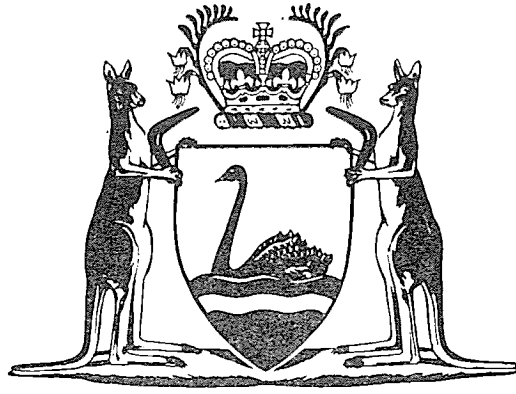


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[1972

SUPREME COURT ACT, 1935 AND COMPANIES
ACT, 1961

SUPREME COURT
(COMPANIES) RULES, 1963

Crown Law Department,
Perth, 28th June, 1972.

THE undermentioned Rules made under the provisions of the Supreme Court Act, 1935 and the Companies Act, 1961 and in force at 16th February, 1972 are reprinted pursuant to the Reprinting of Regulations Act, 1954 by authority of the Attorney General.

W. J. ROBINSON,
Under Secretary for Law.

SUPREME COURT ACT, 1935 AND
COMPANIES ACT, 1961.

SUPREME COURT (COMPANIES) RULES, 1963.

Published in the *Government Gazette* on the 17th October, 1963 and incorporating the amendments that, pursuant to the provisions of section 8 of the Decimal Currency Act, 1965, are deemed for the purposes of this reprint to be amendments to the Rules; and reprinted pursuant to the Reprinting of Regulations Act, 1954.

Reprinted pursuant to the Reprinting of Regulations Act, 1954 by authority of the Attorney General, dated 27th June, 1972.

SUPREME COURT ACT, 1935 AND COMPANIES ACT, 1961.

SUPREME COURT (COMPANIES) RULES, 1963.

1. These rules may be cited as the Supreme Court (Companies) Rules, 1963, and shall come into operation on the 2nd day of December, 1963. Citation and commencement.

2. (1) The Companies (Liquidators' Accounts) Rules, 1949, are hereby revoked. Repeal and application.
 (2) These rules apply to all proceedings under the Act that are commenced on or after the commencement of these rules.

3. In these rules, unless the contrary intention appears— Interpretation.
 "filed" means filed with the Registrar of the Supreme Court;
 "liquidator" includes a provisional liquidator;
 "Registrar of the Supreme Court" includes a duly appointed Acting or Deputy Registrar;
 "rule" means a rule of the Supreme Court (Companies) Rules, 1963;
 "section" means section of the Act;
 "solicitor" in relation to any party to proceedings under these rules, includes any solicitor acting as agent for the solicitor in the proceedings and includes his Perth agent acting in the matter;
 "the Act" means the Companies Act, 1961;
 "the Master" means the Master of the Supreme Court and includes a duly appointed Acting or Deputy Master; and
 words and expressions defined in section 5 of the Act and used in these rules have the same respective meanings as in the Act.

4. The rules of the Supreme Court for the time being in force and the general practice of the Court including the course of procedure and practice in Chambers apply in relation to proceedings to which these rules relate so far as may be practicable, except if and so far as the Act or these rules otherwise provide. General rules of practice of Court to apply when no specific provision made.

5. Every petition, notice of motion and summons and all notices, affidavits and other documents in any proceedings under the Act shall be intitled "in the Supreme Court," "in the matter of the Companies Act, 1961," and "in the matter of . . ." the company to which the proceeding relates, with the addition of the words "in liquidation" where the company is in liquidation. Title.
Form 1.

6. No matter that is authorised by or under these rules to be heard and determined by the Master shall be brought before a Judge or the Court except— All matters except those referred to in rules 18, 52 and 54 to be dealt with by Master except in special cases.
 (i) on a reference from the Master;
 (ii) on an appeal under rule 8; or
 (iii) by special leave of the Court or a Judge.

Power to
Master to
refer matter
to Court.

7. If a matter brought before the Master appears to him proper for the decision of a Judge the Master may refer that matter to a Judge and the Judge may either dispose of the matter or refer it back to the Master with such directions as he may think fit.

Appeals from
Master.

8. (1) (a) Any person affected by an order or decision of the Master may appeal therefrom to a Judge in Chambers.

(b) The appeal shall be by notice in writing to attend before the Judge, without a fresh summons, within five days after the decision complained of or such further time as may be allowed by a Judge or the Master.

(2) Unless otherwise ordered there shall be at least one clear day between service of the notice of appeal and the day of hearing.

(3) An appeal from the decision of the Master does not operate as a stay of proceedings unless so ordered by a Judge or the Master.

(4) The appeal shall be by a rehearing *de novo* of the application but each party may subject to any proper objections to admissibility rely upon any affidavit used before the Master and upon any evidence given orally before him but if any other party desires the production of the deponent or witness for examination before the Judge that affidavit or oral evidence may not be so relied upon without the production of the deponent or witness except by leave of the Judge.

Proceedings
to be
attached to
office of
Registrar of
the Supreme
Court.

9. All proceedings under the Act or under these rules shall be attached to the office of the Registrar of the Supreme Court.

Filing of
documents
within
prescribed
time.

10. All petitions, notices of motion, summonses, affidavits, orders, certificates, proofs of debts, notices, depositions, bills of costs and other documents in proceedings under the Act or under these rules shall be filed within the time fixed by these rules and where no time is expressly fixed, they shall, unless the Court Judge or Master otherwise permits, be filed before the hearing of the application to which they relate, commences.

Issue of
petition,
notice of
motion and
summons.

11. Every petition, notice of motion and summons to which these rules relate, shall be prepared by the applicant or his solicitor.

Service of
petition,
notice of
motion and
summons.

12. (1) Subject to an order to the contrary, every petition, notice of motion and summons shall be served upon every person against whom any order or other relief is sought but the Court or a Judge may, at any time, direct that service be effected or notice of the proceedings given to any person who may be affected by the order or other relief sought and may at any time direct the manner in which that service is to be effected or the notice given and any person so served or notified is entitled to be heard.

(2) A document referred to as an exhibit in an affidavit shall be made available for inspection by any person upon whom service of the affidavit is required.

13. (1) Except as otherwise provided by the Act or these rules or any order— Mode of service.

- (a) all notices, summonses and other documents, except those of which personal service is required, are sufficiently served, if left at or sent by prepaid post to the last known address of the person to be served therewith or the address (if any) at which the person has authorised service on him to be effected; and the notice, summons or document if so sent by prepaid post, shall be considered as served at the time that it ought to be delivered in the ordinary course of post by the post office and notwithstanding it may be returned by the post office;
- (b) no service shall be deemed invalid by reason that the name or any of the names other than the surname of the person to be served has been omitted from the document containing the person's name, if the Court is satisfied that in other respects the service of the document has been sufficient;
- (c) when the solicitor for a party to be served accepts service of a document on behalf of that party and indorses the original or a copy thereof to that effect that service shall be deemed sufficient.

(2) Unless otherwise expressly provided in these rules or unless otherwise expressly ordered—

Advertisements in the *Government Gazette*.

- (a) all matters that require to be gazetted shall be published once in the *Gazette*;
- (b) all matters that require to be advertised shall be published once in a Perth daily newspaper;
- (c) all matters required to be gazetted subsequent to a winding up order shall be gazetted by the liquidator;
- (d) where any winding up order is amended, and also where any matter that has been gazetted has been amended or altered, or where a matter has been wrongly or inaccurately gazetted or advertised the matter shall be re-gazetted or re-advertised with the necessary amendments and alterations.

(3) Unless otherwise expressly provided in these rules or unless otherwise expressly ordered, where any matter is gazetted or advertised for or in connection with any proceedings under the Act or under these rules—

Memorandum of advertisements to be filed.

- (a) a memorandum referring to and giving the date of the gazettal or advertisement, signed by the person or his solicitor responsible for the gazettal or advertisement shall be filed —
 - (i) if the advertisement relates to proceedings for or in connection with a winding up by the Court, by the liquidator; or
 - (ii) in any other case, by the party responsible for publishing the advertisement; and
- (b) in the case of an advertisement for or in connection with a winding up by the Court, a copy of the newspaper or *Gazette* in which the advertisement appeared shall be delivered to the liquidator by the party responsible for publishing the advertisement; and

(c) such a memorandum is *prima facie* evidence that the advertisement to which it refers was published in the *Gazette* or in the issue of the newspaper mentioned in it.

Enquiry and certificate by Master as to meetings ordered by the Court.

14. (1) Where an order has been made for the convening of a meeting to consider a resolution, the party obtaining the order or his solicitor shall, after the meeting has been held, attend before the Master on a day to be appointed by the Master.

(2) The Master shall enquire as to whether the meeting was duly convened and as to whether the resolution was duly passed at the meeting in accordance with the terms of the order under which it was held.

(3) The Master shall certify to the Court or the Judge—

(a) whether the meeting was duly convened and the resolution was duly passed; and

(b) if in his opinion any irregularities occurred in the convening of the meeting or in the passing of the resolution, the nature and extent of the irregularities.

(4) No order based on any such resolution shall be made by a Court or a Judge until a certificate of the Master in accordance with this rule has been filed.

Forms.

15. Subject to these rules, where a provision of these rules is specified in the first column of the First Schedule to these rules, the form set out in the Second Schedule to these rules the number of which is specified in the third column of the First Schedule opposite to that provision is prescribed as the form to be used for the purposes of that provision in relation to the matter or thing described in the second column of the First Schedule opposite to that provision.

Particulars prescribed by forms.

16. (1) Where a form prescribed by these rules requires completion by the insertion of particulars or other matters referred to in the form, those particulars or other matters are prescribed as the particulars or other matters required under the provision of the rules for the purposes for which the form is prescribed.

(2) A form prescribed by these rules shall be completed in accordance with such directions as are specified in the form as so prescribed.

Substantial compliance with forms to be sufficient.

17. Strict compliance with the forms contained in the Second Schedule to these rules is not necessary, and substantial compliance is sufficient.

PETITIONS.

Application by petition.

18. The following applications shall be made by petition and shall be heard and determined in open court:—

Form 2.

(1) Under section 64 (application to confirm a reduction of capital).

(2) Under section 175 (application by the Minister for the winding up of a company or a foreign company after a report has been presented by an inspector).

(3) Under section 186 (application for relief against oppression).

(4) Under section 221 (application for the winding up of a company by the Court).

(5) Under section 315 (application for the winding up of an unregistered company).

19. (1) Presentation of a petition is effected by producing the petition to the Registrar of the Supreme Court and filing a copy thereof. Presentation of petition.

(2) The date and time of the presentation shall be endorsed upon both the original and copy petition by the Registrar of the Supreme Court.

(3) Except in the case of a petition to confirm a reduction of capital, the Registrar of the Supreme Court, upon presentation of the petition, shall appoint a time and place for the hearing.

20. (1) Every petition shall set out in the prayer thereof the nature of the relief sought and shall contain all the allegations necessary in support thereof and shall be verified by affidavit. Verification of petition. Form 3.

(2) The affidavit verifying the petition shall be made by the petitioner or by one of the petitioners, if more than one, or where the petition is presented by a corporation, by a director, secretary or other principal officer thereof, and shall be filed immediately after the petition has been presented, and such affidavit is sufficient *prima facie* evidence of the statements in the petition.

(3) When a petition is required to be served a copy of the verifying affidavit shall be served with the petition.

21. (1) When a time has been appointed for the hearing of the petition, notice of the time and place appointed for hearing the petition shall be written on the petition and copies thereof by the officer of the Court, authorised by these rules to fix the time and place for the hearing and that officer may at any time before the petition has been advertised, alter the time appointed and fix another time. Time and place of hearing to be endorsed.

(2) The original petition shall be filed with the Registrar of the Supreme Court before the date appointed for the hearing of the petition. Registrar of Supreme Court.

22. (1) Every petition shall, unless presented by the company, be served upon the company. Service of petition. Form 4.

(2) If there is no registered office of the company, the petition may be served upon the company at the principal or last known principal place of business of the company, if any such place can be found, by leaving a copy with any member, officer or servant of the company there, or if no such member, officer or servant can be found there, then by leaving a copy at the principal or last known principal place of business or by serving it on such member, officer or servant of the company as the Court may direct.

(3) Where a petition is presented by a person other than the liquidator of the company in relation to a company which is in course of being wound up, the petition shall be personally served upon the liquidator.

23. Every member or creditor of a company in respect of which a petition has been filed is entitled to be furnished by the solicitor of the petitioner with a copy of the petition within forty-eight hours after requiring it, on payment at the rate of twenty cents per folio for the copy. Copy petition for contributory or creditor.

24. (1) A person who intends to appear on the hearing of a petition shall serve on the petitioner or his solicitor notice of intention to appear thereon. Notice of intention to appear. Form 5.

(2) The notice shall be signed by that person or by his solicitor and shall give the address of the person signing it and shall be served, or if

sent by post, shall be posted, in such time as in ordinary course of post to reach the address of the person on whom it is intended to be served, not later than four o'clock in the afternoon of the day previous to the day appointed for the hearing of the petition or if that day be a Monday, or a Tuesday following a public holiday not later than four o'clock in the afternoon of the Friday previous to that day.

(3) A person who has failed to comply with this rule shall not, without the special leave of the Court, be allowed to appear on the hearing of the petition.

List of persons intending to appear. Form 6.

25. (1) The petitioner or his solicitor shall prepare a list of the names and addresses of the persons who have given notice of intention to appear on the hearing of the petition and of their respective solicitors.

(2) On the day appointed for hearing the petition a fair copy of the list, or if no notice of intention to appear has been given, a statement to that effect, shall be handed by the petitioner or his solicitor to the associate to the Judge prior to the hearing of the petition by that Judge.

Affidavits opposing the petition and affidavits in reply.

26. (1) Affidavits in opposition to a petition shall be filed and a copy thereof served on the petitioner or his solicitor at least seven clear days before the time appointed for the hearing of the petition.

(2) Any affidavit in reply to an affidavit filed in opposition to a petition (including a further affidavit in support of any of the facts alleged in the petition) shall be filed within three days of the date of service on the petitioner of the affidavit in opposition and a copy of the affidavit in reply shall be forthwith served on the petitioner or his solicitor.

Substitution of another person as petitioner.

27. (1) If a petitioner, whether or not he is entitled to present a petition—

- (a) fails to take all the steps prescribed by these rules preliminary to the hearing of the petition;
- (b) consents to withdraw his petition or to allow it to be dismissed or the hearing to be adjourned; or
- (c) fails to appear in support of his petition when it is called on in Court on the day originally fixed for the hearing thereof or any day to which the hearing has been adjourned, or if appearing does not apply for an order in the terms of the prayer of his petition—

the Court may, upon such terms as it may think just, substitute for the petitioner any person who, in the opinion of the Court, would have a right to present the petition and who is desirous of proceeding with the petition.

(2) An order to substitute a petitioner may, where a petitioner fails to advertise his petition within the time prescribed by or under these rules or consents to withdraw his petition, be made by the Master at any time before the date fixed for the hearing.

REDUCTION OF CAPITAL.

Application of R. 29-45.

28. Rules 29 to 45 (both inclusive) apply only to a petition by a company to the Court for the confirmation of a resolution to reduce its share capital.

29. After the petition has been presented an application for directions as to the proceedings to be taken shall forthwith in every case be made by summons returnable before the Master.

Application for directions.
Form 7.

