

[LEGAL NOTICE NO. 110]

COMPANIES ACT 2015  
(ACT NO. 3 OF 2015)

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## **Companies (Winding Up) Rules 2015**

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IN exercise of the powers conferred upon me under section 713 of the Companies Act 2015, I hereby make these Rules—

## PART 1—PRELIMINARY

### *Short title and commencement*

- 1.—(1) These Rules may be cited as the Companies (Winding Up) Rules 2015.
- (2) These Rules shall come into force on 1 January 2016.

### *Interpretation*

- 2.—(1) In these Rules, unless the context otherwise requires—

“Act” means the Companies Act 2015;

“Committee of Inspection” has the meaning attributed to it under Division 5, Part 40 of the Act;

“Company” means a company as defined in the Act, and for the purposes of these Regulations includes a Foreign Company to the extent specified under section 513(e) of the Act;

“Court Registrar” means the Registrar of the Court;

“File” means file in the Registry of the Court, and “Filing” has the related meaning;

“liquidator” includes, where the context so permits or requires, a Provisional Liquidator;

“Newspaper” means a newspaper published in Fiji and circulating in the district where the Registered Office, or principal or last known principal place of business, of the Company is or was situated;

“Official Receiver” of a Company has the meaning given under section 3 of the Act, and where the context so permits or requires, includes a liquidator or Provisional Liquidator;

“Provisional Liquidator” means an Official Receiver appointed by the Court to be a Provisional Liquidator;

“Regulations” means the Companies Regulations 2015; and

“Special Application” means an application mentioned in rule 6(a) or 6(b).

- (2) In these Rules, words and phrases have the same meaning as under the Act unless the context otherwise requires.

### *Dispensation from compliance with these Rules*

3. The Court may dispense with compliance with all or any of the provisions of these Rules.

### *Application of these Rules*

- 4.—(1) Except as otherwise provided in the Act, the Regulations and these Rules, the general practice of the Court, including the practices and procedures in Chambers, applies with any necessary modifications to the matters to which these Rules apply.

(2) The forms in Schedule 2 are prescribed for the purpose of the Act with such variations made by the Registrar or the Official Receiver as the circumstances require.

*Direction on procedure*

5.—(1) This section applies if any circumstances arise for which—

- (a) no procedure is provided by the Act, the Regulations or these Rules; or
- (b) there is doubt in relation to the correct procedure to be adopted.

(2) The Court may direct—

- (a) what is to be done in the circumstances; or
- (b) that the adopted procedure is the proper procedure.

(3) The direction may be given *ex parte* if the Court thinks fit.

(4) The direction is as valid as if it were specifically included in these Rules.

(5) The Court may generally or in any specific instance authorise the Court Registrar to exercise any or all of the powers that the Court may exercise under these Rules.

PART 2—WINDING UP AND OPPRESSION PROCEEDINGS

*Application of Part*

6. This Part applies to the following applications—

- (a) an application by a member of a Company or by the Registrar for relief under section 177(1)(a) of the Act;
- (b) an application by a contributory for a winding up order; and
- (c) an application by another person for a winding up order.

*Filing of application*

7.—(1) An application must be Filed.

(2) The Court Registrar must endorse the date and time of Filing on the application.

(3) An application under rule 6(b) or 6(c) must, prior to it being Filed, be presented at the office of the Registrar, and upon presentation of the application, the applicant must deposit with the Official Receiver the sum of \$700 (VAT exclusive), and such further sum, if any, as the Court may, from time to time, direct, to cover the fees and expenses to be incurred by the Official Receiver as provisional liquidator; and no application shall be received by the Court Registrar unless the receipt of the Official Receiver for the deposit payable on the presentation of the application is produced to the Court Registrar.

(4) The Official Receiver must account for the money so deposited to the applicant, and any sum so paid by a creditor must be repaid to such creditor, except and so far as such deposit may be required, by reason of insufficiency of assets, for the payment of the fees of and expenses incurred by the Official Receiver, out of the Property of the Company in the priority prescribed by these Rules.

*Form of application*

8.—(1) An application must state the nature of the relief sought.

(2) An application must be made in the form of Form D1 in Schedule 2 or, if it is a Special Application, in the form of Form D2 in Schedule 2.

*Verification of application by statutory affidavit*

9.—(1) Subject to rule 17(1), an application must be supported by a statutory affidavit verifying the application.

(2) The affidavit must—

(a) be made in the form of Form D3 in Schedule 2; and

(b) be made by—

(i) the applicant; or

(ii) if there is more than one applicant – one of them; or

(iii) if the application is made by a Company – a person having knowledge of the facts; and

(c) be Filed with the application.

(3) The affidavit is *prima facie* evidence of the facts stated in it.

(4) If an application is required to be served, a copy of the affidavit must be served with the application.

*Contents of statutory affidavit*

10.—(1) A statutory affidavit Filed in support of an application for winding up must set out the facts that are material to, and justify the making of, a winding up order.

(2) If the application relies on section 513(a) of the Act, the notice and minutes of the meeting at which the Special Resolution was passed must be exhibited to the statutory affidavit.

*Service of application*

11.—(1) Subject to this Part, an application must be served on the Company unless it is made by the Company.

(2) If there is no Registered Office of the Company, the application may be served on the Company at the principal or last known principal place of business of the Company—

(a) by leaving a copy with a Member or Officer of the Company at the place; or

(b) if no Member or Officer of the Company can be found at the place, by leaving a copy at the place; or

(c) by serving it on the Member or Officer of the Company that the Court directs.

(3) If the application is made by a person other than the liquidator of the Company in relation to a Company that is in the course of a voluntary winding up, the application must be served personally on the liquidator.

(4) The application must be served not later than 2 days before it is advertised in a Newspaper or published in the Gazette.

*Advertisement and publication of notice of application*

12.—(1) Subject to rule 17(1), notice of an application for winding up must be advertised in a Newspaper and published in the Gazette not less than 14 days before the hearing.

(2) The notice must—

- (a) be made in the form of Form D4 in Schedule 2;
- (b) specify the date on which the application was made;
- (c) specify the date and place appointed for the hearing of the application;
- (d) specify the name and address of—
  - (i) the applicant; and
  - (ii) the applicant’s solicitor (if any); and
- (e) contain a note at the foot of the advertisement stating that any person who intends to appear at the hearing of the application must send notice of the person’s intention to the applicant or to the applicant’s solicitor within the time and in the manner set out in subrules (3) to (7).

(3) A person who intends to appear on the hearing of an application must serve on the applicant or the applicant’s solicitor a notice that—

- (a) is headed with the name of the Court in which the application is being heard;
- (b) specifies whether the person who intends to appear is—
  - (i) a creditor of the Company, and if so, the amount of money owed by the Company to the person; or
  - (ii) a contributory of the Company, and if so, the number of Shares held by the person;
- (c) specifies the person’s intention to appear on the hearing of the application;
- (d) specifies the date of the hearing of the application;
- (e) specifies the place of the hearing of the application;
- (f) specifies whether the person intends to object to the application or support the application;
- (g) is signed by the person or the person’s solicitor; and
- (h) specifies the address of the person signing it.

(4) If the notice described in subrule (3) is served by post, service must be effected not later than 4.00 pm on the Business Day immediately before the day appointed for the hearing.

(5) A person who fails to comply with subrules (3) and (4) must not appear on the hearing of the application or any adjournment of the application without the leave of the Court.



(6) Subrule (3) does not require service of the notice by—

- (a) the applicant; or
- (b) a person who is served with the application.

(7) Notice of intention to appear need not be given in relation to an adjourned hearing of the application.

*Copy of application for contributory or creditor*

13.—(1) A contributory, Member or creditor of the Company may request a copy of the application and statutory affidavit from the applicant or the applicant’s solicitor.

(2) The applicant or the applicant’s solicitor must provide the copy within 48 hours of the request being made.

*List of persons intending to appear*

14.—(1) The applicant or the applicant’s solicitor must prepare a list in the form of Form D5 in Schedule 2 of the names and addresses of the—

- (a) persons who have given notice of their intention to appear on the hearing of the application; and
- (b) persons’ respective solicitors.

(2) On the day appointed for hearing the application, the applicant or the applicant’s solicitor must, before the hearing, File a copy of the list or, if no notice of intention to appear has been given, a statement to that effect.

(3) Unless the Court otherwise orders, a further notice of intention to appear need not be given by the applicant or the applicant’s solicitor on any adjournment of the hearing of the application.

*Affidavits and notices opposing the application and affidavits in reply*

15.—(1) On the hearing of an application under section 513 of the Act, a person may not, without the leave of the Court, oppose the application unless the person has, not less than 7 days before the time appointed for the hearing—

- (a) Filed an affidavit in opposition to the application; and
- (b) served on the applicant or the applicant’s solicitor—
  - (i) a notice in the form of Form D6 in Schedule 2 of the grounds on which the person opposes the application; and
  - (ii) a copy of the affidavit.

(2) An affidavit in reply to an affidavit Filed in opposition to an application (including a further affidavit in support of any of the facts alleged in the statutory affidavit) must be Filed within 3 days of the day of service on the applicant of the affidavit in opposition.

(3) A copy of the affidavit in reply must, after it is Filed, be served as soon as practicable on the person by whom the affidavit in opposition was Filed or the person’s solicitor.

*Substituted applicant in winding up application*

16.—(1) This rule applies if an applicant for a winding up order—

- (a) fails to take all the steps prescribed by these Rules preliminary to the hearing;
- (b) seeks the leave of the Court to discontinue the application;
- (c) consents to the application being dismissed;
- (d) does not appear when the application is called on for hearing;
- (e) does not seek the order at the hearing; or
- (f) does not obtain the order at the hearing.

(2) On application of a person who proves on affidavit that the person falls within a class of persons mentioned in section 522 of the Act the Court may make any one or more of the following orders—

- (a) an order substituting the person (the “Substituted Applicant”) as the applicant;
- (b) an order that the Substituted Applicant serve on the respondent a copy of the order substituting the applicant;
- (c) an order adjourning the application; or
- (d) an order regulating the further conduct of the application.

