Mortgages and Debentures.....	462
(a) Personal Property	462
(b) Real Property	464
(i) General.....	464
(ii) Default	465
(iii) Notice.....	465
(iv) The Sale.....	468
(v) The Conveyance.....	469
(vi) Vesting Order.....	471
(vii) Special Problems	473
(c) Standard of Care.....	478
3. Sale Under Section 427 Bank Act Security	491
(a) General.....	491
(b) Standard of Care	494
4. Sale En Bloc.....	498
(a) Agreement of Purchase and Sale	498
(i) Accounts Receivable	500
(ii) Finished Products	500
(iii) Inventory on the Date of Closing.....	500
(iv) Machinery and Equipment	500
(v) Representations and Warranties	500
(vi) Chattel Leases.....	501
(vii) Investment Canada Act.....	501
(viii) Licences, Franchises, Patents, Trade Marks, Copyright	502
(ix) Leasehold Interests.....	502
(b) Employees—Unions	503
(i) Sale of Debtor’s Business	505
(ii) The Receiver as “Successor Employer”	508
5. Statement of Receipts and Disbursements.....	513
6. Costs of Realization	515
(a) Types of Costs and Expenses	515
(b) Allocation of Costs	517
Appendix	519
9. Contractual Priorities and Liabilities of the Receiver and Manager	521
1. General	521
2. Contractual Priorities	523
(a) Between Debentures.....	524
(b) Debentures and Chattel Mortgages or Assignments of Book Debts.....	527
(c) Debentures and Conditional Sales Agreements	529
(d) Personal Property Security Act Agreements	530
(i) General Rule	531
(ii) Subordination.....	533
(iii) Sales in the Ordinary Course of Business	536

(iv) Inventory Supplier	537
(v) Equipment Supplier	537
(vi) Landlord.....	538
(e) Personal Property Security Act Agreements and Security Under the Bank Act.....	539
(f) Third Party Property Claims.....	541
3. Borrowings.....	544
4. The Landlord	546
(a) Tenant in Receivership.....	546
(i) Private Appointment.....	547
(ii) Court Appointment	548
(iii) Occupation Rent.....	550
(b) Landlord in Receivership	554
(i) Prior Security.....	554
(ii) Leases.....	554
(iii) Rent	555
(iv) Renewal of Lease and New Leases.....	556
5. Contracts	557
(a) Existing Contracts with the Debtor	557
(i) Repudiate Contract.....	558
(ii) Adopt Contract	561
(b) New Contracts with Receiver and Manager	565
(c) Set-off.....	568
(i) By Agreement	568
(ii) Legal Set-off.....	568
(iii) Equitable Set off.....	569
(iv) Equitable Set-Off in Canada	574
6. Creditors and Garnishors of the Debtor	576
(a) Unsecured Trade Creditors of the Debtor	576
(b) Execution Creditors of the Debtor	579
(c) Garnishors	584
10. Crown and Other Statutory Priorities	587
1. Statutory Liens and Deemed Trusts—General	588
(a) Liens.....	588
(b) Deemed Trusts.....	590
(c) Priorities	592
(d) General Application of Legislation.....	594
(i) Statutory Liens	594
(ii) Deemed Trusts.....	596
2. Employees	600
(a) Rights of Employees Upon Receivership	600
(b) Wages and Wage Earner Protection Program	602
(c) Employees of Receiver	605
(d) Vacation Pay	618

