

Registration of Charges

- Prior to 2013, registration was limited to certain categories of charges. As from 2013, all charges created by companies are registerable under section **859A of CA 2006**
- Charges must be registered in the Company Charges Register (if the interest is created by companies) or under the Bills of Sale Act (if the interest is granted by individuals)
- **S860(1) CA 2006** – a company that creates a charge to which this section applies must deliver the prescribed particulars of the charge, together with the instrument (if any by which the charge is created or evidenced, to the registrar for registration before the end of the period allowed for registration
- Must register charge within 21 days (**859A (4) CA 2006**)
- **S874 (1) CA 2006** – if a company creates a charge to which section 860 applies, the charge is void against –
 - (a) A liquidator of the company
 - (b) An administrator of the company, and
 - (c) A creditor of the company

Priority of Charges

- Common in exam question – where the same assets are subject to more than one charge – which charge will take priority
- List of priority -
 - Two fixed charges – rank in order of creation
 - Two floating charges – rank in order of creation
 - Fixed charge followed by a floating charge – fixed charge takes priority
 - Floating charge followed by a fixed charge – fixed charge takes priority
- The floating charge is defeated by the fixed charge – this is because the fixed charge attaches itself to an asset on creation, whereas a floating charge only attaches itself upon crystallisation – therefore the lender who secures a floating charge over a company's assets is vulnerable to the company granting another lender a fixed charge over the same asset at a later date
- To prevent this issue, the document granting a floating charge can include a negative pledge clause – the clause states that the company will not grant another charge over the same asset

Avoiding Charges

- A charge can be avoided if it is deemed a 'preference' (i.e. an unfair advantage to an individual creditor designed to increase their chances of repayment over the other creditors)
- **Insolvency Act 1986 s239(2)-(4)** – preferences-
 - (2) where the court has... given a preference to any person, the office-holder may apply to the court for an order this section
 - (4) a company gives a preference to a person if –
 - (a) that person is one of the company's creditors or a surety or guarantor for any of the company's debts or other liabilities, and