(3) The order may be made on any condition, or conditions, that the Court thinks fit.

(4) The Substituted Applicant is not required to comply with the requirements of the Act, the Regulations or these Rules to the extent that the originating applicant has already complied with them, unless the Court otherwise orders.

(5) It is not necessary for the Substituted Applicant to amend the application and the Substituted Applicant is taken for the purposes of these Rules to have been the originating applicant.

(6) Nothing in this rule relieves the originating applicant or the originating applicant’s solicitor from the obligation to comply with the requirements of rule 14.

*Procedure on Special Application*

17.—(1) Rules 9, 12 and 19 do not apply to a Special Application unless the Court otherwise orders.

(2) The applicant in a Special Application must, and the Company or any contributory may, within 7 days of the Filing of the application, apply to the Court for directions.

(3) On the hearing of an application for directions, the Court may, by order, give directions with respect to any of the following matters—

- (a) the applicant refraining from advertising the making of the application but instead notifying Members and creditors of the Company of the making of the application and of the right of Members and creditors to support or oppose the application;

- (b) service of the application on any person in addition to the Company;
- (c) the Filing, or dispensing with the Filing, of affidavits in support of or in opposition to the application;
- (d) the delivery of pleadings or particulars by the applicant, the Company or any party to the application;
- (e) the Filing and exchange of affidavits, the inspection of documents, and the administering of interrogatories; or
- (f) any other steps under the Act, the Regulations or these Rules that may be necessary or desirable for the purpose of bringing the Special Application to trial and having it determined.

(4) The Court may, by subsequent order, vary the order.

*Consent of liquidator*

18. Before the hearing of the application for a winding up order, the applicant or the applicant's solicitor must File the written consent of a liquidator who—

- (a) is registered as a liquidator under the Act; or
- (b) is deemed to be registered as a liquidator under the Act; and
- (c) would be entitled to be appointed as a liquidator if an order for the winding up of the Company is made by the Court.

*Attendance before the Court Registrar*

19.—(1) Subject to rule 17(1), after an application for a winding up order has been Filed, the applicant or the applicant's solicitor must attend before the Court Registrar, on a day to be appointed by the Court Registrar, and satisfy the Court Registrar that—

- (a) the application has been advertised in a Newspaper and published in the Gazette;
- (b) the statutory affidavit and the affidavit of service (if any) has been properly Filed;
- (c) the written consent of a liquidator has been Filed; and
- (d) the applicant has properly complied with these Rules in relation to applications for a winding up order.

(2) A certificate signed by the Court Registrar is evidence—

- (a) that this rule has been complied with; or
- (b) of the extent to which this rule has been complied with.

(3) An order (other than an order for the dismissal or adjournment of the application for winding up) must not be made on the application of an applicant who has not, before the hearing of the application, attended before the Court Registrar at the time appointed and satisfied the Court Registrar in the way required by subrule (1).

*Adjournment of winding up application*

20.—(1) An application to wind up a Company must not be adjourned (whether by consent or otherwise) for a period longer than one month at a time.

(2) A person seeking to adjourn a winding up application must direct the attention of the Court to—

- (a) the fact that the application is for the winding up of a Company;
- (b) section 524 of the Act; and
- (c) whether the application has been adjourned previously.

(3) If a person has been granted more than two adjournments of a winding up application and the person seeks a further adjournment of the application, the person must File an affidavit deposing to the reasons for seeking the further adjournment.

*No affidavit of debt required*

21. On the hearing of a winding up application, an affidavit of indebtedness of the Company to the applicant on or about the day of hearing is not required to be Filed.

*No affidavit of solvency required*

22. On application for dismissal of an application to wind up a Company, an affidavit of solvency of the Company is not required to be Filed.

*Notice of winding up order, service of copy and notice at foot*

23.—(1) If an order is made for the winding up of a Company, the applicant must—

- (a) immediately inform the liquidator; and
- (b) within 7 days of the passing and entering of the order—
  - (i) cause a notice in the form of Form D7 in Schedule 2 to be advertised in a Newspaper and published in the Gazette; and
  - (ii) serve on the liquidator a sealed copy of the order.

(2) Unless the Court otherwise directs, a winding up order must contain a notice at the foot of the order which states that it will be the duty of those persons who are liable to make out, or concur in making out, the statement of Affairs of the Company as the liquidator may require to—

- (a) attend on the liquidator at the time and place as the liquidator appoints; and
- (b) give the liquidator all the information that the liquidator requires.

*Appointment and removal of liquidators*

24. The Registrar or a contributory, creditor or Officer of the Company may make an application for—

- (a) the appointment of a liquidator under section 492(1) of the Act;
- (b) the removal of a liquidator and the appointment of another liquidator under section 492(2) of the Act; or
- (c) the filling of a vacancy in the office of a liquidator under section 540(3) of the Act.

*Lodgement with Registrar and giving notice of appointment on pronouncement  
of order for appointment of liquidator*

25.—(1) On the making of an order appointing a liquidator, the party obtaining the order must immediately—

- (a) lodge a notice in the form of Form D8 in Schedule 2 with the Registrar; and
- (b) cause a notice in the form of Form D8 in Schedule 2 to be advertised in a Newspaper and published in the Gazette.

(2) If, on the hearing of an application for the appointment of a liquidator, the applicant tenders to the Court a draft order in the appropriate form, the Court may, if it thinks fit, direct that the order be passed and entered immediately.

### PART 3—PROVISIONAL LIQUIDATORS

*Order appointing Provisional Liquidator*

26.—(1) At any time after the Filing of an application for a winding up order, the Court may appoint a Provisional Liquidator on—

- (a) the application of the Registrar or a creditor or contributory of the Company; and
- (b) proof by affidavit of sufficient grounds for the appointment of a Provisional Liquidator.

(2) The appointment may be made on the terms that the Court thinks just or necessary.

(3) The application for appointment of a Provisional Liquidator must be served on the Company before it is heard unless it appears that there are circumstances making it impracticable to serve the Company before the application is heard.

*Consent of Provisional Liquidator*

27. Before the hearing of the application for appointment of a Provisional Liquidator, the applicant or the applicant's solicitor must File the written consent of a liquidator who—

- (a) is registered as a liquidator under the Act; or
- (b) is deemed to be registered as a liquidator under the Act; and
- (c) would be entitled to be appointed as a Provisional Liquidator if such an order is made by the Court.

*Powers of Provisional Liquidator*

28.—(1) Subject to the Act, the Regulations, these Rules and any directions of the Court, a liquidator appointed provisionally under section 537(1) of the Act has the—

- (a) power to carry on the business of the Company; and
- (b) powers specified in sections 543(1)(f) and 543(2) of the Act (other than section 543(2)(h) of the Act).

(2) For the purpose of enabling the Provisional Liquidator to take out letters of administration or recover money as mentioned in section 543(2)(f) of the Act, the money due is taken to be due to the Provisional Liquidator.

(3) The exercise by the Provisional Liquidator of the powers conferred by this rule is subject to the control of the Court.

(4) A creditor or contributory may apply to the Court with respect to the exercise or proposed exercise of any of the powers of a Provisional Liquidator.

*Lodgement with Registrar and giving notice of appointment on pronouncement of order  
for appointment of Provisional Liquidator*

29.—(1) On the making of an order appointing a Provisional Liquidator, the party obtaining the order must immediately—

- (a) lodge a notice in the form of Form D8 in Schedule 2 with the Registrar; and
- (b) cause a notice in the form of Form D8 in Schedule 2 to be advertised in a Newspaper and published in the Gazette.

(2) If, on the hearing of an application for the appointment of a Provisional Liquidator, the applicant tenders to the Court a draft order in the appropriate form, the Court may, if it thinks fit, direct that the order be passed and entered immediately.

*Service of order*

30.—(1) On the order appointing a Provisional Liquidator being passed and entered, the party obtaining the order must, within 7 days of the order being entered, serve a copy of the order on the Company and on any other person on whom the Court directs service to be made.

(2) Subrule (1) does not apply if the Company was the applicant for the order.

*Provisional Liquidator's remuneration*

31. Subject to the Act and an order of the Court, a Provisional Liquidator is entitled to be paid and retain out of the Company's Property—

- (a) all costs, charges and expenses properly incurred by the Provisional Liquidator; and
- (b) the remuneration that is authorised by the order appointing the Provisional Liquidator or any subsequent order.

#### PART 4—PROCEEDINGS IN WINDING UP BY THE COURT

*Liquidators are officers of Court, judicial notice of registration*

32.—(1) All liquidators registered under the Act are officers of the Court.

(2) Judicial notice may be taken of the registration of a person as a liquidator.

*Costs of preparing statement of Affairs*

33. A person who is required to make or concur in making any statement of the Affairs of a Company must, before incurring any costs or expenses, apply to the Official Receiver for his or her sanction and submit a statement of the estimated costs and expenses which it is intended to incur, and, except by order of the Court, no person must be allowed out of the assets of the Company any costs or expenses which have not, before being incurred, been sanctioned by the Official Receiver.

*Delivery of Property*

34.—(1) An Official Receiver or liquidator may, by written notice in the form of Form D9 in Schedule 2, require a contributory, trustee, receiver, banker or agent or Officer of a Company that is being wound up to pay, deliver, convey, surrender or transfer to the Official Receiver or liquidator, as soon as practicable or within a specified period, any money, Property or books that are in the person's possession and to which the Company is *prima facie* entitled.

(2) On the application of the Official Receiver or liquidator, the Court may order the payment, delivery, conveyance, surrender or transfer to the Official Receiver or liquidator as described in subrule (1).

*Resignation of liquidator*

35.—(1) A liquidator who desires to resign office must summon separate meetings of the creditors and contributories of the Company to decide whether or not the resignation should be accepted.

(2) If the creditors and contributories agree to accept the liquidator's resignation, the liquidator must File with the Court Registrar, and lodge with the Registrar, a notice of resignation in the form of Form D10 in Schedule 2.

