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SUPREME COURT ACT 1935

**SUPREME COURT
AMENDMENT RULES
(No. 4) 1994**

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SUPREME COURT ACT 1935

SUPREME COURT AMENDMENT RULES (NO. 4) 1994

Made by the Judges of the Supreme Court.

Citation

1. These rules may be cited as the *Supreme Court Amendment Rules (No. 4) 1994*.

Commencement

2. These rules come into operation on 1 August 1994.

Principal rules

3. In these rules the *Rules of the Supreme Court 1971** are referred to as the principal rules.

[* Reprinted in the Gazette of 29 March 1986 at pp. 779-1100.
For amendments to 30 May 1994 see 1993 Index to Legislation of
Western Australia, Table 4, pp. 267-9, and Gazette of 1 March
1994.]

Order 1 amended

4. Order 1 Rule 3 of the principal rules is amended in item 1 of the Table to paragraph (2) by deleting "Proceedings in" and substituting the following —

" Subject to Order 81G Rule 25 (1) proceedings in ".

Order 81G inserted

5. After Order 81F of the principal rules the following order is inserted —

"

ORDER 81G**CORPORATIONS RULES****PART 1 — PRELIMINARY****Interpretation**

1. (1) Subject to this rule words and expressions defined in the Corporations Law and used in this order have the same respective meaning as in the Corporations Law.

(2) In this order, unless the contrary intention appears —

“Code” means the *Companies (Western Australia) Code*;

“Corporations Law” means the Corporations Law of Western Australia;

“Commission” means the Australian Securities Commission established by the Australian Securities Act 1989 of the Commonwealth;

“form” means a form referred to in Part 1 of the Seventh Schedule;

“liquidator” includes a provisional liquidator;

“section” means a section of the Corporations Law;

“solicitor”, in relation to a 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.

Forms

2. (1) A form in Part 1 of the Seventh Schedule shall be completed substantially in accordance with the directions specified in or relating to the form.

(2) The forms in Part 1 of the Seventh Schedule shall be used for the purposes to which they are respectively applicable, with variations as circumstances require, but a failure to use, or a defect, irregularity or deficiency in the use of a form shall not affect, prejudice or invalidate a proceeding, a step in a proceeding or a document unless the Court, on the application of a person concerned, so orders.

PART 2 — JURISDICTION

Court's jurisdiction under the Corporations Law to be exercised in accordance with the Rules

3. The jurisdiction conferred on the Court by the Corporations Law or the ASC Law shall be exercised in accordance with the provisions of these Rules.

Jurisdiction of Master

4. (1) Subject to Rule 29 and to paragraphs (2) and (3), a Master may hear and determine any application under or arising out of any provision of the Corporations Law, the ASC Law or these Rules other than those referred to in column 1 of Part 2 of the Seventh Schedule.

(2) With the consent of all parties any application under or arising out of any provision referred to in column 1 of Part 2 of the Seventh Schedule may be heard and determined by a Master.

(3) A Master may hear and determine any application for relief under section 1322 of the Corporations Law which is incidental to and arises out of an application otherwise within the jurisdiction of the Master.

(4) The descriptions in column 2 of Part 2 of the Seventh Schedule are inserted for convenience of reference only and do not affect the operation of this Order.

(5) A Master may exercise any of the powers conferred on the Court or a Judge in respect of every application entertained by him under this Order.

PART 3 — PROCEEDINGS GENERALLY

Rules and general practice to apply

5. Subject to this Order and the Corporations Law the general practice of the Court applies in relation to proceedings to which this Order applies.

Process

6. Subject to this Order all applications required or permitted by the Corporations Law to be made to the Court shall be —

- (a) by application, in the case of an originating proceeding; and
- (b) by summons, if made in any proceeding already commenced in the Court.

Proceedings in chambers in first instance

7. Every application and summons to which this Order applies shall in the first instance be heard in chambers but the Court may, at any stage of the proceedings, order that an application be heard and determined in open court.

Title of proceedings — (Form 1) Applications — (Form 2)

8. (1) All documents in a proceeding to which this Order applies shall be entitled as in Form 1 "In the Supreme Court of Western Australia" and "In the Matter of..." the section of the Corporations Law under which the proceeding is brought and "In the Matter of..." the corporation or person to which the proceeding relates (specifying the corporation's Australian Company Number or Australian Registered Body Number) together with, where applicable, the addition of the words "(in liquidation)", "(receiver appointed)", "(receiver and manager appointed)", "(controller acting)", "(administrator appointed)" or "(subject to deed of company arrangement)".

(2) Every application shall be in Form 2 and shall state specifically the relief claimed.

Application to be supported by affidavit

9. (1) Every application shall be supported by affidavit, and where a copy of the application is required to be served, a copy of the affidavit shall be served with it.

(2) An affidavit in support of an application made without notice to any person shall show the parties interested and their interests.

(3) The affidavit shall show —

- (a) the nature of the applicant's claim;
- (b) the grounds relied upon for the relief sought; and
- (c) the facts material to the grounds relied upon.

Filing of documents

10. (1) Every application, summons and other notice to which this Order applies shall be filed.

(2) On the filing of an application or summons, or at any later time the Registrar on the request of the person filing it shall seal with the seal of the Court a sufficient number of copies for service and proof of service.

(3) All documents in a proceeding under the Corporations Law shall be filed within the time fixed by this Order, and where no time for filing is expressly fixed they shall, unless the Court otherwise permits, be filed before the commencement of the hearing to which they relate.

Service of documents

11. (1) Unless the Court otherwise orders a copy of every application, summons and other notice to which this Order applies shall as soon as practicable, after the original has been filed, be served on every person against whom any order or relief is sought and upon the corporation to which the application relates.

(2) In the case of an application referred to in paragraph (1) personal service is required.

(3) The Court may at any time direct that service be effected on, or notice of a proceeding be given to, any person who might be affected by the order or relief sought and may at any time direct the manner in which service be effected or notice be given, and any person so served or notified shall be entitled to be heard.

Mode of service

12. Unless the Corporations Law or this Order otherwise provides or the Court otherwise orders —

- (a) all notices and other documents except those of which personal service is required are sufficiently served if left at or sent by pre-paid post to the last known address of the person to be served or the address (if any) at which the person has authorized service on him to be effected, and unless the contrary is proved the notice or document if so sent shall be considered to be served at the time it ought to be delivered in the ordinary course of post;

- (b) service is not invalid only because the name or any of the names, other than the surname of the person to be served has been omitted from the document containing his name if the Court is satisfied that in other respects service of the document has been sufficient;
- (c) when a solicitor for a person to be served accepts service of a document on behalf of that person and endorses the original or a copy to that effect that service is sufficient.

Time for service

13. Unless this Order otherwise provides or the Court otherwise orders every application shall be served not less than 7 days before the return of the application.

Notice of address for service (Form 3)

14. (1) A person served with an application shall, before taking any step in the proceeding or being heard by the Court, file and serve a notice of address for service in Form 3.

(2) A notice referred to in paragraph (1) shall be served on the applicant not less than 2 days before the return day of the application.

Gazettal and advertisement

15. Unless this Order otherwise provides or the Court otherwise orders —

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

Memorandum of gazettal and advertisement

16. Unless this Order otherwise provides or the Court otherwise orders, where any matter is gazetted or advertised in connection with any proceeding under the Corporations Law —

- (a) a memorandum referring to and annexing a copy of and specifying the date of the published gazettal or advertisement, signed by the person responsible for the gazettal or advertisement, or his solicitor, shall be filed —
 - (i) if the gazettal or advertisement relates to proceedings in connection with a winding up by the Court, by the liquidator; and
 - (ii) in any other case, by the party responsible for the gazettal or advertisement;
- or
- (b) the memorandum is *prima facie* evidence that the gazettal or advertisement to which it refers was duly effected.

Notice of intention to attend (Form 4)

17. (1) Every person intending to attend on the hearing of an application that has been gazetted or advertised under this Order shall give to the applicant or his solicitor notice in Form 4 of his intention.

(2) A notice referred to in paragraph (1) shall be signed by the person giving it, or his solicitor, and give the address for service of the person signing it and be served, or if sent by post shall be posted, in such time as in the ordinary course of post to reach the address no later than 4.00 p.m. on the day before the day appointed for the hearing of the application, or, if that day is a Monday or Tuesday following a public holiday, not later than 4.00 p.m. on the Friday before that day.

(3) A person who fails to comply with this Rule shall not, without leave of the Court, attend on the hearing of the application.

(4) Nothing in the Rule requires notice to be given by the applicant or by a person who has been served with the application.

(5) The applicant or his solicitor shall, when required by the Court to do so, produce for inspection any notice given pursuant to this Rule.

List of persons intending to attend (Form 5)

18. (1) The applicant or his solicitor shall prepare a list in Form 5 of the names and addresses of the persons who have

given notice pursuant to Rule 18 of their intention to attend and of their respective solicitors.

(2) On the day of the hearing of the application and before it is heard a fair copy of the list, or if a notice of intention to attend has not been given a statement to that effect, shall be handed by the applicant or his solicitor to the associate to the Judge or the Master appointed to hear the matter.

Directions at hearing

19. On the hearing of an application the Court may give appropriate directions, including directions as to notice to be given by advertisement or otherwise to persons interested, and may adjourn the application to enable them to attend.

Leave to creditor, etc. to be heard — representation of creditors or contributories, etc.

20. (1) In any proceeding under the Corporations Law the Court may grant leave on appropriate terms to any person who is, or claims to be, a creditor, contributory or officer of the corporation, or is otherwise interested in the proceedings, to be heard in the proceeding without becoming a party, and may at any time revoke that leave.

(2) If the Court considers that the attendance of any person to whom leave has been granted under paragraph (1) has occasioned additional costs to any party or to the corporation which ought to be borne by him, it may direct such costs, or a gross sum in lieu of such costs, to be paid by him, and he shall not be entitled to be heard further in the proceeding until he has duly paid those costs or that sum.

(3) In any proceeding under the Corporations Law the Court may order that any person who claims to be a creditor, contributory or officer of the corporation, or is otherwise interested in the proceedings, be added as a respondent and give directions as to the further conduct of the proceeding.

(4) Leave may be granted to a person under paragraph (1), and an order may be made adding a person under paragraph (3) on application by the person or by any party or of the Court's own motion.

(5) 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 corporation, all or any class of the creditors or contributories on any question or in relation to any proceeding before the Court and may remove any person so appointed.

(6) If more than one person is appointed under paragraph (5) to represent one class, the persons appointed shall employ the same solicitor to represent them.

Inquiry as to debts, etc.

21. (1) The Court may direct an inquiry as to any or any class of debts, claims or liabilities affecting any corporation to which any proceeding under the Corporations Law relates.

(2) Where the Court directs an inquiry under paragraph (1), Rules 42 to 51 apply, with any necessary modification, as they apply where the Court directs that a list of creditors be settled.

Reports

22. (1) Where by a provision of the Corporations Law or of the Corporations Regulations or of this Order or by any order of the Court a report, or a copy of a report, is required to be made or furnished and no other method of making or furnishing it is specified, the report or copy shall be made or furnished by filing it.