30. (1) Upon the hearing of the summons or upon any adjourned hearing or hearings thereof or any subsequent application, the Master may make such orders and give such directions as he may think fit as to all proceedings to be taken and more particularly as to the following matters, namely:—

Powers of Master.

- (a) Directing the petition to be heard by the Court on a date and place to be fixed by the Master.
- (b) Directing that having regard to any special circumstances that appear all or any of the provisions of subsection (2) of section 64 shall not apply as regards any specified class of creditors.
- (c) The publication of notices.
- (d) In a case where the settlement of a list of creditors is ordered fixing the date with reference to which the list of creditors is to be made out and generally fixing a time for and giving directions as to all other necessary or proper steps in the matter whether expressly mentioned in the rules hereafter set out or not.

31. (1) Within seven days after the date with reference to which the list of creditors is to be made out, or within such other time as the Master may order, the company shall file an affidavit made by an officer or officers of the company competent to make it verifying a list containing so far as possible the names and addresses of the creditors of the company to whom such enquiry extends.

Filing affidavits verifying list of creditors.
Form 8.

(2) The list shall also contain the amounts due to the creditors therein named respectively in respect of any debts, claims or liabilities to which the enquiry extends, or in the case of any such debt payable on a contingency or not ascertained or any such claim the value so far as can be justly estimated of that debt or claim.

Amounts due to be stated.

(3) The list shall be filed with the affidavit.

(4) The person making any such affidavit shall state therein his belief that the list verified by the affidavit is correct and that there was not at the date with reference to which the list of creditors is to be made out any debt, claim or liability that, if that date were the commencement of the winding up of the company, would be admissible in proof against the company except the debts, claims and liabilities set forth in the list and any debts, claims or liabilities to which the enquiry does not extend.

No outstanding admissible debts.

32. Copies of the list containing the names and addresses of the creditors of the company and the total amount due to them including the value of any debts or claims estimated as provided in rule 31 but omitting the amounts due to them respectively, or, if the Master shall so direct, complete copies of the list shall be kept at the registered office of the company and at the office of the solicitor to the company and any person desirous of inspecting the list may at any time during the ordinary hours of business inspect and take extracts from it on payment of the sum of twenty cents.

Publication of list of creditors.

Notice of petition, order and list of creditors, etc. Form 9.

33. (1) Within seven days of the filing of the affidavit mentioned in rule 31 or at such other time and in such manner as the Master may order, the company shall gazette and advertise notice of the presentation of the petition.

(2) The notice shall state the amount of the proposed reduction of capital and the places where the list of creditors referred to in rule 31 may be inspected, and the time fixed by the Master within which creditors of the company, who being entitled to be entered on the list are not so entered and are desirous of being entered therein, must send in their names and addresses and the particulars of their debts or claims and the names and addresses of their solicitors, if any, to the company or its solicitor.

Notice to creditors on list. Form 10.

(3) The company shall send to each creditor whose name is entered in the list, a notice stating the amount of the proposed reduction of capital, the effect of the order directing the enquiry and the amount or estimated value of the debt or the contingent debt or claim or both for which that creditor is entered in the list, and the time fixed by the Master within which, if he claims to be entitled to be entered on the list as a creditor for a larger amount, he must send to the solicitor of the company his name and address and the particulars of his debt or claim and the name and address of his solicitor (if any).

Barring of late claims.

34. (1) After the time fixed to send in particulars of his claim, no claim by a person to be a creditor or to be a creditor for an amount larger than that for which he is entered on the list shall be received unless the Master thinks fit to give special leave, on such terms and conditions as to costs and otherwise, as the Master may think fit.

(2) On an application for special leave the summons shall be served upon the company and shall be supported by an affidavit setting forth the facts upon which the creditor relies.

Affidavit verifying list. Form 11.

35. (1) The company shall, within seven days after the expiration of the time fixed by the Master for creditors to send in particulars of their claims or within such other time as the Master shall direct, file with the Registrar of the Supreme Court an affidavit made by the company's solicitor stating the result of the notices gazetted, advertised or sent in accordance with rule 33 and verifying a list to be filed with the affidavit containing in alphabetical order the names and addresses of the persons who have sent in the particulars of their debts or claims in pursuance of those notices respectively and the amounts of those debts or claims.

Affidavit distinguishing claims admitted and rejected.

(2) Some competent officer or officers of the company shall join in the affidavit and shall in the list distinguish which (if any) of the debts and claims are wholly or partly admitted by the company and which (if any) of the debts and claims are wholly or partly disputed by the company and which (if any) of the debts and claims are alleged by the company to be wholly or partially excluded from the enquiry.

Filing with Registrar verified list of consenting creditors and for list of creditors whose claims not fully admitted.

(3) The company shall at the same time file with the Registrar of the Supreme Court the following lists of creditors made out in alphabetical order and showing the address of each creditor and the amount or estimated value of the debt or claim for which each is entered either in the list kept in pursuance of rule 32 or that made out in pursuance of subrule (1) of this rule:—

(a) a list of all creditors who have been paid or who have consented to the proposed reduction of the company's capital,

which list must be verified by an affidavit made by a competent officer or officers of the company exhibiting the receipts and, where necessary, the invoices, showing the payments made, and in the case of each creditor consenting, a consent in writing signed by him or by a member of the firm, if the creditor is a firm, or under the seal of the company, if the creditor is a company; and

- (b) a list of all creditors whose debts or claims the company does not admit at their full amounts but is willing to appropriate in such manner as the Master directs.

36. (1) If the company has filed any list of creditors consenting to the proposed reduction, or of creditors whose debts or claims the company is willing to appropriate as the Master directs or if any debt or claim the particulars of which have been sent in as mentioned in rule 35 be not admitted by the company at its full amount and the company is not willing to appropriate the full amount thereof as the Master directs, or if any such debt or claim is alleged by the company to be not wholly included in the enquiry the company shall forthwith apply *ex parte* to the Master for directions.

Settlement
of list of
creditors.
Form 12.

(2) On the application the Master may order that the affidavit verifying consent is sufficient proof of the consent or may require any further proof and may give such directions as he thinks proper for securing in the manner mentioned in section 64, subsection (2) of the payment of the debt or claim of any creditor who does not consent to the proposed reduction and for that purpose may require such evidence and give such directions as may be necessary and may give such further or other directions as appear to him desirable.

(3) If the company contends that a person is not entitled to be entered in the list of creditors in respect of any debt or claim whether admitted or not or if any debt or claim, the particulars of which have been sent in, be not admitted by the company at its full amount, then and in every case unless the company is willing to appropriate in such manner as the Master directs the full amount of such debt or claim, the company shall, if the Master thinks fit so to direct, serve on the creditor a notice that he is required to come in and establish his title to be entered on the list (or as the case may be) to come in and prove the debt or claim or such part thereof as is not admitted by the company, by a day to be therein named being not less than four clear days after the notice and being the time appointed by the Master for adjudication upon the title, debt and claim.

37. A creditor who has received notice that he is required to come in and prove his title shall file an affidavit verifying his debt or claim and shall on the day fixed appear before the Master and there produce all deeds and documents necessary to prove his debt or substantiate his claim.

Creditor
to prove
debt.

38. The Master may adjourn the hearing of the proofs of debts and claims as often as he thinks fit and may on the hearing or any adjourned hearing direct such investigation of all or any of the claims and require such further particulars, information or evidence relating thereto as he thinks fit and may hear evidence and may disallow any claim or any part thereof or fix the amount at which any debt or claim is to be allowed.

Adjournment
of hearing;
investigation
and further
particulars.

Creditors
costs.

39. (1) A creditor who has come in and established his debt or claim is entitled to the costs thereof unless the Master is of opinion that in the circumstances his costs ought not be allowed.

(2) The Master shall fix those costs unless he thinks fit to direct the taxation thereof, and the amount of the costs so fixed or taxed, shall be added to the debt or claim so established.

Creditors
wrongly
listed as
consenting.

40. The Master may before, or the Court may, on the hearing of the petition, on the application of a creditor appearing on any list as having consented to the proposed reduction of the company's capital, if satisfied that the creditor has not consented or that the circumstances of his consent were such as to make it proper to do so, order that the creditor shall be at liberty to appear on the hearing of the petition and oppose the proposed reduction of capital and for that purpose the Master or the Court may direct any investigation and require such particulars or information or hear such evidence as he or it may think fit.

Master's
certificate.

41. (1) The result of the settlement of the list of creditors shall be stated in a certificate to be settled and signed by the Master and filed forthwith.

(2) The certificate shall state—

- (a) the debts or claims admitted at their full amount by the company;
- (b) the debts or claims the full amount of which the company is willing to appropriate;
- (c) the names of the creditors who have come in under rule 37 and sought to establish their title to be entered in the list of creditors, distinguishing those whose debts or claims have been disallowed by the Master and those the amounts of whose debts or claims have been fixed by the Master and showing the amounts so fixed;
- (d) the debts or claims the full amount of which the company does not admit or is not willing to appropriate or such as have been disallowed or the amounts have not been fixed by the Master;
- (e) the names of the creditors appearing on the list filed by the company as consenting to the proposed reduction of capital and the total amount of the debts due to them;
- (f) the total amount of the debts or claims the payment of which has been secured in manner provided by subsection (2) of section 64 and the persons to whom the debts are due or by whom the claims are made.

(3) No reference need be made in the certificate to any debts or claims to which the enquiry does not extend.

Date for
petition.

42. (1) In all cases where a list of creditors has been settled the Master shall on settling and signing his certificate fix the time and place for the hearing of the petition which shall not be less than fourteen days after the filing of his certificate.

Notice of
date fixed.
Form 13.

(2) On such day being fixed the company shall not less than five days before that day gazette and advertise a notice in the prescribed form of the day fixed for the hearing.

43. (1) Any person appearing on a Master's certificate to be a creditor of the company, who has not consented to the proposed reduction of capital and whose debt or claim has not been secured in full may, unless the company is willing to appropriate his debt or claim in such manner as the Court directs or his debt or claim has been discharged or determined, appear on the hearing of the petition and oppose the application.

Dissenting creditor may appear to oppose.

(2) A dissenting creditor who appears at the hearing of an application under section 64 is entitled to costs unless the Court is of opinion that in the circumstances his costs ought not to be allowed.

Costs under S. 64 for dissenting creditor.

44. (1) The Court may adjourn the hearing of the petition from time to time as it thinks fit.

(2) On the hearing of the petition the Court may give such directions as it thinks proper for securing, in the manner mentioned in subsection (2) of section 64 the payment of the debts or claims of any creditors who do not consent to the proposed reduction and for that or any other purpose may require such evidence and give such further directions as may be necessary.

Directions as to payment of claims of dissenting creditors.

45. An order confirming a reduction shall show the particulars required to be shown by subsection (5) of section 64 and shall contain directions—

Order confirming reduction. S. 64 (4).

- (a) as to the time within which an office copy of the order must be lodged with the Registrar;
- (b) as to the manner and mode in which notice of the order is to be gazetted and advertised after the office copy of the order has been lodged with the Registrar.

WINDING UP BY THE COURT AND APPLICATIONS UNDER SECTION 186.

46. Rules 47 to 51 apply only to petitions for winding up and petitions under section 186.

Application of R. 47-51.

47. (1) Every petition must be gazetted and advertised not less than fourteen days before the hearing.

Advertisement of petition. Form 14.

(2) The advertisement shall state the day on which the petition was presented and the date and place appointed for the hearing thereof, and the name and address of the petitioner and of his solicitor and Perth agent, if any, and shall contain a note at the foot thereof stating that any person who intends to appear at the hearing of the petition, either to oppose or support, must send notice of his intention to the petitioner or to his solicitor within the time and in the manner prescribed by rule 24, and an advertisement of a petition that does not contain the note shall be deemed irregular.

48. (1) On the application of the petitioner the Registrar of the Supreme Court shall nominate in writing the official liquidator to be appointed as liquidator, if an order for the winding up of the company is made by the Court and may from time to time as circumstances require make further nominations.

Official liquidator to be nominated by Registrar of Supreme Court.

(2) Before the hearing of the petition the petitioner or his solicitor shall obtain and file the consent in writing of the official liquidator nominated by the Registrar of the Supreme Court.

As to consent of liquidator.

Attendance
on Master.

49. (1) After a petition has been presented the petitioner or his solicitor shall on a day to be appointed by the Master attend before the Master and satisfy him that—

- (a) the petition has been duly gazetted and advertised;
- (b) the prescribed affidavit verifying the statements therein and the affidavit of service, if any, have been duly filed;
- (c) that the consent in writing of the liquidator nominated by the Registrar of the Supreme Court has been obtained and filed; and
- (d) the provisions of the rules as to petitions have been duly complied with by the petitioner.

(2) No order save an order for the dismissal or adjournment of the petition shall be made on the petition of any petitioner who has not, prior to the hearing of the petition, attended before the Master at the time appointed and satisfied him in manner required by this rule.

Notice of
winding up
order.
Forms 15
and 16.

50. (1) When an order is made for the winding up of a company the petitioner shall forthwith thereafter inform the liquidator and within fourteen days of the making of the order—

- (a) gazette and advertise a notice of the making of the order; and
- (b) serve upon the liquidator a copy of the order.

Service of
copy
winding up
order.
S. 230 (2).

(2) The copy of the winding up order required by subsection (2) of section 230 to be served upon the secretary or manager of the company may be served either personally or by prepaid letter addressed to the secretary or manager at the registered office of the company (if any) or if there is no registered office at its principal or last known place of business.

Notice at
foot of every
winding up
order.

(3) Every order for the winding up of a company by the Court shall, unless the Court otherwise directs, contain at the foot thereof, a notice stating that it will be the duty of such of the persons who are liable to make out or concur in making out the company's statement of affairs as the liquidator may require, to attend on the liquidator at such time and place as he may appoint and give him all information he may require.

Order
appointing
provisional
liquidator:
S. 231 (2).
Forms 17, 18
and 19.

51. (1) At any time after the presentation of a petition the Court may upon application of any creditor or contributory or of the company and upon proof by affidavit of sufficient ground for the appointment of a provisional liquidator make the appointment upon such terms as the Court thinks just or necessary.

Contents of
order.

(2) An order appointing a provisional liquidator shall state the nature and give a short description of the property of which the provisional liquidator is ordered to take possession and the duties to be performed by him.

Filing with
Registrar of
Companies
and giving
notice of
appointment
upon
pronounce-
ment of
order.

(3) Upon the pronouncement of the order the party obtaining the order shall forthwith file a notice of the making thereof with the Registrar and cause such notice to be gazetted and advertised.

(4) The expense of complying with subrule (3) of this rule shall, unless the Court otherwise orders, be a charge upon the assets of the company. Expense.

(5) Upon the order being issued the party obtaining the order shall within seven days thereof file with the Registrar an office copy thereof and serve a copy thereof on the company and on any other person on whom the Court shall direct service to be made. Office copy of issued order to be filed with Registrar of Companies.

(6) Upon the completion of his term of office a provisional liquidator shall on accounting to the liquidator (if any) be entitled to be paid out of the property of the company, all costs, charges and expenses properly incurred by him and remuneration as may be authorised by the order, appointing him or any subsequent order and may retain out of that property the amount of those costs, charges, expenses and remuneration.

MOTIONS.