(3) The resignation takes effect on the Filing and lodging of the notice.

(4) If the creditors and contributories do not agree to accept the liquidator's resignation, the liquidator must report to the Court the result of the meetings.

(5) On the liquidator's application, the Court may—

- (a) determine whether or not the resignation should be accepted; and
- (b) give the directions and make the orders that the Court considers necessary or desirable.

(6) On the Court making a determination that the resignation is accepted, the liquidator must immediately lodge a notice of the determination with the Registrar.

*Dispensation with rule 34*

36. The Court may dispense with some or all of the requirements of rule 34.

## PART 5—COSTS

*Liquidator not personally liable*

37. Unless the Court otherwise orders, the liquidator is not personally liable to pay any costs of—

- (a) an appeal from the liquidator's decision rejecting a proof of debt or claim, in whole or in part; or
- (b) an application to set aside or vary the liquidator's act or decision settling the name of a person on a list of contributories.

*Submission of bill of costs by persons engaged by the liquidator for taxation*

38.—(1) A liquidator may, and in all proper cases must, require a solicitor, auctioneer, broker or other person engaged by the liquidator in a winding up by the Court, to deliver the person's bill of costs, charges or expenses to the liquidator for the purpose of taxation.

(2) The request must be made within a sufficient time before the declaration of a dividend in the winding up in the form of Form D11 in Schedule 2.

(3) If the person requested fails to deliver the person's bill within the time stated in the request, or the extended time that the Court Registrar allows—

- (a) the liquidator must declare and distribute the dividend without regard to the person's claim; and
- (b) the claim is forfeited, unless the Court Registrar otherwise orders.

(4) If, after considering the bill, the liquidator considers that it should be taxed, the liquidator must lodge it with the taxing officer for taxation.

(5) When taxing the bill, the taxing officer must have regard to any guidelines or scales of fees or charges that may be recommended from time to time by the professional body or organisation with which the person is associated.

## PART 6—PROOFS OF DEBT

### *Proof of debt*

39. In a winding up by the Court, every creditor must, subject to this Part, prove his or her debt, unless the Court in any particular winding up gives directions that any creditor or class of creditors must be admitted without proof.

### *Mode of proof*

40.—(1) A debt may be proved in any winding up by delivering or sending through the post an affidavit verifying the debt.

(2) The affidavit must be sent in—

- (a) a winding up by the Court, to the Official Receiver, or if a liquidator has been appointed, to the liquidator; or
- (b) any other winding up, to the liquidator.

### *Verification of proof*

41. An affidavit proving a debt may be made by—

- (a) the creditor himself or herself; or
- (b) some person authorised by or on behalf of the creditor, and if made by a person so authorised, it must state his or her authority and means of knowledge.

### *Contents of proof*

42.—(1) An affidavit proving a debt must contain or refer to a statement of account showing the particulars of the debt, and must specify the vouchers, if any, by which the same can be substantiated.

(2) The Official Receiver or liquidator to whom the proof is sent may, at any time, call for the production of the vouchers.

### *Statement of security*

43. An affidavit proving a debt must state whether the creditor is or is not a secured creditor.



*Proof before whom sworn*

44. An affidavit proving a debt may, in a winding up by the Court, be sworn before the Official Receiver.

*Costs of proof*

45. A creditor must bear the cost of proving his or her debt, unless the Court otherwise orders.

*Discount*

46. A creditor proving his or her debt must deduct from the amount of debt—

- (a) any discount which he or she may have agreed to allow for payment in cash in excess of 5 percent on the net amount of his or her claim; and
- (b) all trade discounts.

*Periodical payments*

47.—(1) When any rent or other periodical payment falls due on a stated date, and the order or resolution to wind up is made at any time other than on such a date, the persons entitled to the rent or payment may prove for a proportionate part of the rent up to the date of the winding up order or resolution as if the rent or payment became due from day to day.

(2) Where the liquidator remains in occupation of premises demised to a Company which is being wound up, nothing contained in subrule (1) must prejudice or affect the right of the landlord of such premises to claim payment by the Company, or the liquidator, of rent during the period of the Company's, or the liquidator's occupation.

*Interest*

48. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed and which is overdue at the date of the commencement of the winding up, the creditor may prove for interest at a rate not exceeding 6 percent per annum to that date from the time when the debt or sum was payable, if the debt or sum is—

- (a) payable by virtue of a written instrument at a certain time; and
- (b) payable otherwise, then from the time when a demand in writing has been made giving notice that interest will be claimed from the date of the demand until the time of payment.

*Proof for debt payable at a future time*

49. A creditor may prove for a debt not payable at the date of the winding up order or resolution, as if it were payable presently, and may receive dividends equally with the other creditors, deducting only from the amount of debt claimed a rebate of interest at the rate of 6 percent per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

*Employees' wages*

50.—(1) In any case in which it appears that there are numerous claims for wages by employees of the Company, it is sufficient if one proof for all such claims is made by a person on behalf of all such creditors.

(2) Such proof must have annexed to it a schedule specifying the names of the employees, and the amounts severally due to them.

(3) Any proof made in compliance with this rule must have the same effect as if separate proofs had been made by each employee.

*Production of bills of exchange and promissory notes*

51. Where a creditor seeks to prove in respect of a bill of exchange, promissory note or other negotiable instrument or security on which the Company is liable, such bills of exchange, note, instrument or security must, subject to an order of the Court to the contrary, be produced to the Official Receiver, chairperson of a meeting or liquidator, as the case may be, and be marked by him or her before the proof can be admitted either for voting or for any purpose.

*Transmission of proofs to liquidator*

52. Where a liquidator is appointed in a winding up by the Court, all proofs of debts received by the Official Receiver must be handed over to the liquidator, but the Official Receiver must first make a list of such proofs, and take a receipt of the proofs from the liquidator for such proofs.

**PART 7—ADMISSION AND REJECTION OF PROOFS AND PREFERENTIAL CLAIMS AND APPEAL TO THE COURT**

*Notice to creditors to prove*

53.—(1) Subject to the provisions of the Act, and unless otherwise ordered by the Court, the liquidator in any winding up may, from time to time, fix a certain day, which must be not less than 14 days from the date of the notice, on or before which the creditors of the Company are to—

- (a) prove their debts or claims; and
  - (b) establish any title they may have priority to under section 473 of the Act; or
  - (c) be excluded from the benefit of any distribution made before such debts are proved, or, as the case may be, from objecting to such distribution.
- (2) The liquidator must give notice in writing of the day fixed in subrule (1)—
- (a) by advertisement in such Newspaper as the liquidator considers convenient; and
  - (b) in a winding up by the Court, to every person mentioned in the statement of Affairs as a creditor who has not proved his or her debt; or
  - (c) in any other winding up, to the last known address or place of abode of each person who, to the knowledge of the liquidator, claims to be a creditor or preferential creditor of the Company and whose claim has not been admitted.

*Examination of proof*

54.—(1) The liquidator must examine every proof of debt lodged with him or her, and the grounds of the debt, and in writing must admit or reject it in whole or in part, or require further evidence in support of it.

(2) If the liquidator rejects the proof, the liquidator must state the grounds of the rejection in writing to the creditor.

*Appeal by creditor*

55.—(1) Subject to subrule (2), if a creditor or contributory is dissatisfied with the decision of the liquidator in respect of a proof, the Court may, on the application of the creditor or contributory, reverse or vary the decision.

(2) Subject to the power of the Court to extend the time, no application to reverse or vary the decision of the liquidator in a winding up by the Court rejecting a proof sent to him or her by a creditor, or person claiming to be a creditor, must be entertained, unless notice of the application is given before the expiration of 30 days from the date of the service of the notice of rejection.

*Expunging at instance of liquidator*

56. If the liquidator thinks that a proof has been improperly admitted, the Court may, on the application of the liquidator, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

*Expunging at instance of creditor*

57. The Court may also expunge or vary a proof upon the application of a creditor or contributory, if the liquidator declines to interfere in the matter.

*Official Receiver's powers*

58. In a winding up by the Court, the Official Receiver, before the appointment of a liquidator, has all the powers of a liquidator with respect to the examination, admission and rejection of proofs, and any act or decision of the Official Receiver using such powers shall be subject to the same rights of appeal as an act or decision of a liquidator.

*Proofs to be Filed*

59.—(1) Every liquidator in a winding up by the Court other than the Official Receiver must, on the first day of every month, File with the Court Registrar in the form of Form D12 in Schedule 2, a certified list of all proofs, if any, received by him or her during the preceding month.

(2) The liquidator must distinguish in the list of the proofs admitted, the proofs rejected and the proofs that stand over for further consideration.

(3) In the case of proofs admitted or rejected, the liquidator must cause the proofs to be Filed with the Court Registrar.

*Procedure where creditor appeals*

60. The liquidator in a winding up by the Court, including the Official Receiver when he or she is the liquidator, must, within 3 days after receiving notice from a creditor of his or her intention to appeal against a decision rejecting a proof, File the proof with the Court Registrar and a memorandum of his or her disallowance of the proof in the form of Form D13 in Schedule 2.

*Time for dealing with proofs by Official Receiver*

61. Subject to the power of the Court to extend the time in a winding up by the Court, the Official Receiver must, not later than 14 days from the latest date specified in the notice of his or her intention to declare a dividend as the time within which such proofs must be lodged, in writing either—

- (a) admit or reject wholly, or in part, every proof lodged with him or her; or
- (b) require further evidence in support of the proofs.

*Time for dealing with proofs by liquidator*

62.—(1) Subject to the power of the Court to extend the time, the liquidator in a winding up by the Court, other than the Official Receiver must, within 28 days after receiving a proof which has not previously been dealt with, in writing either—

- (a) admit or reject it wholly, or in part; or
- (b) require further evidence in support of it.

(2) Where the liquidator has given notice of his or her intention to declare a dividend, he or she must, within 14 days after the date mentioned in the notice as the latest date up to which proofs must be lodged, examine and in writing admit or reject, or require further evidence in support of, every proof which has not been already dealt with.