(e) Employee Benefits	623
3. Realty Taxes	624
4. Business Taxes	626
5. Sales Taxes	628
(a) Retail Sales Tax	628
(b) Excise Tax/GST/HST	635
6. Corporations Taxes	641
7. Source Deductions: Canada Pension, Employment Insurance, and Income Tax	646
8. Workers' Compensation	665
9. Utilities	672
(a) Hydro and Gas	672
(b) Telephone Service	678
10. Construction Liens	679
11. Unpaid Suppliers	685
(i) Demand	688
(ii) Bankruptcy or Receivership	689
(iii) Identifiable Goods	689
11. Reports, Distribution, and Remuneration	693
1. Notice and Reports—Duty to Account	693
(a) Statutory Notice and Reports	693
(i) Format of the Report	694
(ii) Content of the Report	695
(b) Common Law Notice and Reports	697
(i) Court Appointment	697
(ii) Narrative	698
(iii) Financial Information	700
(iv) Cross-examination of a Court-appointed receiver	700
(v) Private Appointment	704
(c) Particulars of the Report	706
2. Distribution of Proceeds	708
(i) Allocation of Costs	710
(ii) Claims Bar Procedure	713
(a) Assets Under a Fixed Charge	720
(b) Assets Under a Floating Charge	726
(i) Deemed Trusts	726
(ii) Costs of Realization	727
(iii) Receiver and Manager's Remuneration	727
(iv) New Creditors and Borrowings	728
(v) Security Holder	728
(vi) Surplus	728
(c) Assets Under a Trust	728
3. Passing the Accounts of Receiver and Manager	731
(a) Duty to Pass	731

(i) Reference to Registrar/Master or Judge	733
(ii) Purpose in Passing of Accounts	734
(b) Procedure	736
4. Remuneration of Receiver and Manager.....	741
(a) Court Appointment.....	741
(i) Administrative Charge and Indemnity.....	742
(ii) Challenging the Receiver's Fees and Disbursements	748
(iii) Interim Draw.....	750
(iv) Interim Receivership	751
(b) Private Appointment.....	752
(c) Quantum of Remuneration	754
12. Discharge.....	769
1. Grounds.....	769
2. Court Appointment.....	774
3. Private Appointment	780
4. Refloating the Charge	782
13. Bankruptcy and Receivership	785
1. Introduction: Vesting of Property and Termination of Deemed Agency.....	785
2. Reasons for Bankruptcy from Security Holder's Point of View.....	790
(a) Effect on Landlords	790
(i) Right of Distress.....	791
(ii) Right of Termination.....	792
(iii) Co-operation Between Receiver and Trustee	792
(iv) Distress and Termination Against Receiver	795
(b) Effect on Statutory Tax Liens and Trusts	796
(c) Effect of a Bankruptcy on a Security Holder.....	798
3. Reasons for Bankruptcy from Unsecured Creditor's Point of View..	799
(a) Information	799
(b) Investigation	800
(c) Duties of Trustee in Bankruptcy.....	803
(i) Review Security to Determine Validity and Enforceability	804
(ii) Review Conduct and Actions of Receiver and Manager.....	804
4. Causes of Action Available Only to Trustee in Bankruptcy	806
(a) Fraudulent Preferences and Transfers at Undervalue.....	806
(i) Fraudulent Preferences.....	806
(ii) Transfers at Undervalue.....	812
(b) Examinations.....	812
(c) Forced Sale	814
(d) Redemption	814
(e) Stay of Proceedings	815
(f) Remedies Under Legislation Governing Security.....	816
(i) Personal Property Security Act	817

TABLE OF CONTENTS xxi

(ii) Section 427 Bank Act Security	820
(g) Creditors' Remedies—Section 38 Proceedings	820
5. Creation of a Bankruptcy	823
(a) Court-appointed Receivership	824
(i) Application for a Bankruptcy Order	824
(ii) Assignment	825
(b) Private Receivership	830
(i) Application for a Bankruptcy Order [Petition]	830
(ii) Assignment	830
6. Conflict of Interest	832
(a) Joint Appointments	832
(b) Negligence of One in Joint Appointments	836
(c) Administering the Estate and Duplication	839
(d) Receiver as Creditor and Trustee of Account Debtor	841
(e) Constitutional Problem	842
14. Rights and Remedies of a Debtor	843
1. General	844
2. Re-organization	847
(i) Assets	853
(ii) Liabilities	853
(iii) Capital—Equity Financing	854
3. Require Time to Pay—Right to Tender Prior to Appointment of Receiver	855
4. Right to Take Protection Under the Bankruptcy and Insolvency Act	858
5. Right to Relief from Forfeiture	867
6. Defending the Action by the Security Holder	871
(a) Motion for Court-appointed Receiver and Manager	871
(b) Court Appointment Following Private Appointment	874
(c) Motion for Injunction to Restrain Receiver and Manager from Selling	875
(d) Defences	879
(e) Application for a Bankruptcy Order	884
7. Right to Commence Action or Counterclaim	886
(a) Cause of Action	886
(b) Forum to Sue	888
(c) Leave to Proceed	890
(d) Security for Costs	894
8. Right to Require Judicial Enforcement	895
9. Right to Tender After Receiver Business Has Been Appointed—Redemption	897
10. Right to Realize on Assets Not Charged and Those Disclaimed by Receiver and Manager	899
11. Breach of Duties	901