(2) A report made under section 411 (9), 423 (2), 452 (4) or 536 (2) of the Corporations Law shall not be inspected or used except by leave of the Court.

Meetings ordered by the Court

23. Subject to the Corporations Law and to any directions of the Court, regulations 5.6.12 to 5.6.36A of the Corporations Regulations apply so far as they are capable of application to and in respect of a meeting ordered by the Court.

Inquiry and certificate by the Registrar as to meetings

24. (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 a Registrar on a date to be appointed by a Registrar.

(2) The Registrar shall inquire whether the meeting was duly convened and held and whether the resolution was duly passed at the meeting in accordance with the terms of the order.

(3) The Registrar shall certify to the Court —

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

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

(4) An order based on any resolution mentioned in paragraph (1) shall not be made until a certificate of the Registrar in accordance with this Rule has been filed.

PART 4 — SPECIAL REQUIREMENTS IN PARTICULAR MATTERS

Matters to be gazetted and advertised and evidence provided (Form 6)

25. (1) This Rule applies to an application for an order under any of the provisions of the Corporations Law referred to in column 1 of the Table to this paragraph.

TABLE

<i>Column 1</i> Provision	<i>Column 2</i> Description
Section 167	Cancellation etc. of change of status of company etc.
Section 168	Cancellation etc. of change from public to proprietary company etc.
Section 172	Cancellation etc. of alteration of the memorandum of a company
Section 190	Confirmation of issue of shares at a discount
Section 194 (1)	Validation of issue or allotment of shares
Section 197 (4)	Cancellation etc. of variation or abrogation of rights of holders of shares in a class of shares
Section 198 (6)	Cancellation etc. of variation or abrogation or alteration of rights attached to shares
Section 199 (6)	Cancellation etc. of variation or abrogation or alteration of special rights of a member
Section 202	Approving payment of interest out of capital
Sections 411 (1A), (4) and (6) and 413 (1)	Application for approval of scheme
Section 1074 (5)	Confirmation of resolution to wind up a scheme

(2) The descriptions in column 2 of the Table in paragraph (1) are inserted for convenience of reference only and do not affect the operation of this Rule.

(3) Unless the Court otherwise orders, notice in Form 6 of an application to which this Rule applies, shall, not later than 7 days before the date appointed for the hearing to be gazetted and advertised.

(4) Evidence in support of an application to which this Rule applies shall include —

- (a) a statement of the statute under which the corporation was incorporated;
- (b) a statement of the date of incorporation;
- (c) proof of the situation of the registered office of the corporation, including a copy certified by the Commission under section 1274 (5) of the last or only notice lodged with the Commission in relation to the corporation under section 218 (1) and (3) (or corresponding provisions of the Code); and
- (d) a statement of the capacity in which the applicant makes the application.

Applications of which notice to be given to the Commission

26. (1) This Rule applies to an application for an order under any of the provisions of the Corporations Law referred to in column 1 of the Table to this paragraph, subject to any qualification there expressed.

TABLE

<i>Column 1</i> Provision	<i>Column 2</i> Description
Section 194	Application to validate issue or allotment of shares.
Section 195	Reduction of share capital
Section 229 and 230	Management of certain bodies corporate
Section 243ZD	Application for declaration of substantial compliance
Section 266 (4)	Application to extend time for registration of charge
Section 342 (8)	Application for restoration of name of registered foreign company to register
Section 471B	Application to commence or proceed with action etc. against company where winding up order made or provisional liquidator appointed

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Section 473 (2) and (3)	Application by provisional liquidator or liquidator for remuneration
Section 482 (1)	Application for stay of compulsory winding up
Section 500 (2)	Application to proceed with or commence action etc. after commencement of voluntary winding up
Section 503	Removal of a liquidator
Section 511 (1) (b) (where the application is for the exercise of the power that would be exercisable under section 482 (1) if the company were being wound up by the Court)	Application for stay of voluntary winding up
Section 447E	Supervision of an administrator of a company
Section 449E	Removal of an administrator of a company
Section 532	Application to be appointed or act as liquidator
Section 571	Application for declaration that dissolution of company void
Section 574 (3)	Application for reinstatement of registration of company
Section 1322 (4)	Application to rectify irregularities in proceedings

(2) The descriptions in column 2 of the Table in paragraph (1) are inserted for convenience of reference only and do not affect the operation of this Rule.

(3) Unless the Court otherwise orders, the applicant shall serve on the Commission, a reasonable time before the application is heard, a copy of the application and of each supporting affidavit.

Commission to receive notice of certain proceedings under Chapter 6 of the Corporations Law

27. Where the Commission is not a party to an application made under Chapter 6 of the Corporations Law, the applicant

shall serve or cause to be served on the Commission, a reasonable time before the application is heard, a copy of the application and each supporting affidavit.

Order confirming issue of shares at discount

28. Unless the Court otherwise orders an order confirming the issue of shares at a discount shall contain a direction that an office copy of the order be lodged with the Commission for registration within 7 days after the order or within such time as the Court allows and that the order shall not take effect until after the office copy has been so lodged.

PART 5 — APPEALS AND INQUIRIES

Appeals to be heard and determined by a Judge

29. All appeals to the Court authorized by the Corporations Law shall, subject to section 43 of the *Supreme Court Act 1935* and these Rules, be heard and determined by a Judge.

Notice of appeal

30. All appeals shall be brought by application and, except in relation to an appeal under section 909 of the Corporations Law, shall state whether the whole or part only and, if part only, which part of the decision is complained of and also state concisely but specifically the ground of the complaint and the order sought on the appeal.

Filing and service of notice

31. The appellant shall institute the appeal by filing the application —

- (a) within the time (if any) prescribed by the Corporations Law; and
- (b) if no time is so prescribed, within 21 days (or such other period as the Court on application made by summons allows) after the day on which the decision complained of was made,

and shall thereupon serve a copy on all the persons directly affected by the appeal.

Appeal not stay

32. An appeal does not operate as a stay of proceedings unless the Court so orders.

Summons for directions

33. (1) Within 7 days of filing the application under this Part the appellant shall file a summons seeking directions as to the manner in which evidence in respect of the appeal should be given and as to the fixing of a day for the hearing of the appeal and setting out the directions sought.

(2) Every summons shall be returnable before a Judge at a specified time and place.

(3) The Judge may, on the return of a summons under this Part or at any other time, give directions —

- (a) as to the manner in which evidence in respect of the appeal should be given including a direction that the

evidence be given on affidavit and directions with respect to the time and manner of filing and serving affidavits;

- (b) as to the time and place of hearing the appeal;
- (c) generally as to the conduct of the appeal.

Amendment of grounds

34. Subject to Rule 35 the Court may grant leave to amend the grounds of the appeal.

Appeals from Judges or Masters

35. This Part does not apply to an appeal from an order of a Judge or Master.

Inquiries

36. All inquiries authorized by the Corporations Law shall, subject to this Order be made by the Court and be instituted by application setting out the nature of the relief sought.

PART 6 — REDUCTION OF CAPITAL

Application of this Part

37. This Part applies to an application by a company pursuant to section 195 for the confirmation by the Court of a resolution to reduce its share capital.

Summons for directions

38. After the application has been filed a summons for directions as to the proceedings to be taken shall forthwith in every case be issued returnable before a Master.

Order on summons for directions (Form 7)

39. On the hearing or any adjourned hearing of the summons for directions, or on any subsequent application for directions, the Master may make orders as he thinks appropriate and give directions as to all proceedings to be taken and in particular as to the following matters —

- (a) directing the application to be heard by the Court on a day and at a place to be fixed by the Master;
- (b) directing that, having regard to any special circumstances, all or any of the provisions of section 195 (3) shall not apply in respect of any specified class of creditors;
- (c) the publication of notices;
- (d) where settlement of a list of creditors is required, 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 generally as to the inquiry to be made and all other necessary and proper steps in the matter, whether expressly mentioned in these Rules or not.

Service on Commission

40. The applicant shall serve or cause to be served on the Commission not less than 5 days before the day appointed for the hearing of the application a copy of the application and of each supporting affidavit.

Contributories, members and creditors entitled to material

41. Every contributory, member or creditor of the company is entitled to be furnished by the company or its solicitor with a copy of the application and of each affidavit in support within 48 hours after requesting it on payment of the rate prescribed in the Fifth Schedule.

Preparation and verification of list of creditors (Form 8)

42. (1) Where settlement of a list of creditors is required the company shall, within 7 days after the date with reference to which the list is to be made out, or within such other time as the Master orders, file an affidavit in Form 8 made by some officer of the company competent to make it verifying a list of creditors made out in accordance with paragraph (2).

(2) The list shall contain —

- (a) so far as possible, the names and addresses of the creditors of the company to whom the inquiry extends;
- (b) the amounts due to those creditors respectively for any debts, claims or liabilities to which the inquiry extends or, in the case of any debt payable on a contingency or not ascertained or any unascertained claim or liability its value so far as can be justly estimated.

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

(4) The person making the affidavit shall dispose to his belief that the list is correct and that there was not at the date with reference to which the list is to be made out any debt, claim or liability which, 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 inquiry does not extend.

Publication of list of creditors

43. (1) Copies of the list of creditors referred to in Rule 42 containing their names and addresses and the total amount due to them, including the total amount of any estimated debts, claims or liabilities, but omitting the amount due to them respectively, or, if the Master directs, complete copies of the list, shall be kept at the registered office of the company and at the office of the solicitor for the company pending the hearing and determination of the application.

(2) Any person may at any time during ordinary business hours inspect copies so kept and take extracts.

Notice of application and list of creditors etc. (Forms 9 and 10)

44. (1) Within 7 days after the filing of the affidavit required by Rule 42, or within such other time and in such manner as the Master orders, the company shall gazette and advertise in Form 9 notice of the filing of the application.

(2) A notice under paragraph (1) shall state the amount of the proposed reduction of capital, the places where copies of the list of creditors may be inspected, the time fixed by the Master within which creditors of the company who are not, but are entitled to be, entered on the list and are desirous of being entered must furnish their names, addresses and particulars of their debts or claims and the names and addresses of their solicitors, if any, to the company or its solicitor.

(3) The company shall send to each person whose name is entered in the list of creditors a notice in Form 10 stating the amount of the proposed reduction in capital, the effect of the order directing the inquiry and the amount or estimated value of the debt or the contingent debt or claim or liability or both for which the creditor is entered in the list, and the time fixed by the Master within which, if he claims to be entitled to be entered as a creditor for a larger amount, he is to furnish 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

45. (1) After the time fixed to furnish particulars of his debt or claim, no claim by any person to be a creditor, or to be a creditor for an amount larger than that for which he is entered in the list, shall be received unless with leave of a Master, which the Master may grant on appropriate terms and conditions as to costs and otherwise.

(2) The summons seeking leave shall be supported by affidavit setting forth the facts on which the creditor relies and a copy of each shall be served on the company.

Verification of claims (Form 11)

46. (1) The company shall, within 7 days after the time fixed by the Master for creditors to furnish particulars of their debts or claims, or within such other time as the Master directs, file an affidavit in Form 11 made by the company's solicitors stating the result of the notices gazetted, advertised and sent in accordance with Rule 44 and verifying a list to be filed with the affidavit containing, in alphabetical order, the names and addressees of the persons who have furnished particulars of their debts or claims in pursuance of those notices and the amounts of their debts or claims.