(3) Where a creditor's proof has been rejected under subrule (1), the liquidator must give notice of his or her decision rejecting a proof wholly or in part, to the creditors affected by the rejection.

(4) Where a creditor's proof has been admitted under subrule (1), the notice of dividend is sufficient notification of the admission.

*Costs of appeals from decisions as to proofs*

63. The Official Receiver must, in no case, be personally liable for costs in relation to an appeal from his or her decision rejecting any proof wholly or in part.

## PART 8—DIVIDENDS IN A WINDING UP BY THE COURT

*Dividends to creditors*

64.—(1) Not more than 2 months before declaring a dividend, the liquidator in a winding up by the Court must, in the form of Form D14 in Schedule 2, give notice in the Gazette of his or her intention to do so, and must, at the same time, give notice to those creditors mentioned in the statement of Affairs as having not proved their debts.

(2) The notice of intention to declare a dividend must specify the latest date up to which proofs must be lodged, which must not be less than 14 days from the date of the notice.

(3) Where any creditor, after the date mentioned in the notice of intention to declare a dividend as the latest date up to which proofs may be lodged, appeals against the decision of the liquidator rejecting a proof, the notice of appeal must, subject to the power of the Court to extend the time in special cases, be given within 7 days from the date of the notice of the decision against which the appeal is made.

(4) Where no notice of appeal has been given within the time specified in this rule, the liquidator must exclude all proofs which have been rejected from participation in the dividend.

(5) Immediately after the expiration of the time fixed by this rule for appealing against the decision of the liquidator, the liquidator must—

- (a) proceed to declare a dividend; and
- (b) in the form of Form D15 in Schedule 2—
  - (i) give notice in the Gazette to this effect; and
  - (ii) send a notice of dividend to each creditor whose proof has been admitted.

(6) If it becomes necessary, in the opinion of the liquidator to postpone the declaration of the dividend beyond the limit of 2 months, the liquidator must give a fresh notice in the form of Form D14 in Schedule 2 in the Gazette of his or her intention to declare a dividend, however—

- (a) it must not be necessary for the liquidator to give a fresh notice to those creditors mentioned in the statement of Affairs as having not proved their debts; and
- (b) in all other respects, the same procedure must follow the fresh notice as would have followed the original notice.

(7) Upon the declaration of a dividend, a liquidator, other than the Official Receiver, must immediately transmit to the Official Receiver a list of the proofs Filed with the Court Registrar under rule 59.

(8) Dividends may, at the request and risk of the person to whom they are payable, be transmitted to that person by post.

(9) If a person to whom dividends are payable desires that they must be paid to some other person, he or she may File with the liquidator a document—

- (a) specifying the name and address of the person to whom the payment is to be made; and
- (b) acknowledging that payment of the dividend to that person must be in full and final satisfaction of the right of the person to whom the dividends would otherwise be payable.

(10) Such document must be a sufficient authority for payment of the dividend to the person therein named.

*Return of capital to contributories*

65.—(1) Every order by which the liquidator in a winding up by the Court is authorised to make a return to contributories of the Company must, unless the Court otherwise directs, contain or have appended to the order a schedule or list, which the liquidator must prepare, setting out in a tabular form—

- (a) the full names and addresses of the persons to whom the return is to be paid;
- (b) the amount of money payable to each person;
- (c) the particulars of the transfers of Shares, if any, which have been made or the variations in the list of contributories which have arisen since the date of the settlement of the list of contributories; and
- (d) such other information as may be required to enable the return to be made.

(2) The liquidator must send a notice of return to each contributory, and must give notice in the Gazette in the form of Form D16 in Schedule 2.

PART 9—GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN RELATION TO WINDING UP BY THE COURT AND OF CREDITORS IN RELATION TO A CREDITORS' VOLUNTARY WINDING UP

*Liquidator's meetings of creditors and contributories*

66. In addition to any meeting of creditors or contributories directed to be held by the Court under section 508 of the Act, the liquidator in any winding up by the Court may himself or herself, from time to time, subject to the provisions of the Act and the control of the Court, summon, hold and conduct meetings of the creditors or contributories for the purpose of ascertaining their wishes in all matters relating to the winding up.

*Application of the Rules as to meetings*

67. Except as may be otherwise directed by the Court, the rules as to meetings as set out in this part must apply to all meetings of creditors and contributories.

*Summoning of meetings*

68.—(1) The Official Receiver or liquidator must summon all meetings of creditors and contributories by giving not less than 7 days' notice, in the form of Form D17 in Schedule 2, of the time and place of the meeting in a Newspaper and in the Gazette.

(2) Not less than 7 days before the day appointed for the meeting, the Official Receiver or liquidator must send by post to every person appearing by the—

- (a) Company's books to be a creditor of the Company, notice of the meetings of creditors; and
- (b) Company's books or otherwise to be a contributory of the Company, notice of the meeting of contributories.

(3) The notice to each creditor must be sent—

- (a) to the address given in the creditor's proof;
- (b) if the creditor has not proved, to the address given in the statement of Affairs of the Company, if any; or
- (c) to such other address as may be known to the person summoning the meeting.

(4) The notice to each contributory must be sent to—

- (a) the address mentioned in the Company's books as the address of such contributory; or
- (b) such other address as may be known to the person summoning the meeting.

(5) In the case of meetings under section 581 of the Act, the continuing liquidator, or if there is no continuing liquidator, any creditor, may summon the meeting.

(6) This rule must not apply to meetings under section 585 or 588 of the Act.

*Proof of notice*

69. A certificate by the Official Receiver or other officer of the Court, or by the clerk of any such person, or an affidavit by the liquidator, or creditor, or his or her barrister and solicitor, or the clerk of either of such persons, or, as the case may be, by some Officer of

the Company or its barrister and solicitor or the clerk of such Company or barrister and solicitor, that the notice of any meeting has been duly posted, must be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

*Place of meetings*

70.—(1) Every meeting must be held at such place as is, in the opinion of the person convening the same, most convenient for the majority of the creditors or contributories.

(2) Different times or places may, if thought expedient, should be named for the meetings of creditors and for the meetings of contributories.

*Costs of calling meetings*

71.—(1) The costs of summoning a meeting of creditors or contributories at the instance of any person other than the Official Receiver or liquidator must be paid by the person at whose instance it is summoned, who must, before the meeting is summoned, deposit with the Official Receiver or liquidator, as the case may be, such sum as may be required by the Official Receiver or liquidator for security for the payment of such costs.

(2) The costs of summoning such meeting of creditors or contributories, including all disbursements for printing, stationery, postage and the hire of room, must be calculated at the following rate for each creditor or contributory to whom notice is required to be sent—

- (a) 50 cents per creditor or contributory for the first 20 creditors or contributories;
- (b) 20 cents per creditor or contributory for the next 30 creditors or contributories; and
- (c) 10 cents per creditor or contributory for any number of creditors or contributories after the first 50.

(3) These costs must be repaid out of the assets of the Company if the Court, by order, or if the creditors or contributories, by resolution, so direct.

(4) This rule must not apply to meetings under section 581 or 588 of the Act.

*Chairperson of meeting*

72.—(1) Where a meeting is summoned by the Official Receiver or the liquidator, that person or their nominee, will be the chairperson of the meeting.

(2) At every other meeting of creditors or contributories, the chairperson will be the person appointed by the meeting by resolution.

(3) This rule must not apply to meetings under section 588 of the Act.

*Ordinary resolution of creditors and contributories*

73.—(1) At a meeting of creditors, a resolution must be deemed to be passed when a majority in number and value of the creditors present, personally or by proxy, and voting on the resolution, have voted in favour of the resolution.

(2) At a meeting of the contributories, a resolution must be deemed to be passed when a majority in number and value of the contributories present, personally or by proxy, and voting on the resolution, have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the Articles of Association of the Company.

*Copy of resolution to be Filed*

74. The Official Receiver or the liquidator must File with the Court Registrar in the form of Form D18 in Schedule 2, a copy, certified by him or her, of every resolution of a meeting of creditors or contributories in a winding up by the Court.

*Non-reception of notice by a creditor*

75. Where a meeting of creditors or contributories is summoned by notice, the proceedings and resolutions at the meeting must, unless the Court otherwise orders, be valid, notwithstanding that some creditors or contributories may not have received the notice sent to them.

*Adjournments*

76. The chairperson may, with the consent of the meeting, adjourn it from time to time and from place to place, but the adjourned meeting must be held at the same place as the original meeting, unless, in the resolution for adjournment, another place is specified or unless the Court otherwise orders.

*Quorum*

77.—(1) A meeting may not act for any purpose except the election of a chairperson, the proving of debts and the adjournment of the meeting, unless there are present or represented—

- (a) in the case of a creditors' meeting, at least three creditors entitled to vote;
- (b) in the case of a meeting of contributories, at least three contributories; or
- (c) all the creditors entitled to vote or all the contributories if the number of creditors entitled to vote or the number of contributories, as the case may be, does not exceed three.

(2) If, within half an hour from the time appointed for the meeting, a quorum of creditors or contributories, as the case may be, is not present or represented, the meeting must be adjourned to the same day in the following week at the same time and place or to such other day, time or place as the chairperson may appoint, but so that the day appointed must be not less than 7 nor more than 21 days from the day from which the meeting was adjourned.

*Creditors entitled to vote*

78.—(1) In the case of the first meeting of creditors or of an adjournment of that meeting, a person must not be entitled to vote as a creditor unless he or she has duly lodged with the Official Receiver, not later than the time mentioned for that purpose in the notice convening the meeting or the adjourned meeting, a proof of the debt which he or she claims to be due to him or her from the Company.

(2) A person must not be entitled to vote as a creditor, unless he or she has lodged with the Official Receiver or liquidator a proof of the debt which he or she claims to be due to him or her from the Company and such proof has been admitted wholly or in part before the date on which the meeting is held.

(3) This rule must not apply to any creditors or class of creditors who, by virtue of these Rules or any directions given under these Rules, are not required to prove their debts, or to any voluntary liquidation meeting.



