

147. Where the bill or charges of any proctor, manager, accountant, auctioneer, broker, or other person employed by the Official Receiver or Liquidator is or are payable out of the assets of the company, a certificate in writing, signed by the Official Receiver or Liquidator, as the case may be, shall on the taxation be produced to the taxing officer setting forth whether any, and if so what, special terms of remuneration have been agreed to, and in the case of the bill of costs of a proctor, a copy of the resolution or other authority sanctioning the appointment of a proctor to assist the Liquidator in the performance of his duties and the instructions given to such proctor by the Liquidator.

Certificate of employment.

148. In any case in which pursuant to section 258 of the Ordinance the Fiscal is required to deliver goods or money to a Liquidator such Fiscal shall without delay bring in his bill of fees for taxation and they shall be taxed by the taxing officer and unless such bill of fees is brought in for taxation within one month from the date when the Fiscal makes such delivery the Liquidator may decline to pay the same.

Fiscal's fees.

149. If a Liquidator shall in writing require any fees which a Fiscal has deducted under section 258 (2) of the Ordinance to be taxed the Fiscal shall within seven days from the date of the request bring in such fees for taxation and they shall be taxed by the taxing officer and any amount disallowed on such taxation shall forthwith be paid over by the Fiscal to the Liquidator.

Taxation of Fiscal's fees after deduction.

150. (1) If any person is dissatisfied with the taxation of the taxing officer, the matter in dispute shall be referred to the court for its decision, and the decision of the court in review of taxation of costs shall (except when it is the decision of the Supreme Court) be liable to an appeal to the Supreme Court.

Appeal from taxation.

(2) The costs of and incidental to the review shall be paid out of the assets of the company or otherwise as the court may direct.

COST AND EXPENSES PAYABLE OUT OF THE ASSETS OF THE
COMPANYLiquidator's
charges.

151. (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 on his accounts in respect of the performance by any other person of the ordinary duties which are required by the Ordinance or the rules to be performed by him.

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

Costs
payable
out of the
assets.

152. (1) The assets of a company in a winding up by the court, remaining after payment of the fees and expenses properly incurred in preserving, realizing or getting in the assets, including where the company has previously commenced to be wound up voluntarily, such remuneration, costs, and expenses as the court may allow to a Liquidator appointed in such voluntary winding up shall, subject to any order of the court, be liable to the following payments, which shall be made in the following order of priority, namely:—

First—the taxed costs of the petition, including the taxed costs of any person appearing on the petition whose costs are allowed by the court;

Next—the remuneration of the Special Manager (if any);

Next—the costs and expenses of any person who makes or concurs in making, the company's Statement of Affairs;

Next—the taxed charges of any shorthand writer appointed to take an examination:

Provided that where the shorthand writer is appointed at the instance of the Official Receiver the cost of the shorthand notes shall be deemed to be an expense incurred by the Official Receiver in getting in and realizing the assets of the company;

Next—the necessary disbursements of any Liquidator appointed in the winding up by the court, other than expenses properly incurred in preserving, realizing or getting in the assets heretofore provided for ;

Next—the costs of any person properly employed by any such Liquidator ;

Next—the remuneration of any such Liquidator ;

Next—the actual out-of-pocket expenses necessarily incurred by the Committee of Inspection, subject to the approval of the court.

(2) No payments in respect of bills or charges of proctors, managers, accountants, auctioneers, brokers, or other persons, other than payments for costs and expenses incurred and sanctioned under rule 27, and payments of bills which have been taxed and allowed under orders made for the taxation thereof, shall be allowed out of the assets of the company without proof that the same have been considered and allowed by the taxing officer. The taxing officer shall before passing the bills or charges of a proctor satisfy himself that the appointment of a proctor to assist the Liquidator in the performance of his duties has been duly sanctioned :

Provided that the Official Receiver when acting as Liquidator may without taxation pay and allow the costs and charges of any person other than a proctor employed by him where such costs and charges are within the scale usually allowed by the court and do not exceed the sum of twenty rupees :

Provided that the Registrar of Companies may require such costs or charges to be taxed by the taxing officer.

(3) Nothing contained in this rule shall apply to or affect costs which, in the course of legal proceedings by or against a company which is being wound up by the court, are ordered by the court in which such proceedings are pending to be paid by the company or the Liquidator, or the rights of the person to whom such costs are payable.

STATEMENTS BY LIQUIDATOR TO THE REGISTRAR OF
COMPANIESConclusion of
winding up.

153. The winding up of a company shall, for the purposes of section 272 of the Ordinance, be deemed to be concluded—

- (1) in the case of a company wound up by order of the court, at the date on which the order dissolving the company has been reported by the Liquidator to the Registrar of Companies, or at the date of the order of the court releasing the Liquidator pursuant to section 190 of the Ordinance ;
- (2) in the case of a company wound up voluntarily, or under the supervision of the court, at the date of the dissolution of the company, unless at such date any funds or assets of the company remain unclaimed or undistributed in the hands or under the control of the Liquidator, or any person who has acted as Liquidator, in which case the winding up shall not be deemed to be concluded until such funds or assets have either been distributed or paid into the Companies Liquidation Account.

Times for
sending
Liquidator's
statements,
and
provisions
applicable
thereto.
Forms 82, 83,
84, 85 and 86.

154. In a voluntary winding up or a winding up under the supervision of the court the statements with respect to the proceedings in and position of a liquidation of a company, the winding up of which is not concluded within a year after its commencement, shall be sent to the Registrar of Companies twice in every year as follows :—

- (1) The first statement commencing at the date when a Liquidator