(a) Possession	902
(b) Carrying On Debtor's Business	903
(c) Borrowings	904
(d) Disposition	904
(e) Lawsuits	905
12. Action for Accounting	906
13. Rights of Guarantors	909
(a) Discharge	911
(i) Waiver	912
(ii) Duty of care	915
(b) Action for Damages and Discharge	918
14. Rights of Directors	919
(i) Protection	922
(ii) Defences	923
15. Receivership Under Personal Property Security Legislation	925
1. General	926
2. Position of Receiver	930
3. Specific Rights and Duties of Receiver and Manager	935
(a) Taking Possession	935
(b) The Receiver in Possession	935
(c) Disposition of Collateral	939
4. Debtor's Rights Under the Personal Property Security Act	941
(a) Right to Require Statement of Account	942
(b) Right to Challenge Use of Collateral by Secured Party in Possession	942
(c) Right to Receive Notice of Sale	943
(d) Right to Surplus	944
(e) Right to Object to Notice of Retention	945
(f) Right to Redeem	947
(g) Right to Recover Loss or Damage	947
(h) Right to Waive or Vary Security Agreement	948
(i) Right to Challenge Disposition of Collateral	949
5. Summary Application to the Court	950
6. Alberta	952
(i) Definition	952
(ii) Supervisory Power of the Court	953
(iii) Exclusion of Bank Act Security	953
(iv) Regulation of Receiverships	953
(v) Duties	956
7. British Columbia	956
(i) Definition	959
(ii) Supervisory Power of the Court	960
(iii) Exclusion of Bank Act Security	960
(iv) Regulation of Receiverships	960

(v) Disqualification of Persons Who can Act as a Receiver.....	961
(vi) Duties	963
8. Manitoba	964
9. New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island	965
(i) Definition	965
(ii) Supervisory Power of the Court.....	966
(iii) Regulation of Receiverships and Duties	967
10. Saskatchewan	970
(i) Definitions.....	970
(ii) Supervisory Power of the Court.....	971
(iii) Regulation of Receiverships and Duties	972
11. Priorities within Personal Property Security Legislation	976
(a) General.....	976
(b) Corporate Debentures.....	978
(c) Exclusions	978
(i) Implied Exclusions.....	979
(ii) Consignments	981
(iii) Trust Property	982
(iv) Principal and Agency	983
(v) Express Exclusions	983
(vi) Purchase-money Security Interest	986
(vii) Transfers of Interest.....	987
16. Specific Types of Receiverships	989
1. General	990
2. Appointment of Receiver by Way of Equitable Execution Under the Courts of Justice Act.....	992
(a) Jurisdiction—Nature of Relief.....	992
(b) Restrictions on Relief.....	994
(c) Situations Where Relief Granted	998
(d) Situations Where Relief Refused	1001
(e) Special Circumstances	1004
(i) Where Garnishment or Other Enforcement May Be Impractical	1004
(ii) Where Assets Intentionally Sheltered	1005
(iii) Where Future Assets Are Sheltered.....	1006
3. Appointment of Receiver and Manager Under a Mortgage or Pursuant to the Courts of Justice Act.....	1007
(a) Jurisdiction	1007
(b) Grounds for Court Appointment	1009
(c) Powers and Duties While in Possession	1011
(d) Possession.....	1012
(e) Liabilities—General.....	1017
4. Appointment of Trustee Pursuant to the Construction Act.....	1022