*Cases in which creditors may not vote*

79.—(1) A creditor must not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

(2) A creditor must not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him or her, unless he or she is willing to treat the liability to him or her of every person who is liable antecedently to the Company, and against whom a receiving order in bankruptcy has not been made, as a security in his or her hands, and to estimate the value of the liability, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his or her proof.

*Votes of secured creditors*

80.—(1) For the purpose of voting, a secured creditor must, unless he or she surrenders his or her security, state in his or her proof, or in a voluntary liquidation in such a statement as is hereafter mentioned, the particulars of his or her security, the date when it was given and the value at which he or she assesses it, and must be entitled to vote only in respect of the balance, if any, due to him or her after deducting the value of his or her security.

(2) If he or she votes in respect of his or her whole debt, he or she must be deemed to have surrendered his or her security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

*Creditor required to give up security*

81.—(1) Subject to subrule (2) the Official Receiver or liquidator may, within 30 days after a proof, or in a voluntary liquidation a statement, estimating the value of a security as aforesaid has been used in voting at a meeting, require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated with an additional 20 percent.

(2) Where a creditor has valued his or her security, he or she may, at any time before being required to give it up, correct the valuation by a new proof and deduct the new value from his or her debt, but in that case the additional 20 percent in subrule (1) must not be made if the security is required to be given up.

*Admission and rejection of proofs for purpose of voting*

82.—(1) The chairperson has the power to admit or reject a proof for the purpose of voting, but his or her decision must be subject to a right of appeal to the Court.

(2) If the chairperson is in doubt whether a proof must be admitted or rejected, he or she must mark it as objected to and allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

*Statement of security*

83. For the purpose of voting at any voluntary liquidation meetings, a secured creditor must, unless he or she surrenders his or her security, File with the liquidator, or where there is no liquidator at the Registered Office of the Company, before the meeting, a statement in the form of Form D19 in Schedule 2 giving the particulars of his or her security, the date when it was given and the value at which he or she assesses it.

*Minutes of meeting*

84.—(1) The chairperson must cause minutes of the proceedings at the meeting to be drawn up and entered in a book kept for that purpose, and the minutes must be signed by him or her.

(2) A list of creditors and contributories present at every meeting must be made and kept.

PART 10—PROXIES IN RELATION TO A WINDING UP BY THE COURT AND TO MEETINGS OF CREDITORS IN A CREDITOR'S VOLUNTARY WINDING UP

*Proxies*

85.—(1) A creditor or contributory may vote either in person or by proxy.

(2) Where a person is authorised to represent a Company at any meeting of creditors or contributories, such person must produce to the Official Receiver or liquidator or other chairperson of the meeting a copy of the resolution so authorising him or her, which must either be certified to be a true copy by a Director or Company Secretary of the Company.

*Forms of proxy to be sent with notices*

86.—(1) General and special forms of proxy must be sent to the creditors and contributories with the notice summoning the meeting.

(2) Neither the name nor description of the Official Receiver or liquidator or any other person must be printed or inserted in the body of any instrument of proxy before it is sent.

*General proxies*

87. A creditor or contributory may give a general proxy to any person.

*Special proxies*

88. A creditor or contributory may give a special proxy to any person to vote at any special meeting or adjournment—

- (a) for or against the appointment or continuance in office of any specified person as liquidator or member of the Committee of Inspection; and
- (b) on all questions relating to any matters other than those above referred to and arising at the meeting or an adjournment of that meeting.

*Solicitation by liquidator to obtain proxies*

89. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a liquidator in obtaining proxies or in procuring his or her appointment as liquidator except by the direction of a meeting of creditors or contributories, the Court, if it thinks fit, may order that no remuneration be allowed to the person by whom or on whose behalf the solicitation was exercised, notwithstanding any resolution of the Committee of Inspection or of the creditors or contributories to the contrary.

*Proxies to Official Receiver or liquidator*

90. A creditor or contributory in a winding up by the Court may appoint the Official Receiver or liquidator, and in a voluntary winding up the liquidator, or, if there is no liquidator, the chairperson of a meeting to act as his or her general or special proxy.

*Holder of proxy not to vote on matter in which he or she is financially interested*

91.—(1) No person acting under either a general or a special proxy must vote in favour of any resolution which would directly or indirectly place himself or herself, his or her partner or employer in a position to receive any remuneration out of the estate of the Company, otherwise than as a creditor rateably with the other creditors of the Company.

(2) Notwithstanding subrule (1), where any person holds special proxies to vote for an application to the Court in favour of the appointment of himself or herself as liquidator, he or she may use the proxies and vote accordingly.

*Lodging of proxies*

92.—(1) A proxy must be lodged with the Official Receiver not later than the time mentioned for that purpose in the notice convening the meeting, or the adjourned meeting, which time must be not be earlier than 12.00 noon of the day before the day appointed for such meeting, unless the Court otherwise directs.

(2) In every other case, a proxy must be lodged with the Official Receiver or liquidator in a winding up by the Court, with the Company at its Registered Office for a meeting under section 588 of the Act, and with the liquidator or if there is no liquidator, with the person named in the notice convening the meeting, to receive the same in a voluntary winding up, not later than 4.00pm in the afternoon of the day before the meeting or adjourned meeting at which it is to be used.

(3) A person under 18 years of ages must not be appointed a general or special proxy.

*Use of proxies by deputy*

93. Where an Official Receiver who holds any proxies cannot attend the meeting for which they are given, he or she may, in writing, authorise some person under his or her official control to use the proxies on his or her behalf and in such manner as he or she may direct.

*Filling in where creditor blind or incapable*

94. The proxy of a creditor who is blind or incapable of writing may be accepted if such creditor has—

- (a) attached his or her signature or mark in the presence of a witness who has added to his or her signature his or her description and residence; and
- (b) certified at the foot of the proxy that all such insertions have been made at the request and in the presence of the creditor before he or she attached his or her signature or mark.

## PART 11—LIQUIDATOR AND COMMITTEE OF INSPECTION

*Remuneration of liquidator*

95.—(1) The remuneration of a liquidator, unless the Court otherwise orders, must be fixed by the Committee of Inspection, and must be in the nature of a commission or percentage of which one part must be payable on the amount realised, after deducting the sums, if any, paid to secured creditors, other than debenture holders, out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If the Official Receiver is of the opinion that the remuneration of a liquidator as fixed by the Committee of Inspection is unnecessarily large, he or she may apply to the

Court in the form of Form D20 in Schedule 2, and the Court must fix the amount of the remuneration of the liquidator.

(3) If there is no Committee of Inspection, the remuneration of the liquidator must, unless the Court otherwise orders, be fixed by the scale of fees and percentages for the time being payable on realisations and distributions by the Official Receiver as liquidator.

(4) This rule must only apply to a liquidator appointed in a winding up by the Court.

*Limit of remuneration*

96. Except as provided by the Act, by the Regulations or by these Rules, a liquidator must not, in any circumstances whatever, make any arrangement for, or accept from any barrister and solicitor, auctioneer or any other person connected with the Company of which he or she is liquidator, or who is employed in or in connection with the winding up of the Company, any gift, remuneration or pecuniary or other consideration or benefit whatever beyond the remuneration to which under the Act, the Regulations and these Rules he or she is entitled as liquidator, nor must he or she make any arrangement for giving up, or give up, any part of such remuneration to any such barrister and solicitor, auctioneer, or other person.

*Dealings with assets*

97.—(1) Neither the liquidator nor any member of the Committee of Inspection of a Company must, while acting as liquidator or member of such committee, except with leave of the Court, either directly or indirectly, by himself or herself or any employer, partner, clerk, agent or servant, become purchaser of any part of the Company's assets.

(2) Any purchase made contrary to the provisions of this rule may be set aside by the Court on the application of the Official Receiver in a winding up by the Court, or of any creditor or contributory in any winding up, and the Court may make such order as to costs as the Court thinks fit.

*Restriction on purchase of goods by liquidator*

98. Where the liquidator carries on the business of the Company, he or she must not, without the express sanction of the Court, purchase goods for the carrying on of such business from any person whose connection with him or her is of such a nature as would result in his or her obtaining any portion of the profit, if any, arising out of the transaction.

*Committee of Inspection not to make profit*

99.—(1) No member of a Committee of Inspection must, except with the express sanction of the Court, directly or indirectly, by himself or herself or by any employee, partner, clerk, agent or servant, be entitled to derive any profit from any transaction arising out of the winding up or to receive out of the assets any payment for services rendered by him or her in connection with the administration of the assets, or for any goods supplied by him or her to the liquidator for or on account of the Company.

(2) In a winding up by the Court, if it appears to the Official Receiver or, in a voluntary winding up, if it appears to the Committee of Inspection or to any meeting of creditors or contributories that any profit or payment has been made contrary to the provisions of this rule, they may disallow such payment or recover such profit, as the case may be, on the audit of the liquidator's accounts or otherwise.

*Costs of obtaining sanction of Court*

100. In any case in which the sanction of the Court is obtained under rule 97 or rule 98, the costs of obtaining such sanction must be borne by the person in whose interest such sanction is obtained, and must not be payable out of the Company's assets.

*Sanction of payments to committee*

101.—(1) Where the sanction of the Court to a payment to a member of a Committee of Inspection for services rendered by him or her in connection with the administration of the Company's assets is obtained, the order of the Court must specify the nature of the services, and such sanction must only be given where the service performed is of a special nature.

(2) Except with the leave of the Court, no remuneration must, in any circumstances, be paid to a member of a Committee of Inspection for services rendered by him or her in the discharge of the duties attaching to his or her office as a member of the committee.

*Discharge of costs before assets handed to liquidator*

102.—(1) When a liquidator appointed by the Court has notified his or her appointment to the Court Registrar and has given security to the Court, the Official Receiver must immediately put the liquidator into possession of all Property of the Company of which the Official Receiver may have custody, provided that the liquidator before the assets are handed over to him or her by the Official Receiver—

- (a) first discharges any balance due to the Official Receiver on account of fees, costs and charges properly incurred by him or her, and on account of any advances properly made by him or her in respect of the Company, together with interest on those advances at the rate of 6 percent per annum; and
- (b) pays all fees, costs and charges of the Official Receiver which may not have been discharged by the liquidator before being put into possession of the Property of the Company, whether incurred before or after he or she has been put into such possession.