52. The following applications shall be made by motion and shall be heard and determined in open court:— Applications.

- (1) Under subsection 15 of section 9 (appeal from decision of the Companies Auditors Board).
- (2) Under subsection (5) of section 28 (application to cancel alteration in objects of company).
- (3) Under section 59 (application to confirm the issue of shares at a discount).
- (4) Under section 63 (application to validate the issue or allotment of shares invalidly issued or created or to confirm the terms of issue or allotment thereof).
- (5) Under section 65 (application to set aside a proposed variation or abrogation of rights attaching to shares).
- (6) Under subsection (5) of section 80 (application by trustee or representative to confirm, set aside or vary a direction of the interest holders).
- (7) Under subsection (4) of section 87 (application to confirm resolution to wind up scheme relating to interests other than shares or debentures).
- (8) Under section 117 (application by an undischarged bankrupt for leave to act in the management of a corporation).
- (9) Under section 122 (application by certain convicted persons for leave to engage in the management of a company).
- (10) Under subsection (4) of section 171 (application for Court to enquire into case of offending officer or agent).
- (11) Under subsection (5) of section 173 (application for Court to enquire into case of offending officer or agent).
- (12) Under subsection (2) of section 179 (application as to removal of restrictions on shares).
- (13) Under subsection (1) of section 232 (application to remove liquidator appointed by the Court).
- (14) Under section 243 (application to stay proceedings in a winding up).
- (15) Under section 266 (application to remove a liquidator and appoint another in his stead).

- (16) Under section 276 (application for leave to wind up voluntarily when a petition for winding up by the Court has been presented).
- (17) Under subsection (2) of section 286 (application for order requiring liquidator to submit account of undistributed assets with or without directions as to audit or payment).
- (18) Under subsection (7) of section 286 (appeal to Court against decision of Registrar).
- (19) Under section 304 (application for a declaration that a person concerned in the management of a company should be personally responsible for the liabilities of the company).
- (20) Under section 305 (application for an order for damages against delinquent officers of a company).
- (21) Under section 307 (application to declare dissolution void).
- (22) Under subsection (5) of section 308 (application for an order that a name of a company be restored to the register).
- (23) Under subsection (2) of section 365 (application for relief in respect of any default or breach of trust).

Notice of
motion.

53. (1) Every notice of motion must state the nature and the grounds of the application.

(2) Where notice of a motion is required by these rules to be served, the notice shall be served not less than two clear days before the day named in the notice for hearing the motion.

(3) Every motion shall be supported by an affidavit and a copy of any affidavit in support of the motion shall be served on the respondent.

SUMMONS.

Applications.
Form 20.

54. (1) The following applications shall be made by summons and shall be heard and determined by a Judge in Chambers:—

- (a) Under subsection (2) of section 11 (application for order that Master assign bond).
- (b) Under section 27 (application in relation to proprietary companies).
- (c) Under section 69 (application for approval to payment of interest out of capital).
- (d) Under subsection (11) of section 74 (application for direction that security of certain debentures be enforceable).
- (e) Under subsection (4) of section 96 (application for order for delivery up of documents to company).
- (f) Under section 106 (application to extend time for filing charges or to rectify register of charges).
- (g) Under subsection (1) of section 142 (application for order that a meeting be called other than in accordance with the articles or the Act).
- (h) Under subsection (5) of section 143 (application to dispense with circulation of statement).
- (i) Under section 154 (application for order on default in relation to production of register of members).

- (j) Under section 155 (application to rectify register of members).
- (k) Under subsection (5) of section 161 (application for order that company records be available for inspection).
- (l) Under section 181 (applications for an order for meetings in relation to a compromise or arrangement).
- (m) Under subsections (2), (3) and (9) of section 181 (application to sanction compromise or arrangement with creditors or members).
- (n) Under section 183 (application for orders facilitating compromise or arrangement).
- (o) Under section 185 (application for order as to acquisition of shares of dissenting shareholder).
- (p) Under subsection (4) of section 186 (application for leave to make alteration to memorandum or articles inconsistent with a Court order).
- (q) Under section 203 (application to determine appointment as official manager).
- (r) Under subsection (1) of section 207 (application for leave to dispose of company's assets).
- (s) Under section 208 (application to apply certain provisions in an official management).
- (t) Under section 209 (application to determine all proceedings relating to official management).
- (u) Under section 210 (appeal to Court against resolution appointing official manager).
- (v) Under section 223 (application for order that proceedings be deemed not validly taken).
- (w) Under section 227 (application for order to validate disposition of property after commencement of Court winding up).
- (x) Under subsection (2) of section 233 (application to vest company property in liquidator).
- (y) Under sections 239 and 240 (application with respect to release or resignation of liquidator).
- (z) Under subsection (1) of section 245 (application for direction that property be delivered to the liquidator).
- (a1) Under subsection (2) of section 245 (application to direct payment of money due from a contributory).
- (a2) Under subsections (3) and (4) of section 245 (application for order for calls and payment thereof).
- (a3) Under subsection (3) of section 247 (application for order as to priorities in payment of costs, charges and expenses in a winding up).
- (a4) Under section 249 (application for order summoning persons for examinations).
- (a5) Under section 250 (application for order summoning persons for public examination).
- (a6) Under section 251 (application for an order for arrest of absconding contributory).

- (a7) Under section 252 (application for leave to rectify register or make call).
- (a8) Under subsection (3) of section 263 (application for direction that company property be delivered to liquidator).
- (a9) Under subsection (4) of section 270 (application to sanction resolution transferring company's business or property where company later wound up by Court).
- (a10) Under subsection (5) of section 270 (application for directions as to arbitration).
- (a11) Under subsection (6) of section 270 (application for approval of exercise of certain powers by liquidator in a creditors' voluntary winding up).
- (a12) Under subsection (3) of section 273 (application for settlement of dispute as to value in an arrangement with creditors).
- (a13) Under subsection (4) of section 273 (application to amend, vary or confirm an arrangement).
- (a14) Under section 274 (application for the determination of a question or for exercise by Court of powers in a voluntary winding up).
- (a15) Under section 278 (application relating to the control and conduct of a liquidator in a winding up).
- (a16) Under section 279 (application for order in respect of decision of the liquidator).
- (a17) Under subsection (9) of section 292 (application for order as to distribution of assets where there have been indemnifying creditors).
- (a18) Under subsection (1) of section 298 (application to set aside rights of liquidator in favour of an executing or attaching creditor).
- (a19) Under subsection (3) of section 299 (application to set aside rights of liquidator where sheriff executing judgment on behalf of a creditor).
- (a20) Under subsection (1) of section 306 (application for direction that delinquent officer or member be prosecuted).
- (a21) Under subsection (4) of section 306 (application for order conferring power to investigate the affairs of the company).
- (a22) Under subsection (4) of section 306 (application to approve liquidator proceeding against delinquent officer or member).
- (a23) Under subsection (5) of section 306 (application to direct the liquidator to report delinquent officer or member).
- (a24) Under subsection (8) of section 306 (application to direct that persons concerned in the company's affairs assist the prosecution).
- (a25) Under subsection (4) of section 352 (application for direction as to disposal of net assets in the State of a foreign company).
- (a26) Under subsection (4) of section 366 (applications with respect to irregularity in proceedings).
- (a27) Under subsection (1) of section 368 (application for authority to inspect or to require production of books of a company).
- (a28) Under section 373 (application for order that document be made available for inspection).

(2) Applications under paragraphs (a4), (a5), (a6), (a10), (a15), (a22) and (a28) of subrule (1) of this rule may be made *ex parte* and an application under (a19) shall be made on notice to the sheriff who is entitled to be heard on the application.

(3)(a) An application under paragraph (1) of subrule (1) of this rule shall be supported by an affidavit exhibiting a copy of the proposed compromise or arrangement which shall be filed and notice of such application shall be given to the Registrar by filing a copy of the summons with him before the application is made.

(b) A copy of any order made under subsection (1) of section 181 shall be filed with the Registrar within seven days of the making thereof.

(c) After the holding of any meeting ordered pursuant to subsection (1) of section 181 the solicitor for the applicant shall attend before the Master on a day to be appointed by him and the Master shall enquire as to whether the meeting was duly summoned and held in the manner directed by the Court and as to whether a compromise or arrangement was agreed to by the necessary majority of creditors or members, as the case may be.

(d) The Master shall certify to the Court or the Judge whether the meeting was duly summoned and held and the compromise or arrangement was agreed to by the necessary majority and if in his opinion any irregularities occurred in the summoning of the meeting or in the proceedings thereof the nature and extent of the irregularities.

(e) Application for the approval of a compromise or arrangement shall not be made until a certificate of the Master in accordance with this rule has been obtained and filed.

(f) A copy of any order made under subsection (9) of section 181 shall be filed with the Registrar within seven days of the making thereof.

55. (1) All applications required or authorised by the Act or these rules other than those referred to in rules 18, 52 and 54 shall be made on summons and shall be heard and determined by the Master, who may in respect of every such application exercise any of the powers conferred on the Court or a Judge in relation thereto.

Applications
to be made to
the Master.

(2) With the consent of all parties any application under rule 54 may be heard by the Master but the failure of any party to seek or give consent shall not prejudice his right to costs on a summons before a Judge.

56. (1) Every summons where necessary shall be supported by affidavit and where the summons is required to be served a copy of the affidavit shall be served with the summons and an affidavit in support of an *ex parte* summons shall show the parties interested and their interests.

Summonses
to be
supported by
affidavit.

(2) On the hearing of the summons the Judge or Master shall give such directions as he sees fit and in particular directions as to notices to be given to any of the parties interested and may adjourn the application to enable those parties to attend and may if he considers it proper in the circumstances to do so adjourn the hearing or the further hearing of the summons into Court.

Summons
for directions
by liquidator.

57. (1) Where—

- (a) a liquidator desires to obtain directions as to any matter in relation to a winding up; or
- (b) any applicant in any proceedings under these rules desires to obtain directions as to the proceedings to be taken in relation to the application—

he may take out a summons for directions and apply *ex parte* to the Master for directions in relation to the matter or proceedings.

(2) On any application for directions, the Master may adjourn the application and direct that notice by advertisement or otherwise of the application may be given to such person or persons or classes of persons as he may direct.

LIQUIDATORS REPORTS.

Liquidator's
report.

58. A report made by the liquidator pursuant to section 235 shall state in narrative form the facts and matters that the liquidator is required or desires to bring to the notice of the Court and his opinion as required by that section.

Filing of
report.

59. (1) The following reports to be made by the liquidator shall be made by the same being filed in the office of the Registrar of the Supreme Court and a copy being lodged with the Registrar:—

- (a) Under subsection (1) of section 235—preliminary report in a winding up by the Court.
- (b) Under subsection (2) of section 235—further reports in a winding up by the Court.
- (c) Under subsection (2) of section 243—report in relation to application to stay winding up proceedings.

(2) A further report made under subsection (2) of section 235 shall not be open to the inspection of any creditor, contributory or other person except the liquidator or his solicitor unless or until the Court so directs.

Consideration
of further
report by
Judge.

60. (1) Any further report made under subsection (2) of section 235 shall be considered by the Judge in Chambers upon the application of the liquidator or the Registrar made by summons *ex parte*. The Judge may direct service of the summons upon any other person concerned.

(2) The liquidator shall personally or by counsel or solicitor attend upon the consideration of the report and give the Judge any further information or explanation with reference to the matters stated in the report that the Judge may require.

EXAMINATIONS.

As to
examination
under S. 249.

61. An application to the Court to summon persons for examination under section 249 shall be made *ex parte* and may be made by the liquidator or any creditor or contributory. If made by a creditor or contributory it shall be made by summons served on the liquidator and supported by affidavit.

Examination
under S. 250.

62. An application for an order for a public examination under section 250 may be made *ex parte* by the liquidator or by the Registrar. If made by the Registrar notice thereof shall be given to the liquidator.

63. An application for an order for the examination of the liquidator or other persons under section 278 may be made *ex parte* by the Registrar or any creditor or contributory to a Judge in Chambers and shall be supported by affidavit.

Examination under S. 278.

64. The liquidator may attend in person or by counsel or solicitor at any examination of a witness under section 249 and he or his counsel or solicitor may take notes of the examination for his use, and put such questions to the persons examined as the Court may allow.

Representation of liquidator.

65. (1) Upon an order directing a person to attend for public examination being made under section 250 the liquidator shall apply *ex parte* to the Master for the appointment of a day on which the public examination is to be held.

Application for appointment. Forms 21 and 22.

(2) The liquidator or his solicitor shall cause a notice of the day and place appointed for holding the public examination to be served on the person to be examined.

Notice of appointment to examine.

66. (1) The liquidator shall give notice of the public examination to the creditors and contributories by gazetting and advertising a notice of the time and place appointed for holding the examination.

Notice of appointment to creditors and contributories. Form 23.

(2) Where an adjournment of the public examination has been directed notice of the adjournment shall not, unless otherwise directed by the Court, be advertised or gazetted.

67. (1) Where an order has been made for a private examination under section 249 or for a public examination under section 250—

As to public and private examination under Ss. 249 and 250. Form 24.

- (a) the examination shall be held in Chambers or if the Judge in Chambers so directs before a Magistrate of a Local Court named for the purpose by the Judge and in the case of an examination under section 249 he may order that the examination be not held in open court and not open to the public;
- (b) the Judge may either in the order for examination or by subsequent order give directions as to the matters on which any person is to be examined;
- (c) if a person examined before a Magistrate of a Local Court fails or refuses to answer to the satisfaction of the Magistrate any question which he may allow to be put the Magistrate may in respect of such failure or refusal exercise any powers which the Court might have exercised had the failure or refusal been made in an examination before the Court;
- (d) where on an examination held before a Magistrate of a Local Court he considers the examination is unnecessarily protracted or for any other sufficient cause he may adjourn the examination of any person so that it may be held before the Court.

(2) The powers conferred on the Court by subsections (2) and (3) of section 249 may be exercised by the Master.

68. (1) If the Court or person before whom any examination under the Act or rules is directed to be held considers that it would be desirable that a person other than the person before whom an examination is taken should be appointed to take down in shorthand or otherwise record the evidence of any person examined, the Court or person before whom the examination is taken may make such appointment.

Shorthand notes of examinations and powers of Commissioner. Forms 25 and 26.

(2) The person at whose instance the examination is taken shall nominate a person for the purpose and the person so nominated shall be appointed unless the Court or person holding the examination otherwise orders.

(3) Every person so appointed shall be paid by the person at whose instance the appointment was made, or out of the assets of the company as may be directed by the Court or person before whom the examination is taken.

Notes to be
filed.
Forms 27
and 28.

69. (1) The notes of the depositions of a person examined under section 249, or under any order of the Court whether before the Court or before any person appointed to take such an examination, other than the notes of the depositions of a person examined at a public examination under section 250, shall be filed, but shall not be open to the inspection of any creditor, contributory, or other person, except the liquidator or his solicitor, unless and until the Court so directs, and the Court may from time to time give such general or special directions as it shall think expedient as to the custody and inspection of those notes and the furnishing of copies of or extracts therefrom.

(2) The notes of the depositions of a person examined under section 250 shall, after being signed as required by subsection (7) of section 250, be filed and shall be open to the inspection of the liquidator and of any creditor or contributory.

Failure to
attend or
absconding
warrant for
arrest.
Form 29.

70. If a person who has been directed by the Court to attend for public examination fails to attend at the time and place appointed and no good cause is shown by him for such failure or, if, before the day appointed for the examination the liquidator satisfies the Court that the person has absconded or that there is reason for believing that he is about to abscond with a view to avoiding examination, the Court may, upon proof to its satisfaction that notice of the order and of the time and place appointed for attendance at the public examination was duly served, without any further notice, issue a warrant for the arrest of the person required to attend or to make such other order as the Court thinks just.

ORDERS.

Settling
and issuing
orders.

71. (1) Every order made by the Court on petition or motion shall be settled by the Master and issued from the office of the Registrar of the Supreme Court unless in any proceeding the Judge making the order directs that no order need be drawn up.

(2) Where a direction is given that no order need be drawn up the note or memorandum of the order signed or initialled by the Judge making the order shall be sufficient evidence of the order having been made.

Provision of
documents
for settling
order.

72. (1) Subject to any direction to the contrary every order shall be passed and entered forthwith and the petitioner or his solicitor or the applicant or his solicitor and all other persons who have appeared on the hearing of a petition or motion shall, not later than the day after the order is pronounced in Court, leave at the office of the Master all the documents required for the purpose of enabling the Master to settle the order forthwith.

(2) It shall not be necessary for the Master to make an appointment to settle the order unless in any particular case the special circumstances make an appointment necessary.

Appointment unnecessary. Forms to be used.

73. Unless the Court otherwise directs an order confirming the issue of shares at a discount shall contain a direction that an office copy of the order shall be delivered to the Registrar for registration within seven days from the date thereof or within such time as the Court may allow and that the order shall not take effect until after the office copy has been so delivered.

Office copy order sanctioning issue of shares at discount to be filed with Registrar. S. 59.

POWERS AND DUTIES OF LIQUIDATOR AND PROCEEDINGS IN WINDING UP BY THE COURT.

74. (1) All official liquidators appointed by the Minister shall be officers of the Court.

Officer of Court. S. 231.

(2) Judicial notice shall be taken of the appointment of any person by the Minister as an official liquidator.

Judicial notice of appointment. S. 11.

75. (1) Every person for the time being on the list of contributories of a company and every person whose proof has been admitted is at liberty at his own expense to attend proceedings in relation to the winding up of the company by the Court, and shall be entitled upon payment of the costs occasioned thereby to have notice of all such proceedings as he by written request desires.

Contributories listed may attend proceedings.

(2) If the Court is of opinion that the attendance of any such person upon any proceedings has occasioned additional costs that ought not to be borne by the funds of the company it may direct the costs or a gross sum in lieu thereof to be paid by the person and the person is not entitled to attend any further proceedings until he has paid those costs.

Costs occasioned by such attendance.

(3) The Court may from time to time appoint any one or more of the creditors or contributories to represent before the Court at the expense of the company all or any class of the creditors or contributories upon any question or in relation to any proceedings before the Court and may remove the person so appointed.

Representative of creditors or contributories may be appointed.

(4) If more than one person is appointed under this rule to represent one class, the persons appointed shall employ the same solicitor to represent them.

Same solicitor to act for representatives of a class.

76. Where the attendance of the liquidator's solicitor is required on any proceedings in Court or Chambers the liquidator need not attend in person except in cases where his presence is necessary or the Court directs him to attend.

Liquidator's attendance at proceedings.

77. (1) Every person who under section 234 has been required by the liquidator to submit and verify a statement as to the affairs of the company shall be furnished by the liquidator with forms and instructions for the preparation of the statement.

Statement of affairs.

(2) The liquidator may from time to time hold personal interviews with any such person as is mentioned in subsection (2) of section 234 for the purpose of investigating the company's affairs and every such person shall attend at such time and place as the liquidator may appoint and shall give the liquidator all information that he may require.

Investigation of affairs by personal interview.

Procedure
for extension
of time.
S. 234 (3).

(3) When any person requires an extension of time for submitting the statement of affairs he shall apply to the liquidator who may, for special reasons, give a written certificate extending the time, which certificate shall be filed with the proceedings in the winding up and shall render an application to the Court unnecessary.

Providers of
information
to attend for
further
questioning.
S. 234 (1).

(4) After the statement of affairs of a company has been submitted to the liquidator each person who has made or concurred in making the statement shall attend, if required, and answer all such questions as may be put to him by the liquidator and give all such further information as may be required of him in relation to the statement of affairs.

Default.

(5) Any default in complying with the requirements of section 234 shall be reported by the liquidator to the Court.

As to costs
of preparing
statement of
affairs.

78. A person who is required to make or concur in making any statement of affairs of a company shall, before incurring any costs or expenses in and about the preparation and making of the statement, apply to the liquidator for his sanction and submit a statement of the estimated costs and expenses that it is intended to incur, and except by order of the Court no person shall be allowed out of the assets of the company any costs or expenses that have not been sanctioned by the liquidator before being incurred.

Liquidator's
bank
account.

79. (1) Every liquidator of a company that is being wound up by the Court shall unless otherwise directed by the Court—

- (a) open a trust account in a bank to be named in the winding up order to be known as the Liquidator's General Account, in the name of the company being wound up, together with the words "in liquidation"; and
- (b) pay all moneys received by him into that account forthwith after being so received.

Mode of
payments
out.

(2) Subject to any order to the contrary all payments out from any such account shall be made by cheque payable to order and the cheque shall have marked or written on the face of it the name of the company and where there is a Committee of Inspection shall be countersigned by at least one member thereof and by such other person (if any) as the Committee of Inspection may appoint, and where there is no Committee of Inspection, by such person or persons (if any) as the Court may direct.

Moneys, etc.,
received
to be paid
into trust
account.

80. (1) All bills of exchange, promissory notes and other securities payable to the company or to the liquidator thereof shall, as soon as they come to the hands of the liquidator, be deposited by him in the bank named for the purpose of being presented by the bank for acceptance and payment or for payment only, as the case may be.

(2) All marketable securities shall be deposited by the liquidator with the bank named for the purpose, for safe custody, as they come into his hands.

(3) All bills and notes and marketable and other securities deposited with the bank named shall be delivered out, only upon a request signed—

- (a) by the liquidator and if there is a Committee of Inspection, by at least one member of the Committee of Inspection or by such other person (if any) as the Committee of Inspection may appoint; or

(b) if there is no Committee of Inspection, by the liquidator and such person or persons (if any) as the Court may direct.

81. All or any part of the money for the time being standing to the credit of the account of the liquidator at the bank named and not immediately required for the purposes of the winding up may be paid into Court to the credit of an account intituled in the matter of the company in liquidation.

Payment into Court of trust account moneys.

82. (1) The Master may in any case give special directions with respect to the payment, deposit or custody of moneys or securities payable to or coming into possession of a liquidator.

Court directions as to money.

(2) Where application is made to the Master to authorise the liquidator in a winding up by the Court to make his payments into and out of a special bank account the Master may grant such authorisation for such time and on such terms as he may think fit and may at any time order the account to be closed if he is of opinion that the account is no longer required.

Special bank account in winding up.

(3) An office copy of every order of the Master giving special direction with respect to the payment, deposit or custody of moneys or securities shall be served upon the bank.

Office copy to be served on bank.

83. (1) An application by the liquidator for the appointment of a special manager shall be supported by a report of the liquidator which shall be placed on the file of proceedings and the report shall state the powers that in the liquidator's opinion should be entrusted to the special manager and either—

Application for appointment of special manager. S. 246.

- (a) state the amount of remuneration that in the opinion of the liquidator ought to be allowed to the special manager; or
- (b) state that in the opinion of the liquidator it is desirable that the fixing of that remuneration should be deferred.

(2) The remuneration of a special manager shall, unless the Master otherwise directs, be stated in the order appointing him, but the Master may at any subsequent time for good cause shown make an order increasing, reducing or otherwise altering that remuneration.

84. A special manager shall account to the liquidator on whose application he was appointed and the special manager's accounts shall be verified by statutory declaration and when approved by that liquidator the totals of the receipts and payments shall be added by the liquidator to his accounts.

Special manager's accounts. Form 30.

85. In the case of a special manager the following provisions as to security apply:—

Security by special manager. S. 246. Form 31.

- (1) The security shall be given to the satisfaction of the Master or in such other manner as the Court may from time to time direct.
- (2) It shall not be necessary that security shall be given in each separate winding up; but security may be given either specially in a particular winding up, or generally, to be available for any winding up in which the person giving security may be appointed special manager.
- (3) The Master shall fix the amount and nature of the security and may from time to time as he thinks fit either increase or

diminish the amount of special or general security that any person has given and the special manager shall give additional security accordingly within such time as the Master prescribes or may reduce the amount of his security as the case may be.

- (4) The certificate of the Master that a special manager has given security to his satisfaction shall be filed with the Registrar.
- (5) The cost of furnishing the required security by a special manager, including any premiums that he may pay therefor, shall be borne by him personally and shall not be charged against the assets of the company as an expense incurred in the winding up.

Failure to give or keep up security.

86. (1) If a special manager fails to give the required security or additional security within the time stated for that purpose in any order, the liquidator shall report such failure to the Master and the Master may thereupon rescind the order appointing the special manager.

(2) If a special manager fails to keep up his security the liquidator shall report such failure to the Master and the Master may thereupon remove the special manager and make such order as to costs as he thinks fit.

(3) The Master may, on application made *ex parte* and on being satisfied that the condition of any bond given as security has been broken, order the bond to be assigned to some person to be named in the order and that person, his executors or administrators is thereupon entitled to sue upon the bond in his or their own name or names as if the bond had been originally given to such person and is entitled to recover thereon as trustee or trustees for all persons interested in the full amount recoverable in respect of any breach of the condition of the bond.

MAKING AND SETTLING LIST OF CONTRIBUTORIES IN A WINDING UP BY THE COURT.

Liquidator to settle provisional list of contributories.
Ss. 244, 252,
Form 32.

87. (1) Unless the Master dispenses with the settlement of a list of contributories the liquidator shall with all convenient speed after his appointment make out a provisional list of contributories.

Contents of list.

(2) The list shall contain a statement of the address of, and the number of shares or extent of interest to be attributed to each contributory and the amount called up and the amount paid up in respect of those shares or that interest, and shall set forth the several classes of contributories, distinguishing between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Notice of appointment for settlement.
Forms 33
and 34.

88. The liquidator shall appoint a time and place for settling the provisional list of contributories and shall give not less than fourteen days' notice in writing of the time and place appointed to every person whom he proposes to include in the list as settled, and shall state in the notices to each person in what character and for what number of shares or interest he proposes to include the person in the list, and what amount has been called up and what amount paid up in respect of those shares or that interest.

89. On the day appointed for settlement of the list of contributories the liquidator shall hear any person included therein who objects to being so included and after such hearing shall settle and certify the list which when so settled and certified shall be the list of contributories of the company.

Objections to be heard and list settled.
Form 35.

90. The liquidator may from time to time make out and settle a supplemental list varying or adding to the list of contributories but in doing so he shall, as far as circumstances permit, give the like notices and follow the like procedure as in making out and settling the original list.

Supplementary list.
Forms 36 and 37.

91. Within fourteen days after the settlement of any list of contributories of the company or any supplemental list, the liquidator shall give notice in writing to every person whom he has placed on the list or supplemental list, stating in what character, and for what number of shares or interest the person has been placed on the list or supplemental list, and what amount has been called up and what amount paid up in respect of those shares or that interest, and in the notice he shall inform the person to whom the notice is given that any application for the removal of his name from the list or supplemental list, or for a variation of the list or supplemental list, must be made to the Court by summons within twenty-one days from the date of the service of the notice on him.

Notice of supplementary list.
Forms 38, 39 and 40.

92. (1) Subject to the power of the Court to extend the time or to allow an application to be made notwithstanding the expiration of the time limited for that purpose, no application to the Court by any person who objects to the list of contributories or to any supplemental list shall be entertained after the expiration of twenty-one days from the date of the service on that person of the notice required by rule 91.

Objection to list of contributories.
Form 41.

(2) The liquidator is not personally liable to pay any costs of or in relation to an application to set aside or vary his act or decision settling the name of a person on the list of contributories of a company, unless the Court otherwise orders.

Liquidator not liable for costs.

COLLECTION AND DISTRIBUTION OF ASSETS IN A WINDING UP BY THE COURT.

93. (1) The duties imposed on the Court by section 244 with regard to the collection of the assets of the company and the application of the assets in discharge of the company's liabilities shall be discharged by the liquidator.

Liquidator to collect and distribute assets.
Ss. 244 (1), 252.

(2) In the discharge of those duties the liquidator is, for the purpose of acquiring or retaining possession of the property of the company, in the same position as if he were a receiver of the property appointed by the Court, and the Master may on his application enforce such acquisition or retention accordingly.

94. (1) The powers conferred on the Court by subsection (1) of section 245 shall be exercised by the liquidator.

S. 245.
Form 42.

(2) Any contributory for the time being on the list of contributories, trustee, receiver, banker, agent or officer of a company that is being wound up shall, on notice from the liquidator and within such time as he shall by notice in writing require, pay, deliver, convey, surrender or transfer to, or into the hands of the liquidator, any money or property

Transfer of property.
S. 252.

or books and papers that are in his hands and to which the company is *prima facie* entitled, and the Court may on application of the liquidator order such payment, delivery, conveyance, surrender or transfer.

Calls by
liquidator.
Ss. 245 (3),
252.
Forms 43, 44
and 45.

95. The powers and duties of the Court in relation to making calls on contributories conferred by subsection (3) of section 245 shall be exercised by the liquidator as an officer of the Court, subject to the following provisions:—

- (1) Where the liquidator desires to make a call for a purpose authorised by the Act, if there is a Committee of Inspection, he shall summon a meeting of that Committee for the purpose of obtaining its sanction to the intended call.
- (2) The notice of the meeting shall be sent to each member of the Committee of Inspection in sufficient time to reach him not less than seven days before the day appointed for holding the meeting, and shall contain a statement of the proposed amount of the call, and the purpose for which it is intended.
- (3) Notice of the intended call and the intended meeting of the Committee of Inspection, shall also be gazetted and advertised, stating the time and place of the intended meeting of the Committee of Inspection, and that each contributory may either attend the meeting and be heard, or make any communication in writing to the liquidator or members of the Committee of Inspection to be laid before the meeting in reference to the intended call.
- (4) At the meeting of the Committee of Inspection, any statements or representations made either to the meeting personally or addressed in writing to the liquidator or members of the Committee by any contributory, shall be considered before the intended call is sanctioned.
- (5) The sanction of the Committee shall be given by resolution, which shall be passed by a majority of the members of the Committee present.
- (6) Where there is no Committee of Inspection the liquidator shall not make a call without obtaining the leave of the Court.

Application
to Court for
leave to
make a call.
Forms 46, 47,
48 and 49.

96. (1) (a) An application to the Court for leave to make a call for a purpose authorised by the Act, shall be made by summons stating the proposed amount of the call.

(b) The summons shall be served at least four clear days before the day appointed for making the call, on every contributory proposed to be included in the call; or if the Court so directs, notice of such intended call may be given by advertisement without a separate notice to each contributory.

(2) The copy of the summons served on each contributory shall contain a statement of the amount claimed as due from the contributory served.

(3) Upon the hearing of the summons, the Court may make the call and also order the payment by the contributories respectively of the amounts due in respect of the call, within a time to be named in the order.

97. (1) When the liquidator is authorised by resolution or order to make a call on the contributories he shall file with the Registrar of the Supreme Court a document in accordance with Form 51 with such variation as circumstances may require.

Filing document making the call.
Forms 50, 51 and 52.
Notice of amount due from contributory.

(2) When a call has been made by the liquidator, he shall forthwith serve upon each of the contributories included in the call a copy of the resolution of the Committee of Inspection or order of the Court, authorising the call together with a notice specifying the amount or balance due from the contributory in respect of the call.

98. The payment of the amount due from any contributory on a call may be enforced by order of the Court, to be made in Chambers on summons by the liquidator.

Enforcement of call.
Forms 53, 54 and 55.

FIXING TIME WITHIN WHICH DEBTS AND CLAIMS SHALL BE PROVED.

99. (1) The liquidator may fix a certain day, being not less than fourteen days from the date of the notices hereafter in this rule referred to, on or before which day the creditors of the company are to prove their debts or claims, and to establish any title they may have to priority under section 292 or be excluded from the benefit of any distribution made before those debts are proved, or, as the case may be, from objecting to the distribution.

Notice as to date by which debts to be proved.
SS. 292, 252.

(2) The liquidator shall give notice of the day so fixed by advertisement and shall also give notice in writing of the day to every person mentioned in the statement of affairs as a creditor and who has not proved his debt, and to every person mentioned in the statement of affairs as a preferential creditor whose claim to be a preferential creditor has not been established and is not admitted.

Advertisement and notice of day appointed.

(3) All the rules hereinafter set out in these rules as to admissions and rejections of proofs apply with the necessary variations, to any claim to priority mentioned in this rule.

100. (1) The liquidator within twenty-one days after receiving a proof that has not previously been dealt with, shall in writing either admit or reject it wholly or in part or require further evidence in support of it; but where the liquidator has given notice of his intention to declare a dividend, he shall within fourteen 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 that has not already been dealt with and shall give notice in writing of his decision rejecting a proof wholly or in part to the creditor affected thereby.

Time for dealing with proofs by liquidator.

(2) If the liquidator rejects a proof, wholly or in part, he shall state in writing to the creditor the ground of his rejection.

Statement of objections.

(3) Where a creditor's proof has been admitted the notice of dividend is a sufficient notification of the admission.

Payment of dividend sufficient notice.

101. If the liquidator is of the opinion that a proof has been improperly admitted, the Master may, on the application of the liquidator, after notice to the creditor expunge the proof or reduce its amount.

Proof admitted improperly to be expunged at

instance of liquidator or creditor or contributory. 102. The Court may also expunge or reduce a proof upon the application of a creditor or contributory, if the liquidator declines to interfere in the matter.

Liquidator may administer oaths and take affidavits. 103. For the purpose of any of his duties in relation to proofs, the liquidator may administer oaths and take affidavits.

Liquidator to file monthly list of proof. Form 56. 104. (1) Every liquidator in a winding up by the Court shall on the first day of every month, file with the Registrar of the Supreme Court a certified list of all proofs received by him during the last preceding month, distinguishing in the list the proofs admitted, those rejected, and such as are to stand over for further consideration.

Proof admitted or rejected to be filed. (2) In the case of proofs admitted or rejected, he shall cause the proofs to be filed with the Registrar of the Supreme Court.

Procedure where creditor appeals. 105. The liquidator shall, within three days after receiving notice from a creditor of his intention to appeal against a decision rejecting a proof, file the proof with the Registrar of the Supreme Court, with a memorandum setting out the grounds of his disallowance thereof.

Liquidator not liable for costs of appeal. 106. A liquidator is not personally liable for costs in relation to an appeal from his decision rejecting any proof, wholly or in part, unless the Court or the Master otherwise orders.

RELEASE AND RESIGNATION OF LIQUIDATOR.

Notice of liquidator's intention to apply for release. Ss. 239, 240. Forms 57, 58 and 59. 107. A liquidator, before making application for his release, shall give notice of his intention so to do to all the creditors who have proved their debts and to all the contributories, and shall send with the notice a summary of all receipts and payments in the winding up.

Meetings of creditors and contributories to consider resignation of liquidator. 108. (1) A liquidator who desires to resign his office shall summon separate meetings of the creditors and contributories of the company to decide whether or not the resignation shall be accepted.

Memorandum of resignation to be filed. (2) If the creditors and contributories by ordinary resolutions agree to accept the resignation of the liquidator he shall file with the Registrar of the Supreme Court and the Registrar, a memorandum of his resignation and the resignation thereupon takes effect.

Court consideration of application to resign. (3) In any other case the liquidator shall report to the Court the result of the meetings and thereupon the Court may, upon the application of the liquidator, determine whether or not his resignation shall be accepted and may give such directions and make such orders, as in its opinion are necessary.

Notice of acceptance of resignation to be filed. (4) On the Court pronouncing a determination that a resignation shall be accepted the liquidator shall forthwith file a notice thereof with the Registrar.

(5) The Court or a Judge may dispense with all or any of the requirements of this and rule 107.

TRANSFERS OF ACTIONS AND PROCEEDINGS.

109. (1) Where an order has been made for the winding up of a company, the Judge has power without further consent, to order the transfer to him of any action, cause or matter pending, brought or continued by or against the company.

Upon winding up order Judge may order transfer of action to himself.

(2) Where any action brought by or against a company against which a winding up order has been made, is so transferred, the Court may determine and deal with any application, matter or proceeding that, if the action had not been transferred, would have been determined in Chambers.

COSTS AND CHARGES OF PERSONS EMPLOYED BY LIQUIDATORS.

110. (1) Every solicitor, manager, accountant, auctioneer, broker or other person employed by a liquidator in a winding up by the Court, shall on request by the liquidator, to be made a sufficient time before the declaration of a dividend, deliver his bill of costs or charges to the liquidator for the purpose of taxation; and if he fails to do so within the time stated in the request or such extended time as the Master may allow, the liquidator shall declare and distribute the dividend without regard to his claim, and subject to any order of the Master the claim shall be forfeited.

Submission of bill of costs by employees to liquidator for taxation. Form 60.

(2) The bill of costs or charges shall be lodged with the liquidator.

(3) The liquidator shall lodge the bill of costs or charges with the taxing officer.

111. Where a bill of costs or charges in any winding up has been lodged with the taxing officer, he shall give notice of an appointment to tax to the liquidator and to the person to or by whom the bill of costs or charges is to be paid.

Notice of appointment to tax.

112. (1) Every person whose bill of costs or charges in a winding up by the Court is or are to be taxed shall, on the application of the liquidator, furnish a copy of his bill or charges so to be taxed on payment at the rate of twenty cents per folio, which payment shall be charged on the assets of the company.

Supply of copy of bill of costs to liquidator.

(2) The liquidator may attend or be represented on the taxation.

Attendance at taxation.

113. (1) Upon the taxation of any bill of costs, charges or expenses being completed, the taxing officer shall issue to the person presenting the bill for taxation his allowance or certificate of taxation.

Issue of allowance or certificate of taxation. Forms 61 and 62.

(2) The taxing officer shall keep a Register of Taxations.

114. Where the bill of costs or charges of any solicitor, manager, accountant, auctioneer, broker or other person employed by a liquidator is payable out of the assets of the company, a certificate in writing, signed by the liquidator, shall, on the taxation, be produced to the taxing officer setting forth any special terms of remuneration that have been agreed to.

Liquidator's certificate as to special terms of remuneration to employee.

No allowance for performance by other person of liquidator's and special manager's duties.

115. (1) Where a liquidator or special manager in a winding up by the Court receives remuneration for his services as such no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties that are required by statute or rules to be performed by himself.

(2) Where a liquidator is a solicitor he may contract that the remuneration for his services as liquidator shall include all professional services.

Application for costs after proceedings concluded.

116. Where any party to or person affected by any proceedings desires to make an application for an order that he be allowed his costs or any part of them incident to the proceedings and the application is not made at the time of the proceeding—

- (a) the party or person shall serve notice of his intended application on the company or if the company is in liquidation, on the liquidator;
- (b) the company or the liquidator may appear on the application and object thereto; and
- (c) no costs of or incidental to the application shall be allowed to the applicant, unless the Court is satisfied that the application could not have been made at the time of the proceedings.

Bills under \$100.

117. In the case of any bill of costs or charges that does not exceed one hundred dollars the liquidator may, if he thinks fit, dispense with the requirements of the foregoing rules in relation to taxation.

FIRST SCHEDULE.

LIST OF FORMS.

Rule 15.

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25	List of Persons Attending the Hearing of a Petition	6
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SECOND SCHEDULE.

FORMS.

No. 1 (Rule 5).

In the Supreme Court

19

No.

In the matter of the Companies Act, 1961, and
in the matter of (a)(a) Insert
full name of
company.

No. 2 (Rule 18).

PETITION.

(Title.)

(b) Insert full name, title, etc., of petitioner.

The humble petition of (b) _____ showeth as follows:—

1. The _____ Company Limited (hereinafter called "the company") was on the _____ day of _____, 19____, incorporated under the Companies Act.

(c) State the full address of the registered office.

2. The registered office of the company is at (c) _____

3. The nominal capital of the company is \$ _____, divided into _____ shares of \$ _____ each. The amount of the capital paid up or credited as paid up is \$ _____

4. The objects for which the company was established are as follow:—

To _____

and other objects set forth in the memorandum of association thereof.

[Here set out in paragraphs the facts on which the petitioner relies to support his petition, and conclude as follows]:—

Your petitioner therefore humbly prays as follows:—

(1) That the _____ Company Limited may be wound up by the Court under the provisions of the Companies Act, 1961 *(or as the case may be)*.

(2) Or that such other order may be made in the premises as shall be just.

(d) This note will be unnecessary if the company is petitioner.

Note.—(d) It is intended to serve this petition on _____

No. 3 (Rule 20).

AFFIDAVIT VERIFYING PETITION.

*If the Petition is by an Individual or Firm.**(Title.)*

I, A.B., of etc., make oath and say, that such of the statements in the petition now produced and shown to me, and marked with the letter "A", as relate to my own acts and deeds are true, and such of the said statements as relate to the acts and deeds of any other person or persons I believe to be true.

Sworn, etc.

*If the Petition is by a Limited Company.**(Title.)*

(b) I, A.B., of etc., make oath and say, as follows:—

(1) I am (a Director or the Secretary) of _____ Company Limited, the Petitioner in the above matter, a company duly incorporated under the Companies Act, and am duly authorised by the said Petitioner to make this affidavit on its behalf.

(2) Such of the statements in the petition now produced and shown to me marked with the letter "A", as relate to the acts and deeds of the said petitioner are true and such of the statements as relate to the acts and deeds of any other person or persons I believe to be true.

Sworn, etc.

No. 4 (Rule 22).

AFFIDAVIT OF SERVICE OF PETITION ON COMPANY.

(Title.)

In the matter of a petition dated _____

I, _____, of _____, make oath and say:—

1. [In the case of service under the provisions of section 362.] That I did on the _____ day of _____, 19____, serve the abovenamed company with the abovenamed petition by leaving it at _____ *(or sending it by post to as the case may be)*, the registered office of the abovenamed company.

2. [In the case of service of petition on a member, officer, or servant, if no registered office at the principal or last known principal place of business of the company.]

That I did on _____ day, the _____ day of _____, 19____, serve the abovenamed company with the abovementioned petition, by delivering to and leaving with [name and description], a member (or officer or servant) of the said company a copy of the abovementioned petition, duly sealed with the seal of the Court at [place of business as aforesaid], before the hour of _____ in the _____ noon.

3. [In the case of no member, officer, or servant of the company being found at the place of business.]

That I did on _____ day, the _____ day of _____, 19____, having failed to find any member, officer, or servant of the abovenamed company at [here state place of business], leave there a copy of the abovementioned petition, duly sealed with the seal of the Court, before the hour of _____ in the _____ noon [add with whom such sealed copy was left, or where, e.g., affixed to door of offices, or placed in letterbox, or otherwise].

4. [In the case of directions by the Court as to the member or members of the company to be served.]

That I did on _____ day, the _____ day of _____, 19____, serve [name or names and description] with a copy of the abovementioned petition, duly sealed with the seal of the Court, by delivering the same personally to the said _____, at [place], before the hour of _____ in the _____ noon.

5. The said petition is now produced and shown to me, marked "A".
Sworn at, etc.

No. 5 (Rule 24).

NOTICE OF INTENTION TO APPEAR ON PETITION.

(Title.)

Take notice that A.B. (a) (a creditor for \$ _____ or a contributory) of the above company intends to appear on the hearing of the petition advertised to be heard on the _____ day of _____, 19____, and to object to such petition.

(a) State full name, or if a firm the name of the firm.
(b) To be signed by the person or his solicitor.

Signed (b) [A.B., or C.D., Solicitor for A.B.]
[Address.]

No. 6 (Rule 25).

LIST OF PERSONS ATTENDING THE HEARING OF A PETITION.

(Title.)

The following are the names of those who have given notice of intention to attend the hearing of the petition herein, on the _____ day of _____, 19____.

Name	Address	Name and Address of Solicitor and Perth Agent	Creditors Amount of Debt	Contributors Number of Shares	Opposing	Supporting

Signed _____
Solicitor for the Petitioner.

No. 7 (Rule 29).

ORDER ON SUMMONS FOR DIRECTIONS IN RELATION TO A
PETITION TO CONFIRM A REDUCTION OF CAPITAL.

In the Supreme Court.

In the matter of the Companies Act, 1961, and in the matter of

(a) Insert
full name of
company.

(a)

Upon the application of the petitioner and upon hearing the solicitor for the petitioner, and on reading the petition presented to the Supreme Court, the affidavit of *(in support of the petition)*, the affidavit of *(service of notices convening meetings)*, and the exhibits thereon respectively referred to, and it appearing that the special resolution for the reduction of the capital of the said company referred to in the said petition has been duly passed:

It is ordered that subsection (2) of section 64 shall not apply to *(here set out class of creditors to whom subsection (2) of section 64 is not to apply)* and it is ordered that an inquiry be made what are the debts, claims, and liabilities of or affecting the said company on the *the* day of *,* 19 *,* [other than debts, claims or liabilities in respect of *(here set out any debts, claims, or liabilities which have been excluded from the provisions of subsection (2) of section 64 by the earlier part of the order)*] and that *(here set out any other orders or directions that may be made or given)*.

Dated the *,* day of *,* 19 *.*
Master.

No. 8 (Rule 31).

AFFIDAVIT VERIFYING LIST OF CREDITORS.

(Title.)

I, A.B., of *,* make oath and say as follows:—

1. I am the (Secretary, *or as the case may be,* of the petitioner).
2. The paper writing now produced and shown to me, and marked with the letter "A", contains a list of the creditors of and persons having claims upon the said company *(or a list of the creditors of and persons having claims upon the said company, except those of the following class or classes (set out class or classes))* on the *day of* , 19 *(the date fixed by the Court)*, together with their respective addresses, and the nature and amount of their respective debts or claims, and such list is, to the best of my knowledge, information, and belief, a true and accurate list of such creditors and persons having claims on the day aforesaid, and of the nature and amount or estimated value of their debts or claims.
3. To the best of my knowledge and belief there was not, at the date aforesaid, any such debt or claim which would, if such date were the commencement of the winding up of the said company, be admissible in proof against the said company other than and except the debts and claims set forth in the said list. I am enabled to make this statement from facts within my knowledge as the *of the said company,* and from information derived upon investigation of the affairs and the books, documents and papers of the said company.

Sworn, etc.

A.

This list of creditors marked 'A' was produced and shown to A.B., and is the same list of creditors as is referred to in his affidavit sworn before me this day of *,* 19 *.*

X.Y.,

Commissioner.

Names, Addresses, and Descriptions of the Creditors	Nature of Debt or Claim	Amount of Estimated Value of Debt or Claim

No. 9 (Rule 33).

ADVERTISEMENT OF PETITION AND LIST OF CREDITORS.

(Title.)

Notice is hereby given that a petition has been presented to the Supreme Court for confirming a resolution of the above company for reducing its capital from \$ _____ to \$ _____. A list of the persons admitted to have been creditors of the company on the _____ day of _____, 19____, may be inspected at the offices of the company at _____; or at the office of _____, at any time during usual business hours, on payment of the charge of twenty cents.

Any person who claims to have been on the lastmentioned day and still to be a creditor of the company, except such as belong to the following class or classes (*set out class or classes*) and who is not entered on the said list and claims to be so entered, must, on or before the _____ day of _____, send in his name and address, and the particulars of his claim, and the name and address of his solicitor (if any) to the undersigned at _____, or in default thereof he will be precluded from objecting to the proposed reduction of capital.

Every creditor who does not consent thereto shall be entitled to object.

Any creditor who has not received notice that his name is entered in the list of creditors must send to the solicitor of the company particulars of his name and address.

Dated _____ day of _____, 19____.

A.B.,

Solicitor for the Company.

No. 10 (Rule 33).

NOTICE TO CREDITORS.

(Title.)

To Mr.

You are requested to take notice that a petition has been presented to the Supreme Court, to confirm a special resolution of the above company, for reducing its capital from \$ _____ to \$ _____ and that in the list of persons admitted by the company to have been on the _____ day of _____, 19____, creditors of the company (*here insert when necessary other than, etc., as may have been directed*) your name is entered as a creditor (*here state the nature and amount or estimated value of the debt or claim*).

If you claim to have been on the lastmentioned day a creditor to a larger amount than is stated above, you must, on or before the _____ day of _____, 19____, send the particulars of your claim, your name and address and the name and address of your solicitor (if any) to the undersigned at _____. In default of your so doing, the above entry in the list of creditors will in all the proceedings under the above application to reduce the capital of the company be treated as correct.

Dated this _____ day of _____, 19____.

A.B.,

Solicitor for the Company.

No. 11 (Rule 35).

AFFIDAVIT AS TO CLAIMS.

(Title.)

We, C.D., of etc. (the secretary of the said company), E.F., of etc. (the solicitor for the said company), and A.B., of etc. (the managing director of the said company), do severally make oath and say as follows:—

I, the said C.D., for myself say as follows:—

- (1) I did, on the _____ day of _____, 19____, in the manner hereinafter mentioned, serve a true copy of the notice now produced and shown to me and marked "B" upon each of the respective persons whose names, addresses and descriptions appear in the first column of the list of creditors marked "A", referred to in the affidavit of _____ filed on the _____ day of _____, 19____.

- (2) I served the said copies of the said notice by putting such copies, duly addressed to such persons according to their respective names and addresses appearing in the said list (being the last known addresses or places of abode of such persons), and with the proper postage stamps affixed thereto as prepaid letters, into the post office in street, , between the hours of and of the clock, in the noon of the said day of .

And I, the said E.F., for myself say as follows:—

- (3) A true copy of the notice now produced and shown to me, and marked "C", has appeared in the of the day of , 19 , the of the day of , 19 , etc.
- (4) I have, in the paper writing now produced and shown to me, and marked "D", set forth a list of all claims, the particulars of which have been sent in to me pursuant to the said notice "B", (now produced and shown to me) by persons claiming to be creditors of the said company for larger amounts than are stated in the list of creditors, marked "A", referred to in the affidavit of filed on the day of , 19 , (*or*) no person has sent in to me pursuant to the said notice "B" a claim to be entered on the said list for a larger sum than in respect of which he is entered in the said list "A".
- (5) I have, in the paper writing now produced and shown to me, marked "E", set forth a list of all claims, the particulars of which have been sent in to me pursuant to the notice referred to in the third paragraph of this affidavit by persons claiming to be creditors of the said company on the day of , 19 , not appearing on the said list of creditors marked "A", and who claimed to be entered thereon (*or*) no claims have been sent in to me pursuant to the notice referred to in paragraph (3) hereof by persons not entered on the said list "A" and claiming to be so entered.

And we, C.D. and A.B., for ourselves say as follows:—

- (6) We have, in the first part of the said paper writing marked "D", (now produced and shown to us), and also in the first part of the said paper writing marked "E", (also produced and shown to us), respectively set forth such of the said debts and claims as are admitted by the said company to be due wholly or in part, and how much is admitted to be due in respect of such of the same debts and claims respectively as are not wholly admitted, and such of the same debts and claims as the company contends are wholly or as to any and what part thereof not included in the enquiry in this matter.
- (7) We have, in the second part of each of the said paper writings, marked "D" and "E", set forth such of the said debts and claims as are wholly disputed by the said company and such of the same debts and claims as the company contends would even if admitted be wholly, and as to what part thereof not included in the enquiry in this matter.

And I the said C.D., further say:—

- (8) All rents, rates, taxes, salaries and wages, other incidental expenses on the said day of , 19 , and since become due, have been paid and discharged by the said company.

Sworn, etc.

Exhibit "D."

D.

In the matter, etc.

List of Debts and Claims of which the Particulars have been Sent in to
by Persons Claiming to be Creditors of the said Company for Larger
Amounts than are Stated in the List of Creditors Made Out by the
Company.

This paper writing, marked "D", was produced and shown to C.D., E.F. and
A.B., respectively, and is the same as is referred to in their affidavit sworn
before me this day of , 19 .

X.Y.,
Commissioner.

First Part.

Debts and Claims Wholly or Partly Admitted by the Company.

Names and Addresses and Descriptions of Creditors	Particulars of Debt or Claim	Amount Claimed	Amount admitted by the Company to be owing to Creditor	Amounts admitted by the Company to be owing but which it is contended are not within the enquiry

Second Part.

Debts and Claims Wholly Disputed by the Company.

Names, Addresses, and Descriptions of Claimants	Particulars of Claim	Amount Claimed	Amounts which, even if admitted, it is contended would not be within the enquiry

Exhibit "E."

E.

In the matter, etc.

List of Debts and Claims of which the Particulars have been Sent in to
Mr. by Persons Claiming to be Creditors of the Company and
to be Entered on the List of the Creditors Made Out by the Company.

This paper writing maked "E", was produced and shown to C.D., E.F. and
A.B., respectively, and is the same as is referred to in their affidavit sworn
before me this day of , 19 .

X.Y.,
Commissioner.

First Part.

(Same as in Exhibit "D.")

Second Part.

(Same as in Exhibit "D.")

Note.—The names are to be inserted alphabetically.

No. 12 (Rule 36).

NOTICE TO CREDITORS TO COME IN AND PROVE.

(Title.)

To Mr.

You are hereby required to come in and prove the debt claimed by you against the above company, by filing your affidavit and giving notice thereof to , the solicitor for the company, on or before the day of next; and you are to attend personally or by your solicitor at the office of the Master, Supreme Court Buildings, Perth, on the day of , 19 , at o'clock in the noon, being the time appointed for hearing and adjudicating upon the claim, and produce any securities or documents relating to your claim.

In default of your complying with the above directions, you will (be precluded from objecting to the proposed reduction of the company or in all proceedings relative to the proposed reduction of the capital of the company be treated as a creditor for such amount only as is set against your name in the list of creditors).

Dated this day of , 19 .
A.B.
Solicitor for the Company.

No. 13 (Rule 42).

ADVERTISEMENT OF HEARING OF PETITION.

(Title.)

Notice is hereby given that a petition presented to the Supreme Court on the day of , for confirming a resolution reducing the capital of the above named company from \$ to \$ is directed to be heard before His Honour Mr. Justice at the hour of , on the day of , 19 .

Any creditor appearing to be such on the Master's certificate filed with the Registrar of the Supreme Court, unless his debt or claim is shown therein as one, the full amount of which, the company is willing to appropriate, may, on giving two clear days' notice to the solicitor of the company of his intention so to do, appear at the hearing of the petition and oppose the application, if his debt or claim has not then been discharged or determined and he has not consented to the proposed reduction of capital.

A.B.,
Solicitor for the Company.
Dated the day of , 19 .

No. 14 (Rule 47).

ADVERTISEMENT OF PETITION.
(Title.)

Notice is hereby given that a petition for the winding up of the abovenamed company by the Supreme Court was, on the day of , 19 , presented by the said company [or as the case may be], and that the said petition is directed to be heard before the Court sitting at at the hour of on the day of , 19 ; and any creditor or contributory of the said company desiring to support or oppose the making of an order on the said petition may appear at the time of hearing by himself or his counsel for that purpose; and a copy of the petition will be furnished to any creditor or contributory of the said company requiring the same by the undersigned on payment of the regulated charge for the same.

The petitioner's address is .
The petitioner's solicitor is (Mr.) ,
of ,
whose Perth agent is (Mr.) ,
of .

(Signed) (a)

(a) To be signed by the solicitor to the plaintiff or by the petitioner if he has no solicitor.

Note.—Any person who intends to appear on the hearing of the said petition must serve on or send by post to the abovenamed (b) notice in writing of his intention so to do. The notice must state the name and address of the person, or, if a firm, the name and address of the firm, and must be signed by the person or firm, or his or their solicitor (if any), and must be served, or, if posted, must be sent by post in sufficient time to reach the abovenamed, not later than four o'clock in the afternoon of the of , 19 (the day before the day appointed for the hearing of the petition or the Friday preceding the day appointed for the hearing of the petition if such day is a Monday, or a Tuesday following a public holiday).

(b) Solicitor or petitioner as the case may be.

No. 15 (Rule 50).

ORDER FOR WINDING UP BY THE COURT.

day of , 19 .
(Title.)

Upon the petition of the abovenamed company [or A.B., of etc. (a creditor or contributory) of the abovenamed company], on the day of , 19 , preferred unto the Court, and upon hearing for the petitioner, and for , and upon reading the said petition, an affidavit of , filed, etc., verifying the said petition, an affidavit of L.M., filed the day of , 19 , the *Government Gazette* of the day of , 19 , the newspaper of the day of , 19 [enter any other papers], each containing an advertisement of the said petition [enter any other evidence], this Court doth order—

- (1) that the said company be wound up by the Court under the provisions of the Companies Act, 1961;
- (2) that A.B. be appointed Liquidator for the purposes of the said winding up;
- (3) that the bank in which the liquidator is to open a trust account is .

Note.—It will be the duty of such of the persons as are liable to make out or concur in making out a statement of affairs as the liquidator may require to attend on him at such time and place as he may appoint and to give him all information he may require.

No. 16 (Rule 50).

NOTICE OF WINDING UP ORDER.

In the matter of _____ Limited.
Winding Up Order made _____, 19 .
Name and Address of Liquidator. _____
Petitioner or his Solicitor.

No. 17 (Rule 51).

ORDER APPOINTING PROVISIONAL LIQUIDATOR AFTER
PRESENTATION OF PETITION, AND BEFORE
ORDER TO WIND UP.

(Title.)

Upon the application, etc., and upon reading, etc., the Court doth hereby appoint A.B., an official liquidator, to be provisional liquidator of the abovenamed company until the making of a winding up order herein or until further order. The duties to be performed by the provisional liquidator are as follows:—

The nature and description of the property of which the provisional liquidator is to take possession is as follows:—

No. 18 (Rule 51).

NOTIFICATION TO PROVISIONAL LIQUIDATOR OF ORDER
PRONOUNCED FOR HIS APPOINTMENT AS PROVISIONAL
LIQUIDATOR PRIOR TO WINDING UP ORDER BEING MADE.

(Title)

To the Provisional Liquidator.

(Address.)

Order pronounced this day by the Honourable Mr. Justice for the appointment of an official liquidator as provisional liquidator prior to any winding up order being made.

Name of Company	Registered Office of Company	Petitioner's Solicitor	Date of Presentation of Petition

No. 19 (Rule 51).

NOTICE OF APPOINTMENT OF PROVISIONAL LIQUIDATOR.
Companies Act, 1961.

In the matter of _____, Limited.
Order for appointment of an official liquidator as provisional liquidator made _____, 19 .
Name and address of provisional liquidator. _____
Petitioner or his Solicitor.

No. 20 (Rule 54).
 FORM OF SUMMONS (GENERAL).
 (Title.)

Let (a) _____ attend at _____, 19____, (a) Name of
 on _____, the _____ day of _____, 19____, respondent.
 at _____ o'clock in the _____ noon on the hearing of an application
 of (b) for an order that (c) _____ (b) Name
 Dated the _____ day of _____, 19____. of applicant.
 This summons was taken out by _____, (c) State
 of _____, solicitors for _____, object of
 To _____ application.

Note.—If you do not attend, either in person or by your solicitor, at the time and place abovementioned, such order will be made, and proceedings taken, as the Judge or Master may think just and expedient.

No. 21 (Rule 65).
 ORDER DIRECTING A PUBLIC EXAMINATION.
 (Title.)

Upon reading the reports of the liquidator in the above matter dated respectively the _____ day of _____, 19____, the _____ day of _____, 19____, and _____.

It is ordered that the several persons whose names and addresses are set forth in the schedule hereto do attend before the Court on a day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the company, and as to the conduct of the business of the company, and as to their conduct and dealings as directors or officers of the company.

The Schedule Referred To.

Name	Address	Connection with the Company

Judge.

No. 22 (Rule 65).
 ORDER APPOINTING A TIME FOR PUBLIC EXAMINATION.
 (Title.)

Upon the application of the liquidator in the above matter, it is ordered that the public examination of _____ who, by the order of the Court, dated the _____ day of _____, 19____, was directed to attend before _____ to be publicly examined _____ be held at (a) _____, (a) Insert
 on the _____ day of _____, 19____, at _____ o'clock the place
 in the _____ noon. for the examination.

And it is ordered that the abovenamed _____ do attend at the place and time abovenamed.

Dated the _____ day of _____, 19____. Master.

No. 23 (Rule 66).

NOTICE TO ATTEND PUBLIC EXAMINATION.

(Title.)

Whereas by an order of this Court, made on the _____ day of _____, 19____, it was ordered that you, the undermentioned _____, should attend before the _____ Court on a day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the company and as to the conduct of the business of the company, and as to your conduct and dealings as (a)

(a) Insert director or officer [as the case may be.]

And whereas the _____ day of _____, 19____, at _____ o'clock in the _____ noon, before the _____ sitting at _____ has been appointed as the time and place for holding of the said examination.

Notice is hereby given that you are required to attend at the said time and place, and at any adjournments of the examination which may be ordered, and to bring with you and produce all books, papers and writings and other documents in your custody or power in any wise relating to the abovenamed company.

And take notice that if you fail, without reasonable excuse, to attend at such time and place, and at any adjournment of the said public examination which may be ordered, you will be liable to be committed to prison without further notice.

Dated the _____ day of _____, 19____.

To

Liquidator.

No. 24 (Rule 67).

ORDER ON PERSONS TO ATTEND AT CHAMBERS TO BE EXAMINED.

(Title.)

A.B., of etc., and E.F., of etc., are hereby severally ordered to attend at (a) _____ on the _____ day of _____, at _____ of the clock in the _____ noon, to be examined on the part of the liquidator for the purpose of proceedings directed by the Court to be taken in the above matter. [And the said A.B. is hereby required to bring with him and produce, at the time and place aforesaid, the documents mentioned in the schedule hereto, and all other books, papers, deeds, writings, and other documents in his custody or power in any wise relating to the abovenamed company.]

(a) State place of examination.

Dated this _____ day of _____, 19____.

This order was made on the application of Messrs. C. and D., of _____, solicitors for _____.

The Schedule Above Referred To.

Master.

No. 25 (Rule 68).

APPLICATION FOR APPOINTMENT OF SHORTHAND WRITER TO TAKE DOWN NOTES OF PUBLIC EXAMINATION AND ORDER THEREON.

(Title.)

I, _____, the liquidator herein, do hereby apply to the Court for an order for the appointment of _____ of _____, to take down in shorthand or record by mechanical means the notes of examination of _____ at their public examination.

Dated this _____ day of _____, 19____.

Liquidator.

Upon the application of the liquidator the Court hereby appoints _____ of _____, to take down in shorthand or record by mechanical means the notes of examination, of the persons mentioned in the above application at their public examination, or at any adjournment thereof.

Dated this _____ day of _____, 19____.

No. 26 (Rule 68).

DECLARATION BY SHORTHAND WRITER.

(Title.)

I, _____, of _____, the person appointed by this Court to take down (a) in shorthand or by mechanical means the examination of _____, do solemnly and sincerely declare that I will truly and faithfully (take down or record) the questions and answers put to and given by the said _____ in this matter, and will deliver true and faithful transcripts thereof as the Court may direct. (a) Delete whichever is inapplicable.

Dated this _____ day of _____, 19 _____.

[Declared before me at the time and place abovementioned.]

No. 27 (Rule 69).

NOTES OF PUBLIC EXAMINATION TAKEN IN SHORTHAND OR RECORDED BY MECHANICAL MEANS.

(Title.)

Public Examination of (a).

Before _____ at the Court _____ this _____ day of _____, 19 _____ (a) Mr. an officer [or as the case may be] of the abovenamed company.

The abovenamed _____, being sworn and examined at the time and place abovementioned, upon the several questions following being put and propounded to him, gave the several answers thereto respectively following each question, that is to say:—

A.

These are the notes of the public examination referred to in the memorandum of public examination of _____ taken before me this _____ day of _____, 19 _____.

No. 28 (Rule 69).

NOTES OF PUBLIC EXAMINATION NOT TAKEN IN SHORTHAND OR RECORDED BY MECHANICAL MEANS.

(Title.)

Public Examination of (a).

Before _____ at the Court _____ this _____ day of _____, 19 _____ (a) Mr. an officer [or as the case may be] of the abovenamed company.

The abovenamed _____, being sworn and examined at the time and place abovementioned, upon his oath saith as follows:—

A.

These are the notes of the public examination referred to in the memorandum of public examination of _____ taken before me this _____ day of _____, 19 _____.

No. 29 (Rule 70).

WARRANT AGAINST PERSON WHO FAILS TO
ATTEND EXAMINATION.

(Title.)

TO X.Y., the officer of this Court, and all police officers within the jurisdiction of the said Court, and to the governor or keeper of the [here insert the prison].

Whereas by evidence taken by oath, it has been made to appear to the satisfaction of the Court that by order of the Court, dated the _____ day of _____, 19____, and directed to (a) _____ he was directed to attend personally at the _____, and be examined before (c) _____, which order was afterwards, as hath been duly proved on oath, duly served upon the said (a) [or, that there is probable reason to suspect and believe that the said (a) has absconded and gone abroad or quitted his place of residence or is about to go abroad or quit his place of residence] with a view of avoiding examination under the Companies Act, 1961.

(a) Name of person required to attend.
(b) Place of examination.
(c) Name of title of commissioner before whom examination is directed to be held.

And whereas the said (a) _____ did without good cause fail to attend on the said _____ day of _____, 19____, for the purpose of being examined, according to the requirements of the said order of this Court made on the _____ day of _____, 19____, directing him so to attend.

These are therefore to require you the said _____ [or bailiffs, and others] to take the said (a) _____ and deliver him to the governor or keeper of the abovenamed prison, and you the said governor or keeper to receive the said (a) _____ and him safely to keep in the said prison until such time as this Court may order.

Dated this _____ day of _____, 19____.

No. 30 (Rule 84).

STATUTORY DECLARATION BY SPECIAL MANAGER
VERIFYING ACCOUNT.

(Title.)

I, _____ of _____, do solemnly and sincerely declare:—

- (1) The account hereunto annexed marked with the letter "A", produced and shown to me at the time of swearing this my affidavit, and purporting to be my account as special manager of the estate or business of the abovenamed company, contains a true account of all and every sums and sum of money received by me or by any other person or persons by my order or to my knowledge or belief for my use on account or in respect of the said estate or business.
- (2) The several sums of money mentioned in the said account hereby verified to have been paid or allowed have been actually and truly so paid and allowed for the several purposes in the said account mentioned.
- (3) The said account is just and true in all and every the items and particulars therein contained, according to the best of my knowledge and belief.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of section 106 of the Evidence Act, 1906.

Declared at, etc.

No. 33 (Rule 88).

NOTICE TO CONTRIBUTORIES OF APPOINTMENT TO SETTLE LIST OF CONTRIBUTORIES.

(Title.)

(a) Insert place of appointment. Take notice that I, _____, the liquidator of the abovenamed company, have appointed the _____ day of _____, 19____, at _____ of the clock in the _____ noon at (a) _____, to settle the list of contributories of the abovenamed company, made out by me, pursuant to the Companies Act, 1961, and the rules thereunder, and that you are included in such list in the character and for the number of shares [or extent of interest] stated below; and if no sufficient cause is shown by you to the contrary at the time and place aforesaid, the list will be settled, including you therein.

Dated this _____ day of _____, 19____.

Liquidator.

To Mr. A.B. [and to Mr. C.D., his solicitor.]

No. on List	Name	Address	Description	In what Character Included	Number of Shares (or Extent of Interest)	Amount Called up on Shares (or Interest)	Amount Paid up on Shares (or Interest)
						\$ c	\$ c

No. 34 (Rule 88).

AFFIDAVIT OF POSTAGE OF NOTICES OF APPOINTMENT TO SETTLE LIST OF CONTRIBUTORIES.

(Title.)

(a) State full I, _____, a (a) _____, make oath and say as follows:—
 description of the deponent. (1) That I did on the _____ day of _____, 19____, send to each contributory mentioned in the list of contributories made out by the liquidator on the _____ day of _____, 19____, and now on the file of proceedings of the abovenamed company, at the address appearing in such list, a notice of the time and place of the appointment to settle the list of contributories in the form hereunto annexed, marked "A", except that in the tabular form at the foot of such copies respectively I inserted the number, name, address, description, in what character included, and (b) of the person on whom such copy of the said notice was served.
 (b) "Number of shares," or "extent of interest." (2) That I sent the said notices by putting the same prepaid into the post office at _____ before the hour of _____ o'clock in the _____ noon on the said day.

Sworn, etc.

No. 35 (Rule 89).

CERTIFICATE OF LIQUIDATOR OF SETTLEMENT OF THE LIST OF CONTRIBUTORIES.

(Title.)

Pursuant to the Companies Act, 1961, and to the rules, I, the undersigned, being the liquidator of the abovenamed company, hereby certify that the result of the settlement of the list of contributories of the abovenamed company is as follows:—

- (1) The several persons whose names are set forth in the second column of the First Schedule hereto have been included in the said list of contributories as contributories of the said company in respect of the (a) set opposite the names of such contributories respectively in the said Schedule. I have, in the first part of the schedule, distinguished such of the said several persons included in the said list as are contributories in their own right.

(a) "Number of shares," or "extent of interest."

I have, in the second part of the said schedule, distinguished such of the said several persons included in the said list as are contributories as being representatives of or being liable to the debts of others.

- (2) The several persons whose names are set forth in the second column of the Second Schedule hereto, and whose names were included in the provisional list of contributories, have been excluded from the said list of contributories.
- (3) I have, in the sixth column of the first part of the First Schedule, and in the seventh column of the second part of the First Schedule, and in the same column of the Second Schedule, set forth opposite the name of each of the several persons respectively the date when such person was included in or excluded from the said list of contributories.
- (4) I have, in the seventh column of the first part of the First Schedule, and in the eighth column of the second part of the First Schedule, and in the same column of the Second Schedule, set forth opposite the names of the several persons respectively the amount called up on his shares or interest.
- (5) I have, in the eighth column of the first part of the First Schedule, and in the ninth column of the second part of the First Schedule, and in the same column of the Second Schedule set forth opposite the names of the several persons respectively the amount paid up on his shares or interest.
- (6) Before settling the said list, I was satisfied by the affidavit of , clerk to , duly filed with the proceedings herein, that notice was duly sent by post to each of he persons mentioned in the said list, informing him that he was included in such list in the character and for the (a) stated therein, and of the day appointed for finally settling the said list.

(Signed) A.B.,
Liquidator.

The First Schedule above Referred to.
First Part.—Contributories in Their Own Right.

Serial Number in List	Name	Address	Description	Number of Shares [or Extent of Interest]	Date when Included in the List	Amount Called up on Shares or Interest	Amount Paid up on Shares or Interest

In the matter of Limited.

No. 37 (Rule 90).

CERTIFICATE OF LIQUIDATOR OF SETTLEMENT OF
SUPPLEMENTAL LIST OF CONTRIBUTORIES.

(Title.)

Pursuant to the Companies Act, 1961, and to the rules, I, the undersigned, being the liquidator of the abovementioned company, hereby certify that the result of the settlement of the provisional supplemental list of contributories of the abovenamed company made out by me on the day of , 19 , is as follows:—

[Here continue the Certificate and Schedules as in Form No. 35.]

No. 38 (Rule 91).

PROVISIONAL SUPPLEMENTAL LIST OF CONTRIBUTORIES.

(Title.)

1. The following is a list of persons who, since making out the list of contributories herein dated the day of , 19 , I have ascertained are, or have been, holders of shares in [or members of] the abovenamed company, and to the best of my judgment are contributories of the said company.

2. The said supplemental list contains the names of such persons, together with their respective addresses and the number of shares [or extent of interest] and the amount called up and the amount paid up in respect of such shares [or interest] to be attributed to each.

3. In the first part of the said list such of the said persons as are contributories in their own right are distinguished.

4. In the second part of the said list such of the said persons as are contributories as being representatives of, or being liable to the debts of others, are distinguished.

[The supplemental list is to be made out in the same form as the original list. (Form No. 32.)]

No. 39 (Rule 91.)

NOTICE TO CONTRIBUTORY OF VARIATION OR ADDITION
TO THE LIST OF CONTRIBUTORIES.

(Title.)

Take notice that I, , the liquidator of the abovenamed company, have made the following variations or additions to the list of contributories as finally settled by me by certificate dated the day of , 19 .

Any application by you to vary the said list of contributories as so varied or added to, or that your name may be excluded therefrom, because of any variation or addition made by the liquidator, must be made by you to the Court within twenty-one days from the service on you of this notice, or the same will not be entertained.

The said list may be inspected by you at the office of the liquidator at (a) on any day between the hours of and (a) State address.

Dated this day of , 19 .

(Signed)

Liquidator.

To Mr. [or to Mr. _____, his solicitor.]

No. in List	Name	Address	Description	In What Character Included	Number of Shares [or Extent of Interest]	Amount Called up on Shares [or Interest]	Amount Paid up on Shares [or Interest]

No. 40 (Rule 91).

AFFIDAVIT OF SERVICE OF NOTICE TO CONTRIBUTORY.

(Title.)

- (a) State full description of the deponent. I, _____, (a) _____, of _____, make oath and say as follows:—
- (1) I did on the _____ day of _____, 19____, in the manner hereinafter mentioned, serve a true copy of the notice now produced and shown to me and marked "A" upon each of the respective persons whose names, addresses and descriptions appear in the second, third and fourth columns of the First Schedule to the list of contributories of the said company made out by the liquidator of the company on the _____ day of _____, 19____, and now on the file of proceedings of the said company. In the tabular form at the foot of such copies respectively I inserted the number on list, name, address, description, in what character included, and (b) _____ and the amount called up and the amount paid up in respect of the shares [or interest] of the person on whom such copy of the said notice was served, in the same words and figures as the same particulars are set forth in the said schedule.
- (2) I served the said copies of the said notice, by putting such copies respectively in an envelope, duly addressed to such persons according to their respective names and addresses appearing in the said schedule, and by placing the same prepaid in the post office at _____ before the hour of _____ o'clock in the _____ noon of the said day of _____, 19____.
- Sworn, etc.

(b) "Number of shares," or "extent of interest."

No. 41 (Rule 92).

ORDER ON APPLICATION TO VARY LIST OF CONTRIBUTORIES.

(Title.)

Upon the application of W.N., by summons dated _____ day of _____, 19____, for an order that the list of contributories of the company and the liquidator's certificate finally settling the same [or the list of contributories of the company as added to or varied by the liquidator in his certificate dated _____, 19____, as the case may be] be varied by excluding the name of the applicant therefrom [or as the case may be], and upon hearing, etc., and upon reading, etc., it is ordered, that the list of contributories of the company and the liquidator's certificate finally settling the same be varied by excluding the name of the said W.N. from the said list of contributories, or by including the name of the said W.N. as a contributory in the said list for _____ shares [or as the case may be or the Court doth not think fit to make any order on the said application except that the said W.N. do pay to the liquidator of the said company his costs of this application, to be taxed in case the parties differ.]

Judge.

No. 42 (Rule 94).

NOTICE BY LIQUIDATOR REQUIRING PAYMENT OF MONEY OR DELIVERY OF BOOKS, ETC., TO LIQUIDATOR.

(Title.)

Take notice that I, the undersigned (a) _____, have been appointed liquidator of the abovenamed company, and that you, the under-mentioned (b) _____ are required, within _____ days after service hereof, to pay to me [or deliver, convey, surrender, or transfer to or into my hands] as liquidator of the said company, at my office, situate at (c) _____, etc., the sum of \$ _____, being the amount of debt appearing to be due from you on your account with the said company [or any sum or balance, books, papers, estate or effects, or *specifically describe the property*] now being in your hands, and to which the said company is entitled [or otherwise as the case may be].

Dated this _____ day of _____, 19 _____.

Liquidator.

To (b)
(Address)

No. 43 (Rule 95).

NOTICE TO EACH MEMBER OF COMMITTEE OF INSPECTION OF MEETING FOR SANCTION TO PROPOSED CALL.

(Title.)

Take notice that a meeting of the Committee of Inspection of the abovenamed company will be held at _____ on the (a) _____ day of _____, 19 _____, at _____ o'clock in the _____ noon for the purpose of considering and obtaining the sanction of the committee to a call of \$ _____ per share proposed to be made by the liquidator on the contributories.

Annexed hereto is a statement showing the necessity for the proposed call and the amount required.

Dated this _____ day of _____, 19 _____.

(Signed)

Liquidator.

To (b)
(Address)

STATEMENT.

1. The amount due in respect of proofs admitted against the company, and the estimated amount of the costs, charges and expenses of the winding up, form in the aggregate the sum of \$ _____ or thereabouts.

2. The assets of the company are estimated to realise the sum of \$ _____. There are no other assets, except the amounts due from certain of the contributories to the company, and in my opinion it will not be possible to realise in respect of the said amounts more than \$ _____.

3. The list of contributories has been duly settled, and _____ persons have been settled on the list in respect of the total number of _____ shares.

4. For the purpose of satisfying the several debts and liabilities of the company, and of paying the costs, charges and expenses of the winding up, I estimate that a sum of \$ _____ will be required in addition to the amount of the company's assets hereinbefore mentioned.

5. In order to provide the said sum of \$ _____ it is necessary to make a call on the contributories, and having regard to the probability that some of them will partly or wholly fail to pay the amount of the call, I estimate that for the purpose of realising the amount required it is necessary that a call of \$ _____ per share should be made.

(Annex tabular statement showing amounts of debts, costs, etc., and of assets.)

No. 44 (Rule 95).

ADVERTISEMENT OF MEETING OF COMMITTEE OF INSPECTION TO SANCTION PROPOSED CALL.

(Title.)

Notice is hereby given that the undersigned liquidator of the abovenamed company proposes that a call should be made on all the contributories of the said company (or as the case may be), of \$ _____ per share, and that he has summoned a meeting of the Committee of Inspection of the company, to be held at _____ on the _____ day of _____, 19____, at _____ o'clock in the _____ noon, to obtain their sanction to the proposed call.

Each contributory may attend the meeting, and be heard or make any communication in writing to the liquidator or the members of the Committee of Inspection in reference to the intended call.

A statement showing the necessity of the proposed call and the purpose for which it is intended may be obtained on application to the liquidator at his office at (a) _____

(a) Insert address.

Dated this _____ day of _____, 19____.

 Liquidator.

No. 45 (Rule 95).

RESOLUTION OF COMMITTEE OF INSPECTION SANCTIONING CALL.

Resolved, that a call of \$ _____ per share be made by the liquidator on all the contributories of the company [or, as the case may be].

(Signed)

Members of the Committee of Inspection.

Dated this _____ day of _____, 19____.

No. 46 (Rule 96).

SUMMONS FOR LEAVE TO MAKE A CALL.

(Title.)

Let the several persons whose names and addresses are set forth in the second column of the schedule hereto, being contributories of the abovenamed company, as shown in the third column of the said schedule, attend at _____ on _____ the _____ day of _____, 19____, at _____ o'clock in the _____ noon, on the hearing of an application on the part of the liquidator of the company for an order that he may be at liberty to make a call to the amount of _____ per share on all the contributories [or as the case may be] of the said company.

Dated the _____ day of _____, 19____.

This summons was taken out by _____, of _____, solicitors for the liquidator.

Note.—If you do not attend either in person or by your solicitor, at the time and place abovementioned, such order will be made and proceedings taken as the Judge may think just and expedient.

Schedule.

Number on List	Name and Address	In what Character Included

No. 47 (Rule 96).

AFFIDAVIT OF LIQUIDATOR IN SUPPORT OF PROPOSAL FOR CALL.

(Title.)

I, _____, of, etc., the liquidator of the above-named company, make oath and say as follows:—

- (1) I have in the schedule now produced and shown to me and marked with the letter "A" set forth a statement showing the amount due in respect of the debts proved and admitted against the said company, and the estimated amount of the costs, charges and expenses of and incidental to winding up the affairs thereof, and which several amounts form in the aggregate the sum of \$ _____ or thereabouts.
- (2) I have also in the said schedule set forth a statement of the assets in hand belonging to the said company, amounting to the sum of \$ _____ and no more. There are no other assets belonging to the said company, except the amounts due from certain of the contributories of the said company, and to the best of my information and belief, it will be impossible to realise in respect of the said amounts more than the sum of \$ _____ or thereabouts.
- (3) _____ persons have been settled by me on the list of contributories of the said company in respect of the total number of _____ shares.
- (4) For the purpose of satisfying the several debts and liabilities of the said company and of paying the costs, charges and expenses of and incidental to winding up the affairs thereof, I believe the sum of \$ _____ will be required in addition to the amount of the assets of the said company mentioned in the said Schedule A, and the said sum of \$ _____.
- (5) In order to provide the said sum of \$ _____, it is necessary to make a call upon the several persons who have been settled on the list of contributories as beforementioned, and, having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that, for the purpose of realising the amount required as beforementioned, it is necessary that a call of \$ _____ per share should be made.

Sworn, etc.

No. 48 (Rule 96).

ADVERTISEMENT OF INTENDED CALL.

In the matter of _____.

Notice is hereby given that the Supreme Court has appointed _____ the _____ day of _____, 19____, at _____ o'clock in the _____ noon, at (a) _____, to sanction a call on all the contributories of the said company [or as the case may be] and that the liquidator of the said company proposes that such call shall be for \$ _____ per share. All persons interested are entitled to attend at such day, hour and place to offer objections to such call.

(a) State place of appointment.

Dated this _____ day of _____, 19____. _____ Liquidator.

No. 49 (Rule 96).

ORDER GIVING LEAVE TO MAKE A CALL.

(Title.)

The _____ day of _____, 19____. Upon the application of the liquidator of the abovenamed company, and upon reading the affidavit of the said liquidator, filed the _____ day of _____, 19____, and the exhibit marked "A" therein referred to, and an affidavit of _____ filed the _____ day of _____, 19____.

It is ordered that leave be given to the liquidator to make a call of \$ _____ per share on all the contributories of the said company (a).

(a) Or as the case may be.

And it is ordered that each such contributory do so on or before the _____ day of _____, 19____, pay to the liquidator of the _____ company, the amount which will be due from him or her in respect of such call.

No. 50 (Rule 97).
DOCUMENT MAKING A CALL.

(Title.)

(a) An order I, _____, the liquidator of the abovenamed company,
of the Court, in pursuance of (a) _____, made (or passed)
or resolution this _____ day of _____, 19 _____, hereby make a call
of the Committee of _____ per share on all the contributories of the company,
of Inspection. which sum is to be paid at my office (b) _____ on
(b) Insert the _____ day of _____, 19 _____
address. Dated this _____ day of _____, 19 _____.

No. 51 (Rule 97).
NOTICE OF CALL SANCTIONED BY COMMITTEE OF
INSPECTION TO BE SENT TO CONTRIBUTORY.

(Title.)

(a) Set out resolution. Take notice that the Committee of Inspection in the winding up of the above-named company has passed a resolution as follows (a):—
(b) State address. The amount due from you in respect of the call is the sum of \$ _____.
This sum should be paid by you direct to me at my office (b) _____
on or before the _____ day of _____, 19 _____.
Dated this _____ day of _____, 19 _____.
To Mr. _____
Liquidator.

Note.—If you do not pay the sum due from you by the date mentioned, interest will be claimed on such sum at the rate of four per cent. per annum from the said date until payment.

No. 52 (Rule 97).
NOTICE TO BE SERVED WITH THE ORDER
SANCTIONING A CALL.

(Title.)

The amount due from you, A.B., in respect of the call made pursuant to leave given by the above [or within] order is the sum of \$ _____, which sum is to be paid by you to me as the liquidator of the said company at my office, No. _____ Street, Perth.
Dated this _____ day of _____, 19 _____.
To Mr. A.B., _____
Liquidator.

Note.—If you do not pay the sum due from you by the date mentioned, interest will be claimed on such sum at the rate of four per cent. per annum from the said date until payment.

No. 53 (Rule 98).
AFFIDAVIT IN SUPPORT OF APPLICATION FOR ORDER FOR
PAYMENT OF CALL.

(Title.)

I, _____, of, etc., the liquidator of the above-named company, make oath and say as follows:—
(1) None of the contributories of the said company, whose names are set forth in the schedule hereto annexed, marked "A", have paid or caused to be paid the sums set opposite their respective names in the said schedule, which sums are the amounts now due from them respectively under the call of _____ per share, duly made under the Companies Act, 1961, dated the _____ day of _____, 19 _____.

- (2) The respective amounts or sums set opposite the names of such contributories in such schedule are the true amounts due and owing by such contributories respectively in respect of the said call.

A.

The Schedule Above Referred To.

Number on List	Name	Address	Description	In what Character Included	Amount Due
					\$ c

Sworn, etc.

Note.—In addition to the above affidavit, an affidavit of the service of the application for the call will be required in cases in which the Committee of Inspection or the Court has authorised a call to be made.

No. 54 (Rule 98).

AFFIDAVIT OF SERVICE OF ORDER FOR PAYMENT OF CALL.

(Title.)

I, J.B., of, etc., make oath and say as follows:—

- (1) I did on the _____ day of _____, 19____, personally serve G.F., of _____, etc., with an order made in this matter by this Court, dated the _____ day of _____, 19____, whereby it was ordered [set out the order] by delivering to and leaving with the said G.F., at _____ a true copy of the said order, and at the same time producing and showing unto him, the said G.F., the said original order.
- (2) There was endorsed on the said copy when so served the following words, that is to say, "If you, the undermentioned G.F., neglect to obey this order by the time mentioned therein, you will be liable to process of execution for the purpose of compelling you to obey the same."

Sworn, etc.

No. 55 (Rule 98).

ORDER FOR PAYMENT OF CALL DUE FROM A CONTRIBUTORY.

(Title.)

The _____ day of _____, 19____.

Upon the application of the liquidator of the abovenamed company, and upon reading an affidavit of _____, filed the _____ day of _____, 19____, and an affidavit of the liquidator, filed the _____ day of _____, 19____, it is ordered that C.D., of, etc., [or E.F., of, etc., the legal personal representative of L.M., late of, etc., deceased], one of the contributories of the said company [or, if against several contributories, the several persons named in the second column of the schedule to this order, being respectively contributories of the said company], do, on or before the _____ day of _____, 19____, or within four days after service of this order, pay to the liquidator of the said company at his office, No. _____ Street, _____ Perth, the sum of \$ _____ [if against a legal personal representative add, out of the assets of the said L.M., deceased, in his hands as such legal personal

representative as aforesaid, to be administered, in due course of administration, if the said E.F. has in his hands so much to be administered, *or, if against several contributories*, the several sums of money set opposite to the respective names in the sixth column of the said schedule hereto], such sum [*or sums*] being the amount [*or amounts*] due from the said C.D. [*or L.M.* or the said several persons respectively], in respect of the call of \$ _____ per share duly made, dated the _____ day of _____, 19 _____.

And it is ordered that the said several persons do within the like period and at the place aforesaid pay to the liquidator interest at the rate of four per centum per annum on the amounts specified in the sixth column of the said schedule from the _____ to the date of payment.

And it is ordered that the said several persons do within the like period and at the place aforesaid pay to the liquidator the several sums set opposite their respective names in the seventh column of the said schedule, such sum being the proportion of the applicant's costs of the said application payable by such several persons respectively.

[*Add appropriate paragraphs as to amounts payable by legal personal representatives (if any).*]

The Schedule Referred to in the Foregoing Order.

Number on List	Name	Address	Description	In what Character Included	Amount Due	Proportion of Costs	Total Amount Payable Exclusive of Interest
					\$ c		

Note.—The copy for service of the above order must be endorsed as follows:—

If you, the undermentioned A.B., neglect to obey this order within the time mentioned therein, you will be liable to process of execution for the purpose of compelling you to obey the same.

No. 56 (Rule 104).

LIST OF PROOFS TO BE FILED UNDER RULE 104.

(Title.)

I hereby certify that the following is a correct list of all proofs tendered to me in the above matter during the past month.

Dated this _____ day of _____, 19 _____, Liquidator.

Name of Creditor	Proofs Tendered		
	Amount of Proof	Whether Admitted, Rejected or Standing Over for Further Consideration	If Admitted, Amount
	\$ c		\$ c

No. 57 (Rule 107).

NOTICE TO CREDITORS AND CONTRIBUTORIES OF
INTENTION TO APPLY FOR RELEASE.*(Title.)*

Take notice that I, the undersigned liquidator of the abovenamed company, (a) intend to apply to a Judge in Chambers at the Supreme Court, Perth, at 10.30 in the forenoon on the _____ day of _____, 19____, for my release, and further take notice that (b) any objection you may have to the granting of my release should be notified to the Registrar of the Supreme Court and to the undersigned within twenty-one days of the date hereof.

A summary of my receipts and payments as liquidator is hereto annexed.

Dated this _____ day of _____, 19____.

Liquidator.

To

Note.—*Subsection (4) of section 240 enacts that an order of the Court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as 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.*

No. 58 (Rule 107).

APPLICATION BY LIQUIDATOR TO THE COURT
FOR RELEASE.*(Title.)*

I, _____, the liquidator of the abovenamed company, do hereby report to the Court as follows:—

- (1) That the whole of the property of the company has been realised for the benefit of the creditors and contributories [and a dividend to the amount of _____ cents in the dollar has been paid, as shown by the statement hereunto annexed, and a return of _____ per share has been made to the contributories of the company]

[Or, That so much of the property of the company as can, according to the joint opinion of myself and the Committee of Inspection, hereunto annexed in writing under our hands be realised, without needlessly protracting the liquidation, has been realised, as shown by the statement hereunto annexed, and a dividend to the amount of _____ cents has been paid as shown with a return of _____ per share to the contributories of the company];

(a)

- (2) I have given or caused to be given to all creditors and contributories the notice required to be given by rule 107.
- (3) I therefore request the Court to cause a report on my accounts to be prepared, and to grant me a certificate of release.

Dated this _____ day of _____, 19____.

Liquidator.

(a) Add, if necessary, "That the rights of the contributories between themselves have been adjusted."

No. 59 (Rule 107).
STATEMENT TO ACCOMPANY NOTICE OF
APPLICATION FOR RELEASE.

(Title.)

Statement Showing Position of Company at Date of
Application for Release.

Dr.		Receipts					Cr.	
	Esti- mated to Pro- duce per Com- pany's State- ment							
	\$	c	\$	c		\$	c	
To total receipts from date of winding-up order, viz.:- (State particulars under the several headings specified in the Statement of Affairs) Receipts per trading account					By fees (including Stationery, Printing, and Postages in respect of Contributories, Creditors, and for Debtors, and fee for audit)			
Other receipts					Law costs of petition	\$	c	
Total					Law costs of Solicitor to Liquidator			
					Other law costs			
					Liquidator's remuneration, viz.:-			
Less:					per cent. on \$	\$	c	
Payments to redeem securities					Assets realised			
Costs of execution					per cent. on \$			
Payments per trading account					Assets distributed in dividend			
					Shorthand writer's charges			
Net realisations				\$	Special manager's charges			
					Person appointed to assist in preparation of Statement of Affairs			
Amounts received from calls on contributories made by the Liquidator					Auctioneer's charges as taxed			
					Other taxed costs			
					Costs of possession and maintenance of estate			
					Costs of notices in Gazette and other papers			
					Incidental outlay			
					Total cost and charges	\$	c	
					Creditors, viz.:-			
					(a) Preferential			
					(b) Unsecured, Dividend of c. in the \$ on \$			
					The estimate of amount expected to rank for dividend was \$			
					Amount returned to contributories			
					Balance			
				\$		\$	c	

Assets not yet realised, including calls, estimated to produce \$

(Add here any special remarks the liquidator thinks desirable.)

Creditors can obtain any further information by enquiry at the office of the liquidator.

Dated this day of , 19

(Signature of Liquidator or his Solicitor)

(Address)

No. 60 (Rule 110).

REQUEST TO DELIVER BILL FOR TAXATION.

(Title.)

I hereby request that you will, within _____ days of this date, or such further time as the Court may allow, deliver to me for taxation by the proper officer your bill of costs [or charges] as (a) _____, failing (a) Here state nature of employment. which I shall, in pursuance of the Companies Act, 1961, and rules, proceed to declare and distribute a dividend without regard to any claim which you may have against the assets of the company, and your claim against the assets of the company will be liable to be forfeited.

Dated this _____ day of _____, 19 _____.

Liquidator.

No. 61 (Rule 113).

CERTIFICATE OF TAXATION.

(Title.)

I hereby certify that I have taxed the bill of costs [or charges] [or expenses] of Mr. C.D. [here state capacity in which employed or engaged, where necessary add "pursuant to an order of the Court dated the _____ day of _____ 19 _____"], and have allowed the same at the sum of _____ dollars and _____ cents [where necessary add "which sum is to be paid to the said C.D. by _____ as directed by the said order"].

Dated this _____ day of _____, 19 _____.

\$: _____

Taxing Officer.

No. 62 (Rule 113).
REGISTER TO BE KEPT BY TAXING OFFICER.
 Companies Act, 1961.

Name of Company	Solicitors' Bills			Auctioneers' Bills			Bailiffs' Bills			Accountants' Bills			Brokers' or other Persons, Bills		
	Gross Amount of Bill	Amount Taxed off	Net Amount Allowed	Gross Amount of Bill	Amount Taxed off	Net Amount Allowed	Gross Amount of Bill	Amount Taxed off	Net Amount Allowed	Gross Amount of Bill	Amount Taxed off	Net Amount Allowed	Gross Amount of Bill	Amount Taxed off	Net Amount Allowed

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