(a) History of Legislation	1022
(b) Jurisdiction Under Act.....	1023
(c) Grounds for Appointment.....	1026
(d) Powers and Duties of Trustee	1027
(e) Realization.....	1027
(f) Priorities on Distribution of Sale Proceeds.....	1029
5. Receiverships of Corporations Governed by Business Corporations Act Legislation.....	1032
(a) Jurisdiction	1032
(b) Grounds for Appointment	1034
(c) Powers and Duties of Receiver and Manager	1035
6. Receiverships Under the Companies' Creditors Arrangement Act...	1039
(a) Initial Order and Role of the Monitor	1039
(b) Appointment of Receiver	1042
(c) Timing of the Application for the Appointment of a Receiver and Manager in the Context of a CCAA Proceeding.....	1045
7. Receiverships Under the Housing Services Act, 2011	1050
(a) Conditions Precedent	1051
(b) Judicial Review.....	1053
(c) Appointment of Receiver and Manager.....	1054
(d) Powers of Receiver and Manager.....	1055
(e) The Purpose for the Receivership	1056
17. Receiverships Under the Bankruptcy and Insolvency Act	1059
1. Introduction	1059
2. Receiverships Under Part II of the Bankruptcy and Insolvency Act.....	1064
(a) Jurisdiction	1064
(i) Section 46: Appointment After an Application for a Bankruptcy Order	1065
(ii) Section 47: Appointment After a Section 244 Notice.....	1065
(iii) Section 47.1: Appointment During a Proposal	1066
(b) Grounds for Appointment	1067
(i) Section 46: Appointment After an Application for a Bankruptcy Order	1067
(ii) Section 47: Appointment After a Section 244 Notice.....	1073
(iii) Section 47.1: Appointment Under a Proposal.....	1082
(iv) Appointment of an Interim Receiver Pending an Appeal from a Bankruptcy Order.....	1088
(v) Appeal From an Interim Receivership Order.....	1089
(c) Powers and Duties of Interim Receiver.....	1091
(i) Appointment After an Application to Place the Debtor into Bankruptcy—Section 46	1092
(ii) Appointment After a Section 244 Notice—Section 47	1097
(iii) Appointment Under a Proposal—Section 47.1	1101

(d) Discharge.....	1103
(i) Fees.....	1104
(ii) Taxation of Accounts	1105
3. Receiverships Under Part XI of the Bankruptcy and Insolvency Act.....	1108
(a) Jurisdiction	1108
(i) Just or Convenient.....	1112
(ii) Receiver Must be a Licensed Trustee	1114
(iii) National Receiver	1114
(iv) Receiver Priority for Fees.....	1116
(v) Protection of Receiver.....	1117
(b) Section 244—Notice of Intention to Enforce Security	1117
(i) When to Send Notice.....	1121
(ii) The Section 244 Notice	1122
(c) Duties and Reports of the Receiver.....	1123
(d) Powers of the Court.....	1126
(e) Protection of the Receiver	1128
4. Receiverships Under Part XIII of the Bankruptcy and Insolvency Act—Recognition of Foreign Receivers.....	1132
5. Actions Against the Receiver.....	1136
6. Actions Against the Debtor or its Property	1147
Precedents.....	1149
A. General	1151
1. Demand for Payment	1152
2. Appointment of Consultant	1153
3. Appointment of Monitor.....	1155
4. Forbearance Agreement.....	1157
5. Indemnity	1162
6. Conditions of Sale	1163
7. Advertisement.....	1172
8. Confidentiality Agreement	1173
9. Summary Statement of Affairs on Date of Appointment	1175
10. Consolidated Statement of Receipts and Disbursements.....	1176
11. Statement of Receiver’s Remuneration.....	1177
12. Assignment of Debt/Security	1178
13. Consolidated Practice Direction Concerning the Commercial List effective July 1, 2014.....	1181
B. Court Appointment	1193
1. Endorsement on Statement of Claim.....	1194
1.1 Application for Interim Receiver	1196
1.2 Application for Receiver and Manager	1199
2. Notice of Motion for Appointment of Receiver and Manager..	1202
3. Affidavit in Support	1203
4. Consent of Proposed Receiver and Manager.....	1205