(2) The Official Receiver must be deemed to have a lien upon the Company's assets until such balance must have been paid.

(3) It must be the duty of the Official Receiver, if so requested by the liquidator, to communicate to the liquidator all such information respecting the estate and Affairs of the Company as may be necessary or conducive to the due discharge of the duties of the liquidator.

(4) This rule and rule 103 only apply in a winding up by the Court.

*Resignation of liquidator*

103.—(1) A liquidator who desires to resign his or her office must summon separate meetings of the creditors and contributories of the Company to decide whether or not the resignation should be accepted.

(2) If the creditors and contributories both agree by ordinary resolutions to accept the resignation of the liquidator, he or she must File with the Court Registrar, in the form of Form D10 in Schedule 2, a memorandum of his or her resignation and must send notice thereof to the Official Receiver, and the resignation must take effect immediately upon the receipt of the notice by the Official Receiver.

(3) In any other case, the liquidator must report to the Court the result of the meetings and must send a report to the Official Receiver, and the Court may, upon the application of the liquidator or the Official Receiver, determine whether or not the resignation of the liquidator must be accepted, and may give such directions and make such orders as in the opinion of the Court are necessary.

*Office of liquidator vacated by his or her insolvency*

104. If a receiving order in bankruptcy is made against a liquidator, he or she must vacate his or her office and for the purposes of the application of the Act and these Rules must be deemed to have been removed.

*Notice of liquidator's intention to apply for release*

105.—(1) If the liquidator makes an application for release under section 549 of the Act, the liquidator must give notice in the form of Form D21 in Schedule 2 of his or her intention to apply for release to all creditors who have proved their debts and all the contributories.

(2) The notice must be accompanied by a statement—

- (a) summarising the liquidator's receipts and payments; and
- (b) showing the financial position of the Company at the date of the notice.

(3) The application for release must be supported by an affidavit that states—

- (a) whether the whole of Property of the Company has been realised and if not, what Property remains;
- (b) details of any dividends paid in the winding up;
- (c) whether the Committee of Inspection, if any, has passed a resolution approving the liquidator's release;
- (d) whether any objection has been received by the liquidator to his or her release from any person;
- (e) details of any remuneration paid or payable to the liquidator and how such remuneration was approved; and
- (f) details of any costs, charges or expenses payable by the liquidator if the Court grants the release.

## PART 12—PAYMENTS INTO AND OUT OF A BANK

*Payments out of bank*

106. All payments out of the Companies Liquidation Account must be made in such manner as the Official Receiver may from time to time direct.

*Special bank account*

107.—(1) Where the liquidator in a winding up by the Court maintains a bank account, he or she must immediately pay all moneys received by him or her into that account to the credit of the liquidator of the Company.

(2) All payments out must be made by cheque payable to order, and every cheque must have marked or written on the face of it the name of the Company, and must be signed by the liquidator.

## PART 13—BOOKS

*Record file*

108.—(1) In a winding up by the Court, the Official Receiver, until a liquidator is appointed by the Court, and from that time the liquidator, must keep a file to be called the record file, in which he or she must record—

- (a) all minutes of, and all proceedings had and resolutions passed at, any meeting of creditors or contributories, or of the Committee of Inspection; and
- (b) all such matters as may be necessary to give a correct view of his or her administration of the Company's Affairs.

(2) Notwithstanding subrule (1), the Official Receiver or liquidator is not bound to insert in the record file any document of a confidential nature, such as the opinion of counsel on any matter affecting the interest of the creditors or contributories, nor need he or she exhibit such document to any person other than a member of the Committee of Inspection or the Official Receiver.

*Cash book*

109.—(1) In a winding up by the Court, the Official Receiver, until a liquidator is appointed by the Court, and from that time the liquidator, must keep a book, to be called the cash book, which must be in such a form as the Minister may, from time to time, direct, in which he or she must, subject to the provisions of these Rules as to trading accounts, enter from day to day the receipts and payments made by him or her.

(2) In a winding up by the Court, a liquidator, other than the Official Receiver, must submit the record file and the cash book, together with any other requisite books and vouchers, to the Committee of Inspection, if any, when required and at least once every 3 months.

(3) In a Creditor's Voluntary Winding Up, the liquidator must keep such books as the Committee of Inspection or, if there is no such committee, as the creditors direct, and all books kept by the liquidator must be submitted to the Committee of Inspection or, if there is no such committee, to the creditors with any other books, documents, papers and accounts in his or her possession relating to his or her office as liquidator or to the Company as and when the Committee of Inspection, or if there is no such committee, the creditors direct.

## PART 14—ACCOUNTS AND AUDIT IN A WINDING UP BY THE COURT

*Audit of cash book*

110. Except where the Official Receiver is a liquidator, the Committee of Inspection must, at least once in every 3 months, audit the liquidator's cash book and certify the day on which the cash book was audited.

*Audit of liquidator's accounts by Official Receiver*

111.—(1) The liquidator must, at the expiration of 6 months from the date of the winding up order, and at the expiration of every succeeding 6 months from that time until his or her release, transmit to the Official Receiver a copy of the cash book for such period, in duplicate, together with the necessary vouchers and copies of the certificates of audit by the Committee of Inspection.

(2) The liquidator must, at the expiration of 6 months from the date of the winding up order forward with the first accounts a summary of the Company's statement of Affairs, showing thereon the amounts realised, and explaining the cause of the non-realisation of such assets as may be unrealised.

(3) The liquidator must at the end of every 6 months forward to the Official Receiver with his or her accounts a report upon the position of the liquidation of the Company in such form as the Official Receiver may direct.

(4) When the assets of the Company have been fully realised and distributed, the liquidator must immediately send in his or her accounts to the Official Receiver, although the 6 months may not have expired.

(5) The accounts sent in by the liquidator must be verified by him or her by affidavit.

*Liquidator carrying on business*

112.—(1) Where the liquidator carries on the business of the Company, he or she must keep a distinct account of the trading, and must incorporate in the cash book the total weekly amounts of the receipts and payments on such trading accounts.

(2) The trading account must, from time to time and not less than once in every month, be verified by affidavit, and the liquidator must submit the trading account to the Committee of Inspection, if any, or such member thereof as may be appointed by the committee for the purpose, who must examine and certify the same.

PART 15—COSTS AND EXPENSES PAYABLE OUT OF THE  
ASSETS OF THE COMPANY

*Costs payable out of the assets*

113.—(1) Subject to the Act, the assets of a Company in a winding up by the Court remaining after payment of the fees and expenses properly incurred in preserving, realising or getting in the assets, including where the Company has previously commenced to be wound up voluntarily, such remuneration, costs and expenses as the Court may allow to a liquidator appointed in such voluntary winding up must, subject to any order of the Court, be liable to the following payments, which must be made in the following order of priority, namely—

- (a) the taxed costs of the application, including the taxed costs of any person appearing on the application whose costs are allowed by the Court;
- (b) the remuneration of the special manager, if any;
- (c) the costs and expenses which may be allowed of any person who makes or concurs in making the Company's statement of Affairs;
- (d) the necessary disbursements and remuneration of the Official Receiver when appointed as Provisional Liquidator in a winding up by the Court, other than expenses properly incurred in preserving, realising or getting in the assets hereinbefore provided for;
- (e) the deposit or deposits lodged with the Official Receiver on any application to the Court for his or her appointment as Provisional Liquidator;



- (f) the necessary disbursements of any liquidator other than a Provisional Liquidator appointed in the winding up by the Court, other than expenses properly incurred in preserving, realising or getting in the assets hereinbefore provided for;
- (g) the costs of any person properly employed by any such liquidator;
- (h) the remuneration of any such liquidator; and
- (i) the actual out-of-pocket expenses necessarily incurred by the Committee of Inspection, subject to the approval of the Official Receiver.

(2) No payments in respect of bills or charges of barristers and solicitors, managers, accountants, auctioneers, brokers or other persons, other than payments for costs and expenses incurred and sanctioned under rule 33 and payments of bills which have been taxed and allowed under orders made for the taxation of those bills, must be allowed out of the assets of the Company without proof that the same have been considered and allowed by the Court Registrar.

(3) The Court Registrar must, before passing the bills of charges of a barrister and solicitor, satisfy himself or herself that the appointment of a barrister and solicitor to assist the liquidator in the performance of his or her duties has been duly sanctioned.

(4) Notwithstanding subrules (2) and (3), the Official Receiver, when acting as liquidator, may, without taxation, pay and allow the costs and charges of any person employed by him or her, where such costs and charges are within the scale usually allowed by the Court.

(5) Nothing contained in this rule must apply to or affect costs which, in the course of legal proceedings by or against a Company which is being wound up by the Court, are ordered, by the Court in which such proceedings are pending or a judge thereof, to be paid by the Company or the liquidator, or the rights of the person to whom such costs are awarded.

#### PART 16—UNCLAIMED FUNDS AND UNDISTRIBUTED ASSETS IN THE HANDS OF THE LIQUIDATOR

##### *Payment of undistributed and unclaimed money into Companies Liquidation Account*

114.—(1) All money in the hands or under the control of a liquidator of a Company representing unclaimed dividends which, for 6 months from the date when the dividend became payable, have remained in the hands or under the control of the liquidator must, immediately on the expiration of the period of 6 months, be paid into the Companies Liquidation Account.

(2) In a voluntary winding up or a winding up under the supervision of the Court, all other moneys in the hands or under the control of a liquidator of a Company representing unclaimed or undistributed assets or held by the Company in trust which, under section 506(1) of the Act, the liquidator is to pay into the Companies Liquidation Account, must be—

- (a) ascertained as on the date to which the statement of receipts and payments delivered to the Court Registrar is brought down;
- (b) the amount to be paid to the Companies Liquidation Account must be the minimum balance of such money which the liquidator has had in his or her hands or under his or her control during the period of 6 months immediately

preceding the date to which the statement is brought down, less such part, if any, as the Official Receiver may authorise him or her to retain for the immediate purposes of the liquidation; and

- (c) such amount must be paid into the Companies Liquidation Account within 14 days from the date to which the statement of account is brought down.

(3) Notwithstanding anything in this rule, any moneys in the hands of the liquidator at the date of the dissolution of the Company representing unclaimed or undistributed assets or dividends or held by the Company in trust in respect of dividends or other sums due to any person as a member of the Company must be paid by him or her into the Companies Liquidation Account.

## PART 17—MISCELLANEOUS

### *Enlargement or abridgment of time*

115. The Court may, in any case in which it sees fit, extend or abridge the time appointed by these Rules or fixed by any order of the Court for doing any act or taking any proceeding.

### *Formal defect not to invalidate proceedings*

116.—(1) No proceedings under the Act or these Rules are invalid by reason of any formal defect or any irregularity, unless the Court before which any objection is made to the proceedings is of the opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by any order of that Court.

(2) No defect or irregularity in the appointment of the Official Receiver or of the appointment or election of a liquidator or member of a Committee of Inspection must invalidate any act done by him or her in good faith.

### *Application of existing procedure*

117. In all proceedings in or before the Court, or any Judge, Court Registrar or officer of the Court, or over which the Court has jurisdiction under the Act or these Rules, where no other provision is made by the Act or these Rules, the practice, procedure and regulations in such proceedings must, unless the Court otherwise directs, be in accordance with the rules and practice of the Court.

### *Fees*

118. The fees specified in Schedule 1 must be paid to the Official Receiver in accordance with the provisions of Schedule 1.

### *Revocation*

119. The Companies (Winding Up) Rules and the Companies (Winding Up Fees) Rules are hereby revoked.

Made this 24th day of December 2015.

A. SAYED-KHAIYUM  
Attorney-General and Minister for Finance,  
Public Enterprises, Public Service and Communications

SCHEDULE 1  
(Rule 118)

FEES

- |    |   |         |
|----|---|---------|
| 1. | On a bond with sureties.....  | \$50.00 |
| 2. | On an affidavit, including a proof of debt.....   | \$50.00 |
| 3. | On an application to the Official Receiver, after 6 months after the date of issue, for the reissue of lapsed cheque, money order or payable order in respect of moneys standing to the credit of the Companies Liquidation Account.....  | \$10.00 |
| 4. | On the audit of the liquidator's accounts under section 547 of the Act, a fee according to the following scale on amount brought to credit, including the produce of calls on contributories, but after deducting the amount spent out of the money received in carrying on the business of the company and amounts paid by the Official Receiver or liquidator to secured creditors (other than debenture holders)—  |         |
|    | up to and including \$500,000.....  | 2.5%    |
|    | from \$500,001 and up to and including \$1,000,000.....   | 2%      |
|    | more than \$1,000,000.....  | 1%      |
| 5. | Where the Official Receiver acts as Provisional Liquidator only—  |         |
|    | (a) where no winding up order is made upon the application, or where a winding up order is rescinded, or all further proceedings are stayed before the summoning of the statutory meetings of creditors and contributories: such amount as the Court may consider reasonable to be paid by the applicant, or by the Company as the Court may direct, in respect of the services of the Official Receiver as Provisional Liquidator.   |         |
|    | (b) where a winding up order is made but the Official Receiver is not continued as liquidator after the statutory meetings of creditors and contributories—   |         |
|    | (i) in respect of every 10 members, creditors and debtors, and every fraction of 10 up to 1,000.....  | \$30.00 |
|    | for every fraction of 10 above, 1,000.....  | \$20.00 |
|    | (ii) on the value of the Company's Property as estimated in the statement of Affairs, or, where the Court has dispensed with the submission of a statement of Affairs, on the value of the Company's Property as estimated by the Official Receiver after deducting (in cases where a person other than the Official Receiver has, before but not on the day of, the making of a winding up order been appointed Receiver for debenture holders) the amount due to debenture holders— |         |
|    | up to and including \$500,000.....  | 5%      |
|    | from \$500,001 and up to and including \$1,000,000.....   | 3%      |
|    | more than \$1,000,000.....  | 2.5%    |

6. Where the Official Receiver acts as liquidator of the Company and a special manager is appointed (to include the Official Receiver’s services as provisional liquidator): such amount as the Court on the application of the Official Receiver may consider reasonable.
7. In all other cases where the Official Receiver acts as liquidator of the Company (to include his or her services as Provisional Liquidator)—
  - (a) in respect of every 10 members, creditors, and debtors, and every fraction of 10..... \$10.00  
 (This fee to include cost of official stationery, printing, books, forms, and inland postages.)
  - (b) upon the total assets, including produce of calls on contributories, realised or brought to credit by the Official Receiver, after deducting sums on which fees are chargeable under item 8 of this Schedule, and the amount spent out of the money received in carrying on the business of the company—
 

up to and including \$500,000.....	15%
from \$500,001 and up to and including \$1,000,000 .....	10%
more than \$1,000,000 .....	7.5%
  - (c) on the amount distributed in dividend or paid to contributories, preferential creditors and debenture-holders by the Official Receiver, half the above percentages.
8. Where the Official Receiver collects, calls or realises Property for debenture holders: the same fees as under paragraphs (b) and (c) of item 7 of this Schedule, to be paid out of the proceeds of such calls or property.
9. Where the Official Receiver realises Property for secured creditors other than debenture holders: the same fees as under paragraph (b) of item 7 of this Schedule, to be paid out of the proceeds of such Property.
10. Where the Official Receiver performs any special duties not provided for in this Schedule: such amount as the Court, on the application of the Official Receiver, considers reasonable.
11. For travelling, keeping possession, law costs and other reasonable expenses of the Official Receiver, the amount disbursed or incurred.
12. On payment of money out of the Companies Liquidation Account under section 506 of the Act—
  - (a) where the money consists of unclaimed dividends, on each dividend paid out, 10c of every \$1 or fraction thereof;
  - (b) where the money consists of undistributed funds or balances—
 

on the first \$100,000, 10c on every \$1 or fraction thereof; and on any excess over \$100,000, 5c on every \$1 or fraction thereof; but so that—	
(i)	the total fee payable in any liquidation shall not exceed \$30,000; and
(ii)	any payment of money out of the Companies Liquidation Account in respect of the fee payable to the Official Receiver under this paragraph of this item shall be disregarded in calculating the fee.

SCHEDULE 2

PRESCRIBED FORMS

FORM D1  
(Rule 8(2))

APPLICATION FOR WINDING UP  
(Title)

**Take notice that:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

Capacity in which the application is made (e.g. 'a creditor of (name of respondent Company)'):

.....

will apply to the High Court of Fiji on ... .. / ... .. / ... .. at (insert time) ...  
..... for the following orders—

1. that (insert name of respondent company) ..... be wound up under the provisions of the Companies Act 2015;
2. that a liquidator be appointed to conduct the winding up; and for such further or other order as may be just.

**To:**

Company name

.....

Country of incorporation (if not Fiji)

.....

[*name of applicant*] or  
Solicitor for the applicant

The address for service of the applicant is

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

I appoint ... .. / ... .. / ... .. at (insert time) .....  
for the purpose of complying with rule 19 of the Companies (Winding Up) Rules 2015.

Issued by the Registrar of High Court of the Republic of Fiji on ... .. / ... .. / .....

Name

.....

Signature .....

FORM D2  
(Rule 8(2))

APPLICATION FOR RELIEF FROM OPPRESSION  
(Title)

**Take notice that:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building Street number and street

.....

Suburb/City Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

will apply, under section 177 of the Companies Act 2015, to the High Court of Fiji ... ..  
/ ... .. / ... .. at (insert time) ..... for the following  
orders—

1. that the following person be removed from office as a director of the Company:

Surname

.....

First name(s)

..... ;

or

2. that the following person purchase all the Shares held by the applicant in the  
Company at a price of \$..... per Share or at another price that  
the Court determines:

Surname

.....

First name(s)

..... ;

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

..... ;

or

3. that the Company be wound up under the Companies Act 2015;  
and for such further or other order as may be just, including an order that the  
respondent pay the costs of and incidental to this application.



**To:**

Surname

.....

First name(s)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

**And to:**

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

*[Solicitor for the applicant]*

The address for service of the applicant is

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

FORM D3  
(Rule 9(2)(a))AFFIDAVIT VERIFYING APPLICATION FOR WINDING UP (Statutory Affidavit)  
(Title)

I, *[name of deponent]* of *[address and occupation of deponent]* state on oath/solemnly and sincerely affirm and declare —

1. I am a director [or secretary or as the case may be] of *[state name of Company]*, the applicant in the above matter.
2. The applicant is a creditor of *[the respondent Company]* ('the Company') *[or as the case may be, i.e. specify the standing of the applicant]*.
3. The Company was on *[date]* incorporated in Fiji *[or as the case may be]* as a Company having a share capital.
4. The registered office of the Company is *[state the full name and address of the registered office of the Company]*.
5. On *[date]* the Company was indebted to the applicant for the amount of \$*[amount]* for *[state briefly the consideration, e.g. 'for goods sold and delivered']*, which sum was then due and payable.
6. On *[date of service]*, the applicant served on the Company a demand signed by the applicant requiring the Company to pay the amount mentioned in paragraph 5. Now produced and shown to me and marked with the letter 'A' is a true copy of the demand for \$*[amount]* *[If the demand has been varied under section 517 of the Companies Act 2015, a copy of the order should also be exhibited]*.
7. The Company failed for three weeks after service of the demand to pay the amount or to secure or compound for it to the reasonable satisfaction of the applicant.
8. The Company is unable to pay its debts.
9. I believe that there is no genuine dispute as to the existence or amount of the debt referred to in paragraph 5.
10. I am aware of my own knowledge of the facts and matters set out in paragraphs 1, 2, 5, 6 and 7 *[or as the case may be]*. Other than as mentioned, I believe the facts and matters in this affidavit to be true.

Sworn/Affirmed by *[deponent]* on *[date of swearing affidavit]* at *[place of swearing affidavit]*:

FORM D4  
(Rule 12(2)(a))

NOTICE OF WINDING UP APPLICATION  
(No title)

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

Court: High Court of Fiji

Application No: .....

An application for the winding up of (insert name of company) .....  
was made by (insert name of applicant) ..... ON (insert date application was  
filed) ... .. / ... .. / ... .. and will be heard by the High Court of Fiji at (insert  
time) ..... ON (insert date of hearing) ... .. / ... .. / ... ..

Copies of documents Filed may be obtained from the applicant.

Any person intending to appear at the hearing must serve a notice, in accordance with rules  
12(3) to 12(7) of the Companies (Winding Up) Rules 2015, to reach the address below  
no later than 4.00 pm on (insert the date of the business day immediately before the day appointed for the  
hearing of the application) ... .. / ... .. / ... ..

*[Name and address of applicant's solicitor]*

FORM D5  
(Rule 14(1))  

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LIST OF PERSONS ATTENDING THE HEARING OF AN APPLICATION  
(Title)

The following are the names of the persons who have given notice of intention to attend the hearing of the application.

Name and address of person	Name and address of person's solicitor	Creditor's amount of debt	Contributory's number of shares	Opposing/ Supporting

[Solicitor for the applicant]

FORM D6  
(Rule 15(1)(b)(i))

NOTICE OF INTENTION TO APPEAR ON APPLICATION  
(Title)

**Take notice that**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

being, [*a creditor or contributory of the Company as the case may be*] intends to appear on the hearing of the application and to oppose the application for winding up on the following grounds:

.....

.....

.....

.....

.....

Dated ... .. / ... .. / ... .. .

Solicitor for [*person opposing application*]

The address for service of the applicant is

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

FORM D7  
(Rule 23(1)(b)(i))

NOTICE OF WINDING UP ORDER  
(No title)

Company name

Company number (if applicable)

Country of incorporation (if not Fiji)

Unit number/Level/Office building

Street number and street

Suburb/City

Island/State/Territory

Postcode

Country (if not Fiji)

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator:

Surname

First name(s)

Unit number/Level/Office building

Street number and street

Suburb/City

Island/State/Territory

Postcode

Country (if not Fiji)

[Solicitor for applicant]



FORM D8  
(Rules 25(1) and 29)

NOTICE OF APPOINTMENT OF LIQUIDATOR/PROVISIONAL LIQUIDATOR  
(No title)

Company name  
.....

Company number (if applicable)  
.....

Country of incorporation (if not Fiji)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator/Provisional Liquidator:

Surname  
.....

First name(s)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

[Solicitor for applicant]

FORM D9  
(Rule 34(1))

---

NOTICE TO PAY MONEY, ETC. TO LIQUIDATOR  
(No title)

Company name  
.....

Company number (if applicable)  
.....

Country of incorporation (if not Fiji)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

**To:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

I am the [*Official Receiver or the liquidator*] of

(insert name of company)

.....

Pursuant to Rule 33 of the Companies (Winding Up) Rules 2015, I require you to pay \$....., or deliver, convey, surrender or transfer [describe the property or books] to which the Company is *prima facie* entitled to me at the below address as soon as practicable or within ..... days of this notice.

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..

FORM D10  
(Rules 35(2) and 103(2))

NOTICE OF RESIGNATION OF LIQUIDATOR  
(No title)

Company name  
.....

Company number (if applicable)  
.....

Country of incorporation (if not Fiji)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator

Surname  
.....

First name(s)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..

FORM D11  
(Rule 38(2))

---

REQUEST TO DELIVER BILL FOR TAXATION  
(No title)

Company name  
.....

Company number (if applicable)  
.....

Country of incorporation (if not Fiji)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator

Surname  
.....

First name(s)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

**To:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

I am the liquidator of (insert name of company)

.....

Pursuant to rule 38 of the Companies (Winding Up) Rules 2015, I request that, within ..... days of this request, you deliver to me for taxation, your bill of costs or charges or expenses as [*nature of the person's engagement*]. If you fail to comply with this request, I will proceed under rule 38 of the Companies (Winding Up) Rules 2015, to declare and distribute a dividend without regard to any claim that you may have and your claim will be forfeited.

Signature

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..



FORM D12  
(Rule 59(1))

---

CERTIFIED LIST OF PROOFS  
(No title)

Company name  
.....

Company number (if applicable)  
.....

Country of incorporation (if not Fiji)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator

Surname  
.....

First name(s)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

List of proofs

Name and address of creditor	Name and address of creditor's solicitor	Creditor's amount of debt	Is the proof admitted, rejected or standing over for further consideration?

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..

FORM D13  
(Rule 60)

---

MEMORANDUM OF ALLOWANCE OR DISALLOWANCE OF PROOF  
(No title)

Company name

Company number (if applicable)

Country of incorporation (if not Fiji)

Unit number/Level/Office building

Street number and street

Suburb/City

Island/State/Territory

Postcode

Country (if not Fiji)

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator

Surname

First name(s)

Unit number/Level/Office building

Street number and street

Suburb/City

Island/State/Territory

Postcode

Country (if not Fiji)

List of proofs for which a notice has been received of an intention to appeal against a decision to reject the proof

Name and address of creditor	Name and address of creditor's solicitor	Creditor's amount of debt

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..

FORM D14  
(Rules 64(1) and 64(6))

NOTICE OF INTENTION TO DECLARE A DIVIDEND AND FOR CREDITORS TO  
PROVE DEBT  
(Title)

**Take notice that:**

Name and address of liquidator

Surname

.....

First name(s)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

intends to declare a dividend of (insert name of company)

.....

on ... .. / ... .. / ... .. [date which is not less than 14 days from the date of  
this notice].

If you have not proved your debt on or before the date of this notice, you will not be entitled  
to participate in the dividend payment.

**To:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..

FORM D15  
(Rule 64(5))

---

NOTICE OF DECLARATION OF A DIVIDEND  
(Title)

**Take notice that:**

Name and address of liquidator

Surname

.....

First name(s)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

declared a dividend of (insert name of company)

.....

on ... .. / ... .. / ... .. .

**To:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..



FORM D16  
(Rule 65(2))

---

SCHEDULE FOR RETURN OF CAPITAL TO CONTRIBUTORIES  
(Title)

Company name  
.....

Company number (if applicable)  
.....

Country of incorporation (if not Fiji)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator

Surname  
.....

First name(s)  
.....

Unit number/Level/Office building  
.....

Street number and street  
.....

Suburb/City  
.....

Island/State/Territory  
.....

Postcode  
.....

Country (if not Fiji)  
.....

## Information pursuant to Rule 65

Name and address of person to whom the capital is to be returned	Amount payable	Transfer of Shares, if any, which have been made in the list of contributories which have arisen since settlement of the list of contributories	Other information (as may be required)

FORM D17  
(Rule 68(1))

NOTICE OF MEETING  
(Title)

**Take notice that:**

Name and address of liquidator

Surname

.....

First name(s)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

is calling a meeting of [*creditors / contributories*] of (insert name of company)

..... on ... .. / ... .. / ... .. .. at:

Level/Office building

.....

Street number and street

.....

Town/City

.....

Island

.....

**To:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..

FORM D18  
(Rule 74)

---

COPY OF RESOLUTION  
(No title)

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

Name and address of liquidator

Surname

.....

First name(s)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

Attached is a copy of a resolution of a meeting of [creditors / contributories] of  
(insert name of company) .....

**Signature**

I certify that the information in this form and attached to this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..

FORM D19  
(Rule 83)

---

STATEMENT OF SECURITY  
(No title)

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

Court: High Court of Fiji

Application No: .....

Date of order: .....

Details of secured creditor

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

As a secured creditor, I hold the following security over the Company which has not been surrendered:

Particulars of the security held	Date when security given	Value at which secured creditor assesses the security

**Signature**

I certify that the information in this form and attached to this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..



FORM D20  
(Rule 95(2))

APPLICATION REGARDING REMUNERATION OF A LIQUIDATOR  
(Title)

**Take notice that:**

Surname

.....

First name(s)

.....

OR

Company name

.....

Company number (if applicable)

.....

Country of incorporation (if not Fiji)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

will apply to the High Court of Fiji on ... .. / ... .. / ... .. at (insert time) .....

..... for an order that the Court fix the remuneration of the below-named liquidator in respect of (insert name of respondent company) .....

**To:**

Name and address of liquidator

Surname

.....

First name(s)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

*[name of applicant] or  
Solicitor for the applicant*

FORM D21  
(Rule 105(1))

NOTICE TO CREDITORS AND CONTRIBUTORIES OF INTENTION TO APPLY  
FOR RELEASE  
(No title)

**Take notice that:**

Name and address of liquidator

Surname

.....

First name(s)

.....

Unit number/Level/Office building

.....

Street number and street

.....

Suburb/City

.....

Island/State/Territory

.....

Postcode

.....

Country (if not Fiji)

.....

I, the liquidator of (insert name of company) ..... intend to apply to  
the High Court of Fiji at (insert time) ..... on (insert date of hearing)  
... .. / ... .. / ... .. for my release.

Any objection you may have to the granting of my release must be given to the Court  
Registrar and me within 21 days of this notice.

A summary of my receipts and payments as liquidator is attached.

**Note:**

Section 549 of the Companies Act 2015 provides that an order of the Court releasing the  
liquidator must discharge him or her from all liability in respect of any act done or default  
by liquidator in the administration of the Affairs of the Company or otherwise in relation  
to his or her conduct as the liquidator, but any such order may be revoked on proof that it  
was obtained by fraud or by suppression or concealment of any material fact.

**Signature**

I certify that the information in this form is true and complete.

Name

.....

Signature .....

Date signed ... .. / ... .. / ... ..