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

(3) The company shall file with the affidavit 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 pursuant to Rule 43 or that made out pursuant to paragraph (1) —

- (a) a list of all creditors who have been paid or who have consented to the proposed reduction in capital, which list shall 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, under the seal of the corporation if the creditor is a corporation; and
- (b) a list of all creditors whose debts or claims the company does not admit at their full amount but is willing to appropriate as the Master directs.

Settlement of list of creditors (Form 12)

47. (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 furnished to the company is not admitted by the company at its full amount and the company is not willing to appropriate the full amount claimed as the Master directs, or if any debt or claim is alleged by the company to be not wholly included in the inquiry, the company shall forthwith apply to a Master by summons without notice to any person for directions.

(2) The Master may order on the application that the affidavit verifying consent shall be sufficient proof of consent, or may require further proof, and may give appropriate directions for securing in the manner mentioned in section 195 (3) payment of the debt or claim of any creditor who does not consent to the proposed reduction and for that purpose may require evidence as may be necessary and give any other directions that appear to him to be 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 furnished is not admitted by the company at its full amount, then and in every case unless the company is willing to appropriate as the Master directs the full amount of the debt or claim the company shall, if the Master directs, serve on the creditor a notice in Form 12 that he is required, by a stated day not less than 5 days after the notice, and being the time appointed by the Master for the purpose, to establish his entitlement to be entered on the list or, as the case may be, to prove his debt or claim to the extent that it is not admitted by the company.

Creditor to prove debt

48. Every creditor who has received notice that he is required to establish his entitlement to be entered on the list or to prove any part of his debt or claim shall file an affidavit verifying his debt or claim and shall on the day fixed attend before the Master and there produce all documents necessary to prove his debt or substantiate his claim.

Adjournment of hearing, investigation and further particulars

49. The Master may from time to time adjourn the hearing of proof of debts and claims and may on the hearing or any adjourned hearing direct an investigation of any of the claims and require further particulars, information or evidence as he thinks fit and may hear evidence and disallow any debt or claim wholly or in part or fix the amount at which the debt or claim is to be allowed.

Creditor's costs

50. (1) A creditor who has established his debt or claim shall be entitled to the costs of doing so unless the Master considers that in the circumstances his costs ought not to be allowed.

(2) The Master may fix the costs or direct their taxation and the amounts of the costs so fixed or taxed shall be added to the established debt or claim.

Master's order

51. (1) The Master shall by order declare the result of the settlement of the list of creditors.

(2) The order shall state —

- (a) the debts or claims admitted at the 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 sought to establish their entitlements to be entered on 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 which have been disallowed or whose 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; and
- (f) the total amount of the debts or claims the payment of which has been secured in the manner provided by section 195 (3) and the persons to or by whom they are due or claimed.

(3) Reference need not be made in the order to any debts or claims to which the inquiry did not extend.

Creditors wrongly listed as consenting

52. The Master may before, or the Court may on, the hearing of the application, on the application of a creditor appearing on any list as having consented to the proposed reduction of 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 be at liberty to appear at the hearing and oppose the proposed reduction of capital and for that purpose the Master or the Court may direct any investigation and require any particulars or information or hear evidence as he or it thinks fit.

Date for hearing application (Form 13)

53. (1) The Master shall fix and state in his order made under Rule 51 a date not less than 14 days after the filing of the order, and a time and place, for the hearing of the application.

(2) The company shall not less than 5 days before the day fixed gazette and advertise notice in Form 13 of the day, time and place fixed for the hearing.

Dissenting creditor may appear to oppose

54. (1) Any person appearing from the Master's order 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, and subject to Rule 17 attend on the hearing and oppose the application.

(2) A dissenting creditor who attends on the hearing of the application under section 195 shall be entitled to costs unless the Court otherwise orders.

Directions as to payment of claims of dissenting creditors

55. On the hearing of the application the Court may give directions for securing in the manner mentioned in section 195 (3)

payment of the debt or claim of any creditor who does not consent to the proposed reduction and for that or any other purpose may require evidence and give further directions as may be necessary.

Contents of order confirming reduction (Form 14)

56. An order confirming a reduction (Form 14) shall show the particulars required to be shown by section 195 (5) and shall contain certain directions —

- (a) as to the time within which an office copy of the order is to be lodged with the Commission; and
- (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 Commission.

PART 7 — OPPRESSION OR PREJUDICE — SECTION 260**Application for an order under section 260**

57. (1) This Rule applies to an application for an order or orders under section 260.

(2) An application under this Rule shall state the nature of the relief sought, the grounds on which it is claimed and the subparagraph of section 260 (1) on which the applicant relies.

(3) Every applicant under this Rule shall be supported by an affidavit setting out the matters specified in and otherwise complying with the requirements of Rule 73.

(4) The affidavit must be made by a person who can depose of his own knowledge to at least some of the grounds relied upon in support of the application.

(5) As soon as practicable after filing the application and the affidavit in support thereof and in any event not less than 14 days after the date of filing the application, the applicant must serve the application and that affidavit on —

- (a) the company; and
- (b) any person against whom orders are sought in the application.

(6) If the remedies sought in the application under section 260 include an order that the company be wound up, the applicant must —

- (a) at the same time as filing the application and any affidavit in support thereof, apply to the Registrar for the nomination of an official liquidator who will be appointed as liquidator if an order for the winding up of the company is made, unless the Court is satisfied that some other official liquidator shall be appointed; and
- (b) within 14 days of filing the application obtain and file the consent in writing of the official liquidator so nominated.

(7) Unless the Court otherwise orders, notice of the application in, or substantially in, Form 14 (specifying that an order is being sought under section 260 and, where a winding up order is sought stating that fact) shall be gazetted and advertised and the provisions of Rule 73 and (where a winding up order is sought), Rule 76 shall apply.

PART 8 — COMPROMISES AND SCHEMES OF ARRANGEMENT

Application of this Part

58. This Part applies to applications under Part 5.1 of the Corporations Law.

Mode of application for order for meetings

59. An application under section 411 (1) or 411 (1A) shall be supported by affidavit exhibiting a copy of the proposed compromise arrangement.

Lodgement of copy documents with the Commission

60. A copy of the application and of such supporting affidavit and of the exhibits shall be served on the Commission forthwith after the application is filed.

Order for meetings to schedule scheme

61. An order acceding to the application shall set forth a schedule or otherwise identify a copy of the proposed compromise arrangement.

Mode of application for approval

62. An application for an order under section 411 (4) and (6) or 413 (1) shall be by summons in the proceeding in which an order under section 411 (1) or (1A) was obtained.

Copy orders to be lodged with the Commission

63. A copy of any order obtained under section 411 (1) or (1A), 411 (4) and (6) or 413 (1) shall be lodged with the Commission within 14 days after it is made.

Remuneration of scheme manager etc.

64. The Court may, on the application of any person whose rights are affected by a compromise or arrangement approved under section 411 (4) and (6), fix or review the remuneration of the person appointed to administer the compromise or arrangement.

Application for directions

65. A trustee or manager under or any member or creditor bound by a compromise or arrangement may apply to the Court by summons under this Rule for directions in relation to any matter arising in the course of its administration.

PART 9 — APPLICATION FOR WINDING UP BY THE COURT

Application of Part

66. This Part applies —

- (a) to applications by any person for a winding up order under section 459P, 462 or 464; and
- (b) with any necessary modification, in relation to body to which Part 5.7 of the Corporations Law applies as it applies in relation to a company.

Form of affidavit in support of statutory demand — section 459E

67. (1) An affidavit required by section 459E (3) of the Corporations Law must contain the following:

“

Important Note

This affidavit accompanies a statutory demand under section 459E of the Corporations Law. This affidavit has not been filed in the Supreme Court nor have any proceedings been commenced in respect of the debt to which the affidavit relates. Any inquiries as to the affidavit or the debt should be directed to the person making the demand or his solicitor and not to the Court.

”

(2) An affidavit referred to in paragraph (1) —

- (a) is not to contain the number of the proceedings in the Supreme Court; and
- (b) must not be filed with the Supreme Court unless winding up proceedings have been commenced in respect of the matter to which it relates.

(3) Unless the Supreme Court orders to the contrary, an affidavit referred to in paragraph (1) must be made by a person who can depose to the indebtedness of the company from his own knowledge.

Winding up applications

68. (1) On the filing of an application described in Rule 66 the Registrar shall endorse on the application and on any copy the date and time of filing.

(2) The Registrar on the filing of the application —

- (a) shall appoint a date, time and place for the hearing; and
- (b) shall insert in the application and any copy endorsed under paragraph (1) a statement of the date, time and place so appointed.

(3) The Court by order made at any time before the application has been gazetted and advertised, may alter the date, time or place appointed and appoint another time, date or place.

Form and contents of application (Form 15)

69. An application under this Part —

- (a) may be in or substantially in Form 15; and
- (b) shall state the nature of the relief sought and the grounds on which it is claimed.

Winding up of a company in insolvency under section 459P — section 459Q

70. (1) An affidavit required by section 459Q (c) of the Corporations Law must set out —

- (a) a statement of the debt alleged and details of how and when it was incurred; and
- (b) a statement that the debt is due and payable to the applicant.

(2) Unless the Supreme Court orders to the contrary, an affidavit referred to in paragraph (1) must be made by a person who can depose to the indebtedness of the company to his knowledge.

(3) The affidavit required by this Rule is in addition to the affidavit required under Rule 72.

Service of applications and affidavits (Form 16)

71. (1) Service in relation to a company which is in the course of being wound up shall, if the application is not made by the liquidator, be effected by service on the liquidator.

- (2) An affidavit of service may be in Form 16.

Verifying affidavit

72. Every application under this Part shall be verified by affidavit made —

- (a) not earlier than 7 days before the application is filed and shall be filed with the application;
- (b) by the applicant or by one of the applicants if more than one; and
- (c) where the applicant is a corporation, by a director, secretary or other person who —
 - (i) is able to depose of his own knowledge to most of the facts material to the ground relied on for the relief sought in the application and otherwise states the sources and grounds of any statements of information or belief; and
 - (ii) is authorized by the applicant to make the affidavit on its behalf.

Form and contents of verifying affidavit (Form 17)

73. An affidavit verifying an application under this Part —

- (a) may be in Form 17;
- (b) shall depose to and only to the facts material to the grounds relied on for the relief sought in the application and justifying the granting of that relief;
- (c) in respect of an applicant which is a corporation shall state the date and place of incorporation or, as the case may be, of formation and the enactment (if any) pursuant to which it was incorporated or formed;
- (d) in respect of a company incorporated in Western Australia shall, in addition to any other material facts, state —
 - (i) that the company was so incorporated; and
 - (ii) the date of incorporation and the Act, Code or Law under which it was incorporated;
- (e) in respect of a company which is registered or deemed to be registered under the Corporations Law of another State or the Capital Territory shall, in addition to any other material facts, state —
 - (i) the date and place of its incorporation;
 - (ii) the enactment pursuant to which it was incorporated; and

- (iii) the facts which warrant the Court's exercising jurisdiction under that Law with respect to the company;
- and
- (f) in respect of a Part 5.7 body shall, in addition to any other material facts, state —
 - (i) the date and place of incorporation or of formation, as the case may be, and the enactment (if any) pursuant to which it was incorporated or formed; and
 - (ii) whether or not it is registered under Division 1 or Part 2 of Part 4.1 of the Corporations Law.

Prima facie evidence

74. An affidavit complying with Rules 72 and 73 and of which a copy is served in accordance with Rule 71 is *prima facie* evidence of the facts relied on for the application in support of which it is filed.

Nomination of official liquidator

75. (1) Upon the filing of an application under this Part the Registrar shall nominate in writing the official liquidator who is entitled to be appointed as liquidator if an order for the winding up of a company is made.

(2) The Registrar may from time to time as circumstances require make further nominations.

(3) Not less than 12 days before the date of hearing of the application for the winding up order the applicant or his solicitor shall obtain and file the consent in writing of the official liquidator so nominated.

Gazettal and advertisement (Form 18)

76. (1) An application under this Part shall be gazetted and advertised in Form 18 not earlier than 3 days after the application was served on the company and not less than 14 days before the hearing.

(2) The advertisement shall state —

- (a) the day on which the application was filed;
- (b) the date, time and place appointed for the hearing;
- (c) the name and address of the applicant and of his solicitor and Perth agent, if any;

- (d) the name (and if he is a member or employee of a firm, the firm's name) and the business address of the liquidator whose appointment is sought; and
 - (e) statements to the effect of the notes at the foot of Form 18.
- (3) An advertisement of an application which does not comply with the requirements of paragraph (2) is irregular.

Notice of grounds of opposition — section 465C

77. (1) A notice of grounds of opposition to an application under this Part, verified by affidavit as required by section 465C shall be filed and served on the applicant or his solicitor at least 7 days before the time appointed for the hearing of the application.

(2) Any affidavit in reply to an affidavit filed in opposition to an application (including a further affidavit in support of any of the facts alleged in the application) shall be filed at least 3 days before the time appointed for the hearing of the application and a copy of the affidavit in reply shall be served forthwith on the person by whom the affidavit in opposition was filed or his solicitor.

Contributories, members and creditors entitled to material

78. Every contributory, member or creditor of the company is entitled to be furnished by the applicant or his solicitor with a copy of the application and of each affidavit in support within 48 hours after requesting it on payment of the rate prescribed in the Fifth Schedule.

Registrar's certificate of compliance (Form 19)

79. (1) After the application has been filed the applicant or his solicitor shall, not less than 12 days before the date of the hearing of the application, file an affidavit of due compliance in accordance with Form 19, deposing that all necessary formalities and requirements of the Rules have been complied with.

(2) The Registrar on being satisfied that —

- (a) the application has been duly gazetted and advertised;
- (b) the prescribed affidavit verifying the application and the affidavit of service, if any, have been duly filed, together with any affidavit required under section 459Q;
- (c) notice of the filing of the winding up application as lodged with the Commission in compliance with section 470 (1) (a);

- (d) the consent in writing of the official liquidator nominated by the Registrar has been obtained and filed; and
- (e) the provisions of the Rules as to applications have been duly complied with by the applicant,

shall issue his certificate and cause it to be forwarded to the applicant or his solicitor.

Registrar may issue requisitions

80. Where the Registrar is not satisfied that all the necessary formalities have been complied with he may —

- (a) issue such requisitions as he may think fit; or
- (b) require the applicant or the applicant's solicitor to attend on him at a time and place appointed.

Restriction on certain orders

81. No order other than an order for the dismissal or adjournment of the application shall be made on the application of any applicant who has not, prior to the hearing of the application, obtained a certificate referred to in Rule 79.

Directions

82. (1) Any party to an application under this Part may, upon a summons served on all other parties before the application has been gazetted and advertised under Rule 76 apply to the Court for directions in the matter.

(2) On the hearing of the summons the Court may give directions with respect to the following matters —

- (a) the gazettal and advertisement of the application or requiring the applicant to refrain from gazetting or advertising it and instead to notify members and creditors of the company that the application has been made, and of their right to support or oppose it;
- (b) service of the application on any person in addition to the company;
- (c) the filing of, or dispensing with the filing of, affidavits in support of or in opposition to the application, other than an affidavit required under Rule 70 or 72;
- (d) the delivery of pleadings or particulars by the applicant, the company or any party to the application;

- (e) the filing and exchange of affidavits and documents, the inspection of documents and the administration and answering of interrogatories;
 - (f) the hearing of the application, including the variation of any date previously appointed for the hearing; and
 - (g) any other steps which may under the Rules be necessary or desirable for the purpose of bringing the application to trial and having it determined.
- (2) The directions may be varied by subsequent order.

Substitution of applicant — section 465B (Form 20)

83. An order under section 465B may —

- (a) include an order in or substantially in Form 20 substituting the person who applied for the orders for the person who was formerly the applicant in the proceedings; and
- (b) if the Court sees fit, include an order requiring further advertisement and a fresh Registrar's certificate under Rule 79.

Steps to be taken following making of a winding up order (Forms 21 and 22)

84. (1) When a winding up order (Form 21) is made the applicant shall forthwith inform the liquidator of that fact and within 14 days after the making of the order —

- (a) gazette and advertise a notice in Form 22 of the making of the order; and
- (b) serve on the liquidator a copy of the notice.

(2) The office copy of the winding up order required by section 470 (2) to be served on the company may be served on the secretary or principal executive officer of the company either personally or by pre-paid letter addressed to the secretary or that officer at the registered office of the company.

(3) Every winding up order shall, unless the Court otherwise orders, contain at its foot a notice stating that it is the duty of such of the persons who are liable to make out or concur in making out the report as to the affairs of the company as the liquidator requires to assist the liquidator within the time required and give him all the information he may request.

PART 10 — PROVISIONAL LIQUIDATORS

Appointment of provisional liquidator — section 472 (Form 23)

85. (1) At any time after the filing of an application for a winding up order the Court may, on application of any creditor or contributory or of the company or of the Commission, and on proof of sufficient ground for the appointment of a provisional liquidator, appoint a provisional liquidator provisionally on appropriate terms, which may include an undertaking as to damages.

(2) The summons for appointment of a provisional liquidator shall be served on the company before it is heard, unless the application is made by the company or it appears that there are circumstances of urgency or otherwise making it impracticable to serve the company before the application is served.

(3) An order appointing a provisional liquidator shall be in Form 23 and briefly describe the property of which he is ordered to take possession and state the duties to be performed by him.

Notice of appointment of provisional liquidator (Form 24)

86. On the making of an order appointing a provisional liquidator, the applicant shall forthwith inform the company and the person appointed of that fact and lodge with the Commission a notice in Form 24 and cause the notice to be gazetted and advertised.

Expense of compliance

87. The expense of complying with Rule 86 shall, unless the Court otherwise orders, be a charge on the assets of the company.

Lodgement and service of order of appointment

88. The applicant for an order for appointment of a provisional liquidator shall, as soon as practicable after the order is entered, lodge an office copy with the Commission and serve a copy on the company and the person appointed and any other person on whom the Court directs service to be effected.

Powers of provisional liquidator

89. For the purpose of enabling the provisional liquidator to take out letters of administration or recover monies as mentioned in section 477 (2) (h), the money due shall be deemed to be due to the provisional liquidator himself.

Remuneration of provisional liquidator

90. Subject to any order of the Court the provisional liquidator shall, on accounting to any liquidator, 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 authorized by the order appointing him, or any subsequent order, and may retain out of that property the amount of his costs, charges, expenses and remuneration.

PART 11 — LIQUIDATORS

Status of liquidator

91. (1) All official liquidators registered as such by the Commission under the Corporations Law are officers of the Court.

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

Liquidator to file certified copy of resolutions

92. A liquidator appointed by the Court shall, if so required by the Court, after the passing of any resolution of a meeting of creditors, contributories, or both or of the committee of inspection, file a copy certified by him as a true copy of the resolution.

Liquidator need not attend proceedings in certain cases

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

Report as to company's affairs

94. (1) In this Rule "liquidator" includes a provisional liquidator.

(2) Every person who by or under section 475 is required to submit and verify a report as to the affairs of the company shall be furnished by the liquidator with forms and instructions for the preparation of the report.

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

(4) The copy report required to be filed with the Court under section 475 (7) (a), shall be a copy certified in writing by the liquidator to be a true copy of the original report.

Delivery of property to liquidator (Form 25)

95. (1) The powers conferred on the Court by section 483 (1) shall be exercised by the liquidator.

(2) A requirement by the liquidator under section 483 (1) may be in Form 25.

(3) Any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent or officer of a company which is being wound up shall, on notice from the liquidator and within such time as he by notice in writing requires, pay, deliver, convey, surrender or transfer to or into the hands of the liquidator any money or property or books or papers which are in his hands and to which the company is *prima facie* entitled and the Court may on application of the liquidator order payment, delivery, conveyance, surrender or transfer.

Application for order for payment of call — section 483 (Forms 26 and 27)

96. (1) Where a liquidator applies for an order under section 483 (3) (b) for payment of a call, the evidence brought in support of the application must include an affidavit in Form 26.

(2) An order for payment of a call under section 483 (3) (b) may be in Form 27.

Complaint about liquidator

97. (1) In this Rule “liquidator” includes a provisional liquidator.

(2) A complaint to the Court under or by virtue of section 536 (1) shall be outlined in the application claiming an inquiry under the subsection in respect of the matter complained of.

Disclaimer of contract — section 568

98. (1) An application by a liquidator under section 568 (1A) for leave to disclaim a contract (other than an unprofitable contract or a lease of land) may be made by summons in the proceedings for the winding up order.

(2) A liquidator who has been required to apply to the Court for leave to disclaim a contract under section 568 (1A) must file an affidavit stating —

- (a) the parties to the contract and any persons who are, to the liquidators knowledge, interested in the contract; and
- (b) the reasons why it is said to be just to grant leave to disclaim.

(3) An affidavit filed under paragraph (2) must be served on the parties to the contract and any person interested in the contract.

Notice of liquidator's intention to apply for release (Forms 28, 29 and 30)

99. (1) Except where the Court otherwise orders, a liquidator, before making application for his release, shall give notice in Form 28 of his intention to do so to all creditors who have proved their debts and to all the contributories, and shall send with the notice a copy of the application in Form 29 and a statement in Form 30 showing the position of the company at the date of filing the summons.

(2) The notice shall bear a note "Section 481 (3) of the Corporations Law provides" and then state the substance of that provision.

Distribution of surplus — section 488 (2) — (Form 31)

100. (1) This Rule applies to an application for leave to distribute a surplus under section 488 (2).

(2) An application under this Rule must be supported by an affidavit specifying the manner in which the liquidator proposes that the surplus be distributed, including the names and addresses of each person to whom any part of the surplus would be distributed.

(3) Notice of the application must be given by advertisement in Form 31 not later than 14 days before the date set for hearing of the application.

PART 12 — SPECIAL MANAGERS

Mode of application for appointment of special managers — section 484

101. An application by the liquidator for the appointment of a special manager —

- (a) in relation to a company that the Court has ordered to be wound up shall be supported by a report of the liquidator which shall be placed on the file of proceedings in which the winding up order was made; and
- (b) in relation to any other company shall be made by application.

Material in support of application

102. The material supporting the application shall state the powers which in the liquidator's opinion should be entrusted to the special manager and either —

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

Remuneration of special manager

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

Special manager to account (Form 32)

104. (1) Every special manager shall account to the liquidator.

(2) The special manager's account shall be verified by statutory declaration in Form 32 and, when approved by the liquidator, the totals of the receipts and payments shall be added by the liquidator to his accounts.

Security by special manager (Form 33)

105. The following provisions as to security apply to a special manager:

- (a) Security shall be given to the satisfaction of a Master or as the Court from time to time directs.

- (b) Security in each separate winding up need not be given, but security may be given either specially in a particular winding up or generally to be available in any winding up in which the person giving security is appointed special manager.
- (c) A Master shall fix the amount and nature of the security and may from time to time increase or reduce the amount of special or general security which has been given and the special manager shall accordingly give additional security within the time the Master prescribes or may reduce the amount of security, as the case may be.
- (d) An order of a Master in Form 33 declaring that a special manager has given security to his satisfaction shall be lodged by the special manager with the Commission.
- (e) The cost of furnishing the required security by a special manager, including premiums paid by him, 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 security

106. (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 the failure to a Master, who may thereupon rescind the order appointing the special manager and make an order as to costs.

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

(3) A Master may, on application made without notice to any person, on being satisfied that the condition of any bond given as security by a special manager has been broken, order the bond to be assigned to some person named in the order and that person his executors or administrators shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him and shall be entitled to recover thereon as trustee for all persons interested in the full amount recoverable in respect of any breach of the condition.

Default of special manager

107. (1) Where the special manager is required by these Rules or any order or direction of the Court to do anything and does not carry out the requirement, the liquidator shall apply to the Court for directions in relation to the default and the Court may make and give appropriate orders and directions.

(2) Without limiting paragraph (1), where a special manager is required by any order or direction of the Court to pay into Court any sum shown by his account as due from him, and does not comply with the requirement, the Court may charge him with interest at an appropriate rate on that sum while it remains in his possession as special manager.

(3) This Part does not limit the powers of the Court as to enforcement of orders or as to punishment for contempt.

PART 13 — EXAMINATIONS**Issue of summons for examination — sections 596A and 596B (Form 34)**

108. (1) An application for the issue of a summons under section 596A or 596B must be accompanied by —

- (a) a draft of the summons in Form 34; and
- (b) an affidavit in support of the issue of the summons.

(2) An affidavit in support of the issue of a summons must set out the material facts on which the applicant relies to establish that —

- (a) the applicant is an eligible applicant for the purposes of section 596A (a); and
- (b) in the case of an application —
 - (i) under section 596A, the person to whom the summons is to be issued is or was an examinable officer of the corporation for the purposes of section 596A (b); and
 - (ii) under section 596B, the person to whom the summons is to be issued —
 - (I) has taken part or been concerned in examinable affairs of the corporation and has been, or may have been, guilty of misconduct in relation to the corporation; or
 - (II) may be able to give information about the examinable affairs of the corporation.

(3) An application for the issue of a summons under section 596A or 596B and affidavit in support of that application may, at the option of the applicant, be filed in a sealed envelope marked "Application for issue of summons for examination under section 596A of the Corporations Law" or "Application for issue of summons for examination under section 596B of the Corporations Law", as the case may be.

(4) The Court may issue a summons for examination under section 596A or 596B which may be in or substantially in Form 34.

(5) At least 8 days before the date set for the examination, a summons issued under this Part must be —

- (a) personally served on the person who is to be examined; or
- (b) served in such other manner as the Court may direct.

(6) A person served with a summons issued under this Part may apply to discharge that summons by filing, within 3 days of service of the summons —

- (a) a chamber summons in the proceedings in which the summons was issued seeking an order that the order be discharged; and
- (b) an affidavit setting out the material facts and matters relied on by the person seeking to discharge the summons for examination.

(7) A summons and affidavit filed under paragraph (6) must forthwith be served on —

- (a) the person who applied for the examination; or
- (b) if a person authorized by the Commission applied for examination, the Commission.

Conduct of examination under Part 5.9 Division 1

109. (1) An application under section 597 (4) for a direction that an examination be held in private may be made at the commencement or in the course of the examination.

(2) If under section 597 (13) the Court orders that a written record be kept of the questions put to a person and of his answers at an examination —

- (a) the applicant must file that written record in the Court; and
- (b) if the Court has so required under section 597 (13), that written record must be signed by the person who was examined, at such time as the Court directs.

(3) A person who is examined under section 597 may apply in writing to the Registrar to be provided with a copy of the written record of the examination, and must be given such a copy on payment of the prescribed fee.

(4) For the purposes of section 597 (14), a transcript of an examination may be authenticated by a certificate signed by —

- (a) the person who made the transcript; or
- (b) a responsible officer of the organization which is authorized to provide transcription services at the examination,

certifying the transcript to be a correct record of the examination.

PART 14 — COSTS

Submission of bill of costs by employees of liquidator for taxation

110. A liquidator may request any solicitor, manager, auctioneer, broker or other person employed by him in a winding up by the Court to deliver to him a bill of costs, charges or expenses for the purposes of taxation.

Request for bill for taxation (Form 35)

111. (1) A request under Part 14 may be in Form 35 and shall be made a sufficient time before the declaration of a dividend in the winding up.

(2) If the request is not met within the time stated in the request, or within any extended time allowed by a Master, the liquidator may declare and distribute the dividend without regard to the claim of the person to whom the request was made and unless the Court otherwise orders, the claim shall be forfeited.

Lodgement of bill for taxation and appointment to tax

112. (1) The liquidator shall lodge with the taxing officer for taxation a bill delivered pursuant to a request made under Rule 110.

(2) Every bill of costs which is lodged for taxation shall have endorsed on it a notice of appointment.

(3) Two clear days notice of taxing the bill of costs shall be given by the liquidator by whom, and the person to whom, the bill is to be paid.

Liquidator's certificate as to special terms of remuneration

113. Where the bill lodged for taxation under Rule 112 (1) is to be paid out of the assets of the company, a certificate in writing signed by the liquidator shall be produced to the taxing officer on the taxation setting forth any special terms of remuneration that have been agreed.

Issue of allowance or certificate of taxation

114. On the completion of the taxation, the taxing officer shall issue to the liquidator and to the person whose bill has been taxed his allowance or certificate of taxation.

No allowance for performance by others of liquidator's or 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 which are required by law to be performed by the liquidator or special manager as the case may be.

(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 proceeding concluded

116. Where any party to or person affected by any proceeding desires to apply for an order that he be allowed his costs or any part of them incident to the proceeding 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
- (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 hearing of the proceeding.

PART 15 — REPEAL AND SAVING PROVISIONS**Repeal**

117. The *Supreme Court (Corporations Law) (Transitional) Rules 1991* are repealed.

Savings

118. Notwithstanding Rule 117 the *Supreme Court (Corporations Law) (Transitional) Rules 1991* shall continue to apply to all proceedings under the Corporations Law or the Code commenced before the coming into operation of this Order.

Seventh Schedule added

6. After the Sixth Schedule to the principal rules the following Schedule is added —

SEVENTH SCHEDULE**PART 1 — FORMS****Form 1**

O.81G, R.8 (1)

TITLE OF PROCEEDING

IN THE SUPREME COURT OF

WESTERN AUSTRALIA AT PERTH

No.

IN THE MATTER OF section the Corporations Law of
Western Australia (or as the case may be)

IN THE MATTER OF (state full name of corporation)

ACN No _____

BETWEEN

AB

Applicant

and

CD

Respondent

(NOTE: The words "(in liquidation)", "(receiver appointed)", "(receiver and manager appointed)" or "(controller acting)", "(administrator appointed)" or "(subject to deed of company arrangement)" must be added to the name of a corporation where applicable.)

45

Form 2

O.81G, R.8 (2)

APPLICATION

(Title)

On the grounds appearing in the accompanying affidavit the applicant claims (where appropriate)

1.

2.

etc.

Dated the day of 19 .

(signed, applicant or his solicitor)

To the Respondent CD of (address)

This application will be heard by the Court at the time and place specified below. If you do not attend either personally or by your counsel or solicitor, the application may be dealt with and judgment may be given or an order made in your absence. Before any attendance you must file a Notice of Address for Service at the Central Office of the Supreme Court, Perth and serve a copy of it on the Applicant.

Time: (Date and time to be entered by Registrar)

Place: Supreme Court, Perth

Dated the day of 19 .

The applicant's address for service is:

(specify address for service)

46

Form 3

O.81G, R.14 (1)

NOTICE OF ADDRESS FOR SERVICE

(Title)

Enter an appearance for (name) in this matter.

He (or as the case may be) intends to appear on the hearing (add where he intends to support the application), and support the application (or, where he intends to oppose it) and oppose the application. He is a creditor for \$ of the company (or a contributory holding (number and class of shares held) in the company.

Dated the day of 19 .

(signed) XY of
solicitor or agent for
of

The place of business of XY is*

His address for service is

(or) CD appearing in person.

The address of CD is *

His address for service is

* If this address is beyond 66 kilometres from the Supreme Court Perth then an address for service within 66 kilometres thereof must be given.

47

Form 4

O.81G, R.17 (1)

NOTICE OF INTENTION TO ATTEND

(Title)

Take notice that (full name and address) (a creditor for \$, or a contributory) of (full name of company) intends to attend on the hearing of this application advertised to be heard on the day of 19 and to (object to) or (support) such application.

Dated the day of 19 .

(signed)*

* To be signed by the person or his solicitor

48

Form 5

O.81G, R.18 (1)

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

The following are the names of those who have given notice of
intention to attend the hearing of the application herein on 19 .

<u>Name and Address of Solicitor and Perth Agent</u>	<u>Amount of Creditor's Debt</u>	<u>Number of Shares of Contributory</u>	<u>Opposing</u>	<u>Supporting</u>
<u>Name</u> <u>Address</u>				

Dated 19 .

(Signed)

Solicitor for the Applicant

49

Form 6

O.81G, R.25 (3)

(No heading or title)**NOTICE OF APPLICATION**(Insert name of corporation in capital letters)

Application will be made by (name of applicant) to the Supreme Court of Western Australia at a.m. on 19 for an order that (state concisely the principal relief sought in the application). Any person intending to attend at the hearing must serve a notice in prescribed form so as to reach the address below not later than (specify date in accordance with Rule 17).

(Name of solicitor for applicant
or, if none, name of applicant)

(Address for service)

50

Form 7

O.81G, R.39

**ORDER ON SUMMONS FOR DIRECTIONS IN RELATION
TO APPLICATION TO CONFIRM A RESOLUTION FOR
REDUCTION OF CAPITAL**

(Title)

THE COURT ORDERS THAT —

- (1) Section 195 (3) shall not apply to (here set out class of creditors to whom section 195 (3) is not to apply)
- (2) An inquiry be made to determine what are the debts, claims and liabilities of or affecting the said company on
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 section 195 (3) by the earlier part of the order).

- (3) (Set out other orders or directions made or given)

OR (where there is no diminution of liability or repayment of capital).

- (1) The settlement of a list of creditors of the said company be dispensed with.
- (2) The application be heard before a Master at the Supreme Court, Perth, at the hour of o'clock on the day of
19 .
- (3) Notice of the hearing of the application in the form contained in the Schedule to this Order be advertised once in the West Australian newspaper not less than 14 days before the date fixed for the hearing.

51

SCHEDULE

(TITLE)

NOTICE IS HEREBY GIVEN that an application has been made to the Supreme Court to confirm the reduction of the capital of the abovenamed company from \$ to \$ by returning to shareholders capital amounting to \$ which is in excess of the needs of the company and by cancelling unissued shares of \$ each [or by cancelling paid-up capital to the extend of \$ which has been lost or is not represented by available assets, *or as the case may be*]. The application is directed to be heard before a master at the Supreme Court Perth on day the day of 19 at o'clock in the noon or so soon thereafter as counsel may be heard. Any creditor or shareholder of the company may, on giving one days' notice in writing to the solicitors for the company of his intention to do so, appear at the hearing and oppose the application.

Dated the day of 19 .

& Co. of
Solicitors for the company

52

Form 8

O.81G, R.42 (1)

AFFIDAVIT VERIFYING LIST OF CREDITORS

I, AB, of _____ make oath and say as follows —

- (1) I am the (Secretary, or as the case may be, of the applicant.
- (2) The paper writing now produced and shown to me, and marked ^(a) _____, contains a list of the creditors of and persons having claims upon ^(b) _____ (or a list of the creditors of and persons having claims upon ^(b) _____, 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 that list is, to the best of my knowledge, information, and belief, a true and accurate list of such creditors, and persons having claims on that day, 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, on that date, any such debt or claim which would, if such date were the commencement of the winding up of the company, be admissible in proof against the company other than and except the debts and claims set forth in the list produced.

I am enabled to make this statement from facts within my knowledge as the ^(c) _____ of the company, and from information derived upon investigation of the affairs and the books, documents and papers of the company.

Sworn, etc.

This list of creditors marked ^(a) _____ was produced and shown to AB, 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

(a) State nature of marking.

(b) Insert full name of company.

(c) State capacity in which the knowledge was given.

53

Form 9

O.81G, R.44 (1)

ADVERTISEMENT OF APPLICATION AND LIST OF CREDITORS

Notice is hereby given that an application has been made to the Supreme Court of Western Australia for confirmation of a resolution of^(a) to reduce 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 that 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 that list and claims to be so entered, must, on or before the day of 19 , 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 he will be precluded from objecting to the proposed reduction of capital.

Every creditor who does not consent 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 .

AB

Solicitor for the Company

^(a) Insert full name of company

54

Form 10

O.81G, R.44 (3)

NOTICE TO CREDITORS

(Title)

To Mr.

You are requested to take notice that an application has been made to the Supreme Court, to confirm a special resolution of the ^(a) , 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 that 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 entry referred to in this notice in the list of creditors will in all the proceedings under the application to reduce the capital of the company be treated as correct.

Dated the day of 19 .

AB

Solicitor for the Company

^(a) Insert full name of Company

55

Form 11

O.81G, R.46 (1)

AFFIDAVIT AS TO CLAIMS

(Title)

We, CD, of etc., (the secretary of the company), EF, of etc. (the solicitor for the company), and AB, of etc. (the managing director of the company), do severally make oath and say as follows —

I, CD, 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" ^(a) upon each of the respective persons whose names, addresses and descriptions appear in the first column of the list of creditors marked "A" ^(a) referred to in the affidavit of filed on the day of 19 .
- (2) I served the copies, of the notice by putting the copies, duly addressed to the persons according to their respective names and addresses appearing in the said list (being the last known addresses or places of abode of those persons), and with the proper postage stamps affixed thereto as prepaid letters, into the post office at , between the hours of and of the clock, in the noon of the day of .

And I, EF, for myself say as follows —

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

And we CD and AB, for ourselves say as follows —

- (6) We have, in the first part of the paper writing marked "D" ^(a), (now produced and shown to us), and also in the first part of the paper writing marked "E" ^(a), (also produced and shown to us), respectively set forth such of the debts and claims as are admitted by the 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 inquiry in this matter.
- (7) We have, in the second part of each of the paper writings, marked "D" ^(a) and "E" ^(a), set forth such of the debts and claims as are wholly disputed by the 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 inquiry in this matter.

And I, CD 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 company.

Sworn, etc.

Exhibit "D" ^(a)

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 Company for Larger Amounts than are Stated in this List of Creditors Made Out by the Company.

This paper writing, marked "D" ^(a), was produced and shown to CD, EF and AB, respectively, and is the same as is the same as is referred to in their affidavit sworn before me this day of 19 .

XY

Commissioner

57

First Part

Debts and Claims Wholly or Partly Admitted by the Company

Names and Addresses and Descriptions of Creditors	Particulars of Debt of 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 inquiry

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 inquiry

Exhibit "E" (a)

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 creditors Made Out by the Company.

This paper writing marked "E" (a) _____, was produced and shown to CD, EF and AB, respectively and is the same as is the same as is referred to in their affidavit sworn before me this _____ day of _____, 19 _____.

XY

Commissioner

58

First Part

(Same as in Exhibit "D")

Second Part

(Same as in Exhibit "D")

NOTE: — The names are to be inserted alphabetically.

^(a) Insert name of respective markings.

59

Form 12

O.81G, R.47 (3)

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 ^(a) , 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 the hearing and adjudicating upon the claim, and produce any securities or documents relating to your claim.

In default of your complying with these 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 the day of , 19 .

AB

Solicitor for the Company

^(a) Insert full name of company.

60

Form 13

O.81G, R.53 (2)

ADVERTISEMENT OF HEARING OF APPLICATION*(Title)*

Notice is hereby given that an application made to the Supreme Court of Western Australia on the day of , to confirm a resolution reducing the capital of ^(a) from \$ to \$ by ^(b) is directed to be heard before a Master at the hour of , on the day of , 19 .

Any creditor appearing to be such on the Master's certificate filed in 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 notice to the solicitor of the company of his intention so to do, on or before the day of 19 , appear at the hearing of the application 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.

AB

Solicitor for the Company

Dated the day of , 19 .

^(a) Insert full name of company.^(b) Insert how reduction to be effected.

61

Form 14

O.81G, R.56

ORDER CONFIRMING REDUCTION OF CAPITAL

UPON THE APPLICATION of _____ by application made
on the _____ day of _____ 19 ____ AND UPON HEARING Counsel
for the company AND UPON READING the application and the
order for directions dated the _____ day of _____ 19 ____ THE COURT
ORDERS THAT —

- (1) The reduction of the capital of the company resolved on and effected by the special resolution passed at a general meeting of the company held on the _____ day of _____ 19 ____ and set out in the first schedule hereto be and is hereby confirmed.
- (2) The minute set forth in the second schedule hereto is approved.
- (3) An office copy of this order be lodged with the Australian Securities Commission within _____ days of the date hereof.
- (4) Notice of this order be published in the Commonwealth Gazette and in "The West Australian" newspaper within _____ days after an office copy hereof is lodged with the Australian Securities Commission.

62

Form 15

O.81G, R.69 (a)

APPLICATION FOR WINDING-UP ORDER*(Title)*

Take notice that application will be made to the Supreme Court of Western Australia on 19 at 10.30 am (the date and time are to be inserted by the Registrar on filing) before a Master in chambers by counsel on behalf of (state name of applicant and, if a corporation, its ACN) a creditor of the abovenamed company (or as the case may be) for orders —

(1) That the abovenamed company be wound up by the Court (in insolvency) or (on the ground that specify the ground or grounds).

(2) (Specify any other orders).

(INSERT THE FOLLOWING ONLY IF THE WINDING UP APPLICATION RELIES ON A FAILURE TO COMPLY WITH A STATUTORY DEMAND)

Pursuant to section 459Q of the Corporations Law, the Applicant states as follows —

(3) *(If service was on directors of the company)* On (date) the Applicant (OR the Applicant's solicitors) ascertained from records maintained by the Australian Securities Commission that (name of director) of (address of director) and (name of second director) of (address of second director) were directors of (name of company ("the Company")). A statutory demand In the form annexed and marked "A" was served on each of (name of first director) on (date) and on (name of second director) on (date).

OR

(3) *(If notice was served at the registered office of the company and an officer or employee received the notice).* On (date)

the Applicant (OR the Applicant's solicitors) ascertained from records maintained by the Australian Securities Commission that the registered office of (name of company) ("the Company") was then situated at (address of registered office). On (date) a statutory demand in the form annexed and marked "A" was left at the registered office of the company with (name of person, if known),

OR

(If notice was served at the registered office of the company and no officer or employee received the notice)

- (3) On (date) the Applicant (OR the Applicant's solicitors) ascertained from records maintained by the Australian Securities Commission that the registered office of (name of company) ("the Company") was situated at (address of registered office). On (date) a statutory demand in the form annexed and marked "A" was left at the registered office of the Company at which it appeared the Company was still carrying on business because (specify reason) (OR with which it appeared the Company had the following connection, namely that (specify connection)).

(if notice was served by post)

- (3) On (date) the Applicant (OR the Applicant's solicitors) ascertained from records maintained by the Australian Securities Commission that the registered office of (name of company) ("the Company") was situated at (address of registered office). On (date) a statutory demand in the form annexed and marked "A" was posted by pre-paid mail addressed to the Company at its registered office. That notice has not been returned to the Applicant or its solicitors by Australia Post as unclaimed.

- (4) *(If the demand has been varied by an Order under subsection 459H (4) of the Corporations Law.)* Annexed and marked "B" is a copy of an Order made by the Supreme Court on (date) which varied the statutory demand which is annexure "A" under subsection 459H (4) of the Corporations Law.
- (5) the Company did not comply with the requirements of the statutory demand which is Annexure "A" (OR the statutory demand which is Annexure "A", as varied by the order which is Annexure "B") within the period for compliance, being the period of 21 days after the demand was served (OR the period specified in an order made by the Court on (date) extending the period for compliance (OR the period ending 7 days after an application to set aside the statutory demand was finally determined or otherwise disposed of).

OR

(INSERT THE FOLLOWING ONLY IF THE WINDING UP APPLICATION RELIES ON INSOLVENCY AND DOES NOT RELY ON A FAILURE TO COMPLY WITH A STATUTORY DEMAND)

- (3) The grounds on which the Applicant relies to allege that the company is insolvent are *(specify grounds)*.

The applicant will rely in support of this application on the affidavit of [state name of deponent] sworn on 19 and filed with this application and (where applicable) on the affidavit of etc.

It is intended to serve a copy of this application and a copy of the said affidavit(s) on

Dated 19 .

(signature of applicant or of applicant's solicitor)

This application was filed by [state name of applicant or his solicitor] whose address for service is [state address].

The Corporations Rules 1993 provide that —

- (a) Before a person served with this notice takes any step in this proceeding or may be heard by the Court that person must file and serve a notice of address for service in Form 3 not less than 2 days before the hearing; and
- (b) any affidavit in opposition to this application shall be filed and a copy served on the applicant or his solicitor at least 7 days before the hearing.

To: [state name and address of the company and of any other respondent].

66

Form 16

O.81G, R.71 (2)

**AFFIDAVIT OF SERVICE OF APPLICATION FOR
WINDING-UP***(Title)*

In the matter of an application for winding up order filed on
[state date of filing] I,

of

make oath and say —

- (1) On 19 I left at [or sent by prepaid post to
the above company at] a copy of the application
duly sealed with the seal of the Court and a copy of an
affidavit of [state name of deponent] sworn on 19
. Now produced and shown to me and marked “A” and “B”
are true copies of the documents served.

OR

- (1) [In the case of service on a director]
On 19, I served on [XY], a copy of the
application duly sealed with the seal of the Court and a
copy of an affidavit of [state name of deponent] sworn on
19 by delivering them to him personally at
a.m. [p.m.] at . Now produced and shown to
me and marked “A” and “B” are true copies of the
documents served.
- (2) At the time of service I asked the person served, “are you
[XY], a director of [insert name of company], to which he
replied “Yes” [or, as the case may be, showing how the
identity and office of the person served were ascertained].

67

Form 17

O.81G, R.73 (a)

**AFFIDAVIT VERIFYING APPLICATION FOR WINDING-UP
ORDER***(Title)*

I, _____ of _____ make
oath and say —

- (1) I am the abovenamed applicant [or if the applicant is a corporation] I am a director [or as the case may be] of the abovenamed applicant which is incorporated under the law of _____. I am duly authorized to make this affidavit on its behalf].
- (2) [State name of the company in respect of which the order is sought] was incorporated in Western Australia [or as the case may be] on _____ 19 _____ under [state enactment under which incorporated]. No order has been made that the said company be wound up.
- (3) [Where the company is registered or deemed to be registered under the Corporations Law of another State or a Territory, state the company's principal place of business and any other facts which warrant the Court's exercising jurisdiction].
- (4) The registered office of the company is at [state the full address of the registered office] and the grounds for so stating].
- (5) I depose to the above facts to be the best of my knowledge, information and belief [state source and grounds or, if the deponent has other knowledge, specify it].
- (6) The following facts are within my own personal knowledge save as otherwise stated.
[Set out the facts material to the grounds relied on for the relief sought and justifying the granting of the relief].

Sworn, etc.

68

Form 18

O.81G, R.76 (1)

ADVERTISEMENT OF APPLICATION FOR WINDING-UP

IN THE SUPREME COURT OF WESTERN AUSTRALIA AT
PERTH

No. _____

In the matter of [name of company] ACN _____

Notice is hereby given that an application for the winding up (state whether or not in insolvency) of the abovenamed company by the Supreme Court of Western Australia was on 19 _____ filed by [name of applicant and, if a company, state its ACN]. The application is to be heard before a Master in chambers at the Supreme Court at Perth at a.m. [or p.m.] on 19 _____.

The liquidator whose appointment is sought is [state name of nominated liquidator] of the firm of [state the name of the firm, if any, of which the nominated liquidator is a member or employee] of [state business address of nominated liquidator].

Any creditor or contributory of the company desiring to support or oppose the making of an order on the application may appear at the time of hearing by himself or his counsel for that purpose.

The applicant's address is _____ [or if a solicitor is acting, The applicant's solicitor is _____ of _____].
[whose Perth agent is _____].

NOTE: (1) Any person who intends to appear on the hearing of the application must serve on or send by post to the abovenamed [solicitor or applicant as the case may be] notice in writing of that intention. 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 their solicitor (if any), and must be served or, if posted, must be sent by post in sufficient time to be received not later than 4 p.m. on 19 [the day before the hearing date of the application or, if the day appointed is a Monday or a Tuesday following a public holiday, the Friday preceding the day appointed].

- (2) A person may not, without leave of the Court, oppose the application unless, at least 7 days before the hearing date, the person has filed and served on the applicant —
- (a) notice of the grounds of opposition; and
 - (b) an affidavit verifying the matters stated in the notice.

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Form 19

O.81G, R.79 (1)

AFFIDAVIT OF COMPLIANCE

(Title)

I of make oath and say that —

- (1) The application is in order and in accordance with Form 14 (or Form 2 as appropriate) and sets out correctly —
 - (a) the nature of the relief sought; and
 - (b) the grounds on which it is claimed.
- (2) The application is supported by a verifying affidavit made by (name of deponent) pursuant to Rule 72 and (where section 459Q applies) by an affidavit made by (name of deponent) pursuant to Rule 70.
- (3) The verifying affidavit sets out correctly —
 - (a) the facts material to the grounds relied on;
 - (b) the date and place of incorporation of the applicant;
 - (c) the date and place of incorporation of the company to be wound up and the law under which it was incorporated (and if incorporated outside Western Australia the facts warranting the exercise of jurisdiction).
- (4) The application and all supporting affidavits have been duly served (state precisely the facts relied upon to establish service).
- (5) Notice of the filing of the winding up application was lodged with the Commission on the day of 19 at a.m. in compliance with section 470 (1) (a).

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- (6) The application has been duly advertised and gazetted pursuant to Rule 14, Rule 76 and in accordance with Form 17, and both the advertisement and the gazettal are correct as to —
- (a) the name of the company;
 - (b) the number of the company;
 - (c) the return date and the place of hearing;
and
 - (d) the contents in the footnote,
- and exhibited hereto and marked “ — ” is a memorandum of advertisement and gazettal pursuant to Rule 16.
- (7) (a) An application for nomination of a liquidator has been filed on the day of 19 .
- (b) has been nominated by the Registrar as the liquidator.
- (c) the consent of the liquidator has been obtained, and exhibited hereto and marked “ — ” are the nomination of the liquidator by the Registrar and the consent of the liquidator.
- (8) I have on the day of 19 filed a Rule 79 certificate for the signature of the Registrar and request that the certificate be issued.
- (9) I have on the day of 19 filed a minute of proposed orders for the winding up of the company.
- (10) All necessary formalities and requirements of the rules have been complied with.

Sworn at, etc.

Form 20

0.81G, R.83 (a)

ORDER SUBSTITUTING APPLICANT

THE COURT ORDERS THAT —

- (1) is substituted as applicant.
- (2) The substituted applicant forthwith amend the application accordingly.
- (3) The substituted applicant by 4.00 p.m. on 19 serve on the company by delivering or posting to it at and on personally a copy of this order and of the amended application and of any affidavit on which he proposes to rely in support of the application.
- (4) The substituted applicant comply with the requirement of the *Corporations Rules 1993* (insofar as they have not been complied with) as if he were the original applicant.
- (5) Further advertisement and/or fresh Registrar's certificate be dispensed with (if applicable).
- (6) The hearing of the application is adjourned to 19 at 10.30 a.m. before the Master.
- (7) The substituted applicant's costs of proceedings on the application shall include the costs of this application.

73

Form 21

O.81G, R.84 (1)

WINDING UP ORDER**THE COURT ORDERS THAT —**

- (1) be wound up by the Court under the provisions of the Corporations Law of Western Australia.
- (2) of (address) is appointed liquidator for the purposes of the winding up.
- (3) The Bank in which the liquidator is to open a trust account is the
- (4) The costs of the application be taxed and paid out of the assets of the company.

NOTE: It is the duty of such of the persons who are liable to make out or concur in making out the report as to the affairs of the company as the liquidator requires to assist the liquidator within the time required and give him all information he may request.

74

Form 22

O.81G, R.84 (1) (a)

NOTICE OF WINDING UP ORDER

IN THE SUPREME COURT OF WESTERN AUSTRALIA AT
PERTH

No. _____

In the matter of _____ Ltd. (ACN No. _____)

On (date) the Supreme Court of Western Australia in proceedings
No. _____ of _____ ordered the winding up of (name of company)
and appointed (name of liquidator) of (address) as the liquidator
of that company.

Name and Address of Liquidator.

Applicant or his Solicitor

75

Form 23

O.81G, R.85 (3)

ORDER APPOINTING PROVISIONAL LIQUIDATOR

(Title)

IT IS ORDERED THAT —

- (1) A-B-C of _____ be appointed the provisional liquidator of _____ (the company) until the making of a winding-up order herein or until further order.
- (2) The duties to be performed by the liquidator are as follows —
- (a) To take possession of, collect and protect the assets of the company;
 - (b) To receive and collect the debts due to the company;
 - (c) To discharge rents, wages, salaries and other current expenses, but so far only as may be necessary for the purpose of preserving the company or for the purposes of sub-paragraph (d) hereof;
 - (d) To carry on the business of the company and of its subsidiaries until further order but only so far as is necessary for the rearrangement, beneficial disposal or winding up of that business;
 - (e) To generally exercise such of the powers conferred on the provisional liquidator by Section 477 (2) (a) — (k) as may be necessary for the foregoing purposes.
- (Delete or vary any of the above as may be necessary).

- (3) The nature and description of the property of the company of which the provisional liquidator is to take possession is as follows — (all the assets and property of the company).
- (4) The costs of the application be (costs in the winding up).
- (5) The provisional liquidator have liberty to apply."

77

Form 24

O.81G, R.86

**NOTICE OF APPOINTMENT OF PROVISIONAL
LIQUIDATOR***Corporations Law*

IN THE SUPREME COURT OF WESTERN AUSTRALIA AT
PERTH

No. _____

In the matter of _____, Ltd. (ACN No. _____)

On (date) the Supreme Court of Western Australia in proceedings
No. _____ of _____ appointed (name and address) as provisional
liquidator of (name of company).

Applicant or his Solicitor

78

Form 25

O.81G, R.95 (2)

**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 ^(b)
that you, the undermentioned ^(c) 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, situated at ^(d)
, etc., the sum of \$, being the amount of debt due 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 *prima facie* entitled [or otherwise as the case may
be].

^(a) Name of liquidator.

^(b) Insert full name of company.

^(c) Name of person to whom notice is addressed.

^(d) Address of liquidator's office.

79

Form 26

O.81G, R.96 (1)

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ORDER
FOR PAYMENT OF CALL

(Title)

I, _____ of, etc., the liquidator of ^(a) _____,
make oath and say as follows —

- (1) On (date) I made a call of \$ (amount) per share on all of the contributories of the company (or specify the class contributories on whom the call was made). Annexed and marked "A" is a copy of the notice of the call. Each of the contributories whose names are shown in the Schedule marked "B" was duly served with notice of the call in the form annexed and marked "A".
- (2) Each of the contributories of the Company whose names are set out in the second column of the Schedule marked "B" has not paid or caused to be paid to me the sum specified opposite his name in the fifth column of the Schedule, which is due from that contributory under the call.
- (3) The amount set out opposite the name of each of the contributories in the sixth column of the Schedule is an estimate of the amount due by that contributory in respect of the costs of applying for and giving effect to the order for payment of the call. The estimate of the costs of applying for and giving effect to the order for payment of the call has been reached by apportioning those costs equally among contributories who have not paid the call.
- (4) The amount set out opposite the name of each of the contributories in the seventh column of the Schedule is the total of the amount due by that contributory in respect of the call as set out in the fifth column and the amount due in respect of costs as set out in the sixth column.

SWORN at _____)

before me:

.....

"B"

SCHEDULE

Number on List of Contributories	Name	Address	Character in which included in list	Amount of call	Proportion of costs of application	Total Amount Payable

80

Form 27

O.81G, R.96 (2)

**ORDER FOR PAYMENT OF CALL DUE FROM A
CONTRIBUTORY**

(Title)

THE COURT ORDERS THAT —

- (1) Each person named in the second column of the Schedule marked "A" to this order, pay to the liquidator of (insert name of company ("Company") at (address) within (number) days of the date of this order the amount set out opposite his name in the fifth column of the Schedule, which is the amount due from that person under the call of \$ (amount of call) per share duly made on (date of call).
- (2) Each person named in the second column of the Schedule to this order pay to the liquidator at the address specified above and within the time specified above the sum set out opposite his name in the sixth column of the Schedule, which is the proportion of the liquidator's costs of the application for this order and of giving effect to that order attributable to that person.

"A"

SCHEDULE

Number on List of Contributories	Name	Address	Character in which included in list	Amount of call	Proportion of costs of application	Total Amount Payable

NOTE: *The copy for service of the above order must be endorsed as follows —*

If you, the undermentioned AB, 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.

81

Form 28

O.81G, R.99 (1)

**NOTICE TO CREDITORS AND CONTRIBUTORIES OF
INTENTION TO APPLY FOR RELEASE**

(Title)

Take notice that I, ^(a) the liquidator of ^(b) intend to apply to a Master in Chambers at the Supreme Court, Perth, at 10.30 a.m. in the forenoon on the day of , 19 for my release, and further take notice that 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 the day of , 19 .

Liquidator

To

NOTE: — Section 481 (3) of the Corporations Law provides *that* an order of the Court releasing the liquidator discharges 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.

^(a) Set out name and address.

^(b) Insert full name of company.

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Form 29

O.81G, R.99 (1)

**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 realized, without needlessly protracting the liquidation, has been realized, 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 11 (9).
- (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 the _____ day of _____, 19 ____.

Liquidator

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

83

Form 30

O.81G, R.99 (1)

STATEMENT TO ACCOMPANY NOTICE OF APPLICATION FOR RELEASE

(Title)

Statement Showing Position of Company at Date of
Application for Release

+Dr

	Estimated to Produce per Company's Statement		Receipts			Payments	
	\$	¢	\$	¢		\$	¢
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 Other receipts					By fees (including Stationery, Printing, and Postage in respect of Contributions, Creditors, and for Debtors, and fee for audit)		
					Legal Costs of application	\$	¢
					Legal Costs of Solicitor to Liquidator		
					Other Legal costs		
Total					Liquidator's remuneration, viz —		
Less:	\$	¢			per cent on \$ Assets realized	\$	¢
Payments to redeem securities					per cent on \$ Assets distributed in dividend		
Costs of execution							
Payments per trading account							
	\$				Shorthand writer's charges		
					Special Manager's charges		
Net realizations	\$				Person appointed to assist in preparation of Statement of Affairs		
					Auctioneers charges as taxed		
Amounts received from calls on contributories made by the Liquidator					Costs of possession and maintenance of estate		
					Costs of notices in Gazette and other papers		
					Incidental outlay		
					Total cost and charges	\$	
					Creditors, viz —	\$	¢
					(a) Preferential		
					(b) Unsecured, Dividend of ¢ in \$ on \$		
					The estimate of amount expect to rank for dividend was \$		
					Amount returned to contributories		
	\$				Balance	\$	

84

Form 31

O.81G, R.100 (3)

**NOTICE OF APPLICATION FOR LEAVE
TO DISTRIBUTE A SURPLUS**

IN THE SUPREME COURT OF WESTERN AUSTRALIA AT
PERTH

No. _____

In the matter of _____ Ltd. (ACN No. _____)

On (date) at (time) the Supreme Court of Western Australia
(address of Court) will hear an application by the liquidator of
(name of company) in Proceedings No. _____ of 19 _____ for leave to
distribute a surplus in respect of the liquidation of the Company.
Any person intending to appear at the hearing must file a notice
of intention to attend together with any affidavit on which he
intends to rely and serve that notice and affidavit on the
liquidator at the address shown below within the time prescribed
by the Rules.

Name of liquidator.

Address of liquidator.

85

Form 32

O.81G, R.104 (2)

**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 declaration, 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 estate or business.
- (2) The several sums of money mentioned in the account hereby verified to have been paid or allowed have been actually and truly so paid and allowed for the several purposes in the account mentioned.
- (3) The amount is just and true in all and every of 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.

^(a) Insert nature of marking.

86

Form 33

O.81G, R.105 (d)

**ORDER THAT SPECIAL MANAGER HAS GIVEN
SECURITY***(Title)*

The Court orders that AB of , who was on the
day of , 19 , appointed special manager of the
abovenamed company, has duly given security to the satisfaction
of the Court.

Dated the day of , 19 .

Form 34

O.81G, R.108 (a)

**SUMMONS TO ATTEND EXAMINATION UNDER SECTION
596A (OR SECTION 596B) OF THE CORPORATIONS LAW**
(Title)

To: (Name and address of person to be examined)

SUMMONS TO ATTEND EXAMINATION RELATING TO
(Name of Company in capitals)

You are required to attend before the Court at the time and place specified below and from day to day until the conclusion of your examination, to be examined on oath or affirmation on any matters relating to the promotion, formation, management, administration or winding up of (name of company) (*insert if applicable*) and to produce any books in your possession or under your control relevant to those matters.

(*If applicable*) You are required to bring with you and produce at the examination all books in your possession, custody or under your control relating to the above company.

Subsection 597 (6) of the Corporations Law provides that a person who is summoned to attend before the Court for an examination must not, without reasonable excuse, fail to attend as required by the summons or fail to attend from day to day until the conclusion of the examination. Section 597 (7) provides that a person who attends before the Court for an examination must not —

- (a) without reasonable excuse, refuse or fail to take an oath or make an affirmation; or
- (b) without reasonable excuse, refuse or fail to answer a question that the Court directs him or her to answer; or
- (c) make a statement that is false or misleading in a material particular; or
- (d) without reasonable excuse, refuse or fail to produce books that the summons requires him or her to produce.

Subsection 597 (9) provides that the Court may direct a person to produce, at an examination of that person, books that are in his or her possession and are relevant to matters to which the examination relates or will relate. Section 86 provides that a thing that is in a person's custody or is under a person's control is in that person's possession. Section 597 (9A) provides that a person may comply with the direction under subsection 597 (9) by causing the relevant books to be produced at the examination.

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Section 597 (10A) provides that a person must not, without reasonable excuse, refuse or fail to comply with a direction under subsection 597 (9).

Date and time of examination: (Date and time to be entered by Registrar)

Place: (Address of Court)

Dated:

Registrar

Name of application:

Name of applicant's solicitors:

Applicant's address for service:

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Form 35

O.81G, R.111 (1)

REQUEST TO DELIVER BILL FOR TAXATION*(Title)*

I hereby request that you will, within days, 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 which I shall, in pursuance of the Corporations 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 the day of , 19 .

Liquidator

^(a) Here state nature of employment

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Part 2

O.81G, R.4

**APPLICATIONS FOR WHICH CONSENT IS REQUIRED IF
HEARD BY A MASTER**

COLUMN 1 PROVISION	COLUMN 2 DESCRIPTION
ASC Law:	
s.61	Reference to the Court of a question of law arising at a hearing of the ASC
s.70	For inquiry into failure to comply with requirement of inspector
s.196	Reference to the Court of a question of law arising at a hearing of the Corporations and Securities Panel
Corporations Law:	
s. 170	Application in relation to proprietary company
s. 172 (8)	To cancel alteration of memorandum
s. 190	To confirm issue of shares at a discount
s. 194	To validate issue or allotment of shares
s. 197, 198 or 199	To set aside variation or abrogation of rights
s. 202	For approval to payment of interest out of capital.
s. 211	For order on default in relation to production of register of members
s. 212	To rectify register of members
s. 224	For leave to be re-appointed director
s. 229	For leave to manage a corporation
s. 230	Orders that a person is not to manage a corporation
s. 251	For order that a meeting be called other than in accordance with the articles or the law
s. 252 (6)	To dispense with circulation of statement
s. 260	For relief against oppression or injustice

- s. 266 Orders in relation to charges and for rectification
s. 267 of the Register of Charges
s. 274
- s. 289 (8) For order that company accounting records be
available for inspection.
- s. 350 (16) For direction as to disposal of net assets in
winding up of a foreign company
- s. 411 For orders in relation to a compromise or
s. 412 arrangement etc.
s. 413
s. 414
s. 415
- Part 5.3A Relating to the administration of a company's
(s. 435A- affairs and deeds of company arrangement
s. 451D)
- s. 464 For the winding up of a company under
investigation
- s. 468 For order to validate disposition of property after
commencement of Court winding up
- s. 474 To vest company property in liquidator
- s. 482 To stay or terminate winding up
- s. 483 For directions or orders that property be delivered
to the liquidator etc.

To direct payment of money due from a
contributory
- s. 485 (3) For order as to priorities in payment of costs,
charges and expenses in a winding up
- s. 486A Orders to prevent avoidance of liability
- s. 486B Orders for warrant for arrest
- s. 487 For an order for arrest of absconding contributory
- s. 488 For special leave to distribute any surplus
- s. 500 For orders that company property be delivered to
liquidator
- s. 507 To sanction resolution transferring company's
business or property where company later wound
up by Court or for directions as to arbitration etc.
- s. 510 For settlement of dispute as to value in an
arrangement with creditors or to set aside
arrangement

- s. 511 For the determination of a question or for exercise by Court of powers in a voluntary winding up
- s. 533 To direct the liquidator to report delinquent officer or member
- s. 536 Relating to the supervision of a liquidator in a winding up
- s. 544 To order account of funds in hands of liquidator, audit or payment of money
- s. 564 For order as to distribution of assets where there have been indemnifying creditors
- s. 565 Undue preferences
- s. 566 Effect of floating charge
- s. 567 Liquidators right to recover in respect of certain transactions
- s. 570 To set aside rights of liquidator where sheriff executing judgment on behalf of a creditor
- s. 571 To declare dissolution of company void
- s. 574 To re-instate registration of company
- s. 593 For declaration as to personal liability
- s. 596A For order for the attendance of a person for
s. 596B examination
- s. 598 For orders against person concerned with corporation
- s. 599 Order that a person is not to manage certain corporations
- s. 1055 For direction that security of certain debentures be enforceable
- s. 1069 To confirm set aside or vary direction of interest holders
- s. 1074 To confirm resolution to wind up scheme relating to prescribed interests
- s. 1092 For order for delivery up of documents to company
- s. 1303 For order that document be made available for inspection
- s. 1318 For relief in respect of negligence, default, breach of trust etc.

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s. 1322 For orders with respect to irregularity in
proceedings

".

Dated the 7th day of June 1994.

D. K. MALCOLM.

Judges' Signatures.

W. P. PIDGEON.

B. ROWLAND.

R. D. NICHOLSON.

TERENCE A. WALSH.

D. A. IPP.

M. J. MURRAY.

R. M. ANDERSON.

N. J. OWEN.

K. WHITE.