4.1 Consent by the Debtor to the Appointment.....	1205
5. Model Template Receivership Order.....	1206
5.1 Initial Order—Alternative Provisions	1216
5.2 Schedule Referred to in Annexed Order.....	1221
6. Explanatory Notes.....	1222
7. Notice of Motion for Order Granting Leave to Continue	1233
8. Affidavit in Support	1234
9. Order Granting Leave to Continue	1235
10. Notice of Motion for Approval of Sale.....	1236
11. Receiver's Report No. [3].....	1237
12. Template Approval Model and Vesting Order	1238
12.1 Order Approving Sale	1243
13. Order Granting Vesting Order	1244
14. Receiver's Report No. [5] on Passing its Accounts	1245
15. Model Discharge Order	1246
15.1 Discharging Order	1248
C. Private Appointment	1249
1. Private Appointment	1250
2. Notice of Appointment to Debtor	1251
3. Acknowledgement and Consent by Debtor	1251
4. Notice of Intention to Sell—Section 59(5) of Ontario Personal Property Security Act	1252
5. Consent by Debtor to Sell	1253
6. Transfer of Land Under Land Titles Act	1254
(a) Transfer	1254
(b) Statutory Declaration of Chargee	1255
(c) Statutory Declaration of Solicitor re Compliance	1256
(d) Statutory Declaration of Service of Notice	1257
7. Deed from Security Holder and/or Receiver under Registry Act.....	1260
8. Bill of Sale.....	1264
9. Discharge of Receiver and Manager	1267
10. Indemnity from Trustee in Bankruptcy	1268
D. Appointment of Receiver after Judgment	1269
1. Notice of Motion.....	1270
2. Affidavit in Support	1271
3(a) Order Appointing Receiver.....	1273
3(b) An Alternative Order for an Equitable Receiver.....	1274
E. Appointment of Trustee under Construction Act	1277
1. Notice of Application	1278
2. Affidavit in Support	1280
3. Order Appointing Trustee.....	1282
F. Bankruptcy and Insolvency Act	1285

TABLE OF CONTENTS xxvii

1. Notice of Intention to Enforce Security	1286
2. Notice and Statement of the Receiver [Form 87].....	1287
3. Interim Report of the Receiver	1288
4. Final Report and Statement of Account of the Receiver	1289
5. Affidavit in Support	1290
6. Order Appointing Interim Receiver.....	1291
(a) General.....	1291
(b) Specific.....	1292
Publications from the Office of the Superintendent of Bankruptcy	1295
1. Directive No. 10R, Redemption of Security and Section 147 Levy of the BIA, issued May 22, 2009, modified March 24, 2015.....	1297
2. Non-Trustee Receivers, Position Paper, dated May 20, 2010, modified March 24, 2015.....	1301
3. Administrative Agreements with Receivers, modified March 24, 2015.....	1303
List of Selected Statutory References	1311
Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 as amended.....	1316
Bankruptcy Rules, C.R.C., c. 369	1326
Canada Business Corporations Act, Part IX, R.S.C. 1985, c. C-44.....	1330
Canada Pension Plan, R.S.C. 1985, c. C-8	1333
Employment Insurance Act, S.C. 1996, c. 23.....	1334
Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.).....	1335
Construction Act, R.S.O. 1990, c. C.30.....	1337
Courts of Justice Act, R.S.O. 1990, c. C.43.....	1337
Rules of Civil Procedure (Ontario), R.R.O. 1990, Reg. 194.....	1338
Environmental Protection Act, R.S.O. 1990, c. E.19.....	1338
Ontario PPSA, R.S.O. 1990, c. P.10.....	1343
Alberta PPSA, R.S.A. 2000, c. P-7.....	1351
British Columbia PPSA, R.S.B.C. 1996, c. 359.....	1356
Manitoba PPSA, C.C.S.M. c. P35.....	1362
New Brunswick PPSA, S.N.B. 1993, c. P-7.1.....	1369
Newfoundland and Labrador PPSA, S.N.L. 1998, c. P-7.1.....	1373
Nova Scotia PPSA, S.N.S. 1995-96, c. 13.....	1380
Prince Edward Island PPSA, R.S.P.E.I 1988, c. P-3.1	1387
Saskatchewan PPSA, 1993, S.S. 1993, c. P-6.2.....	1394
Yukon PPSA, R.S.Y. 2002, c. 169	1398
Northwest Territories, S.N.W.T. 1994, c. 8 and Nunavut, S.N.W.T. (Nu.), 1994, c. 8	1402
<i>Selected Bibliography</i>	<i>1409</i>
<i>Index</i>	<i>1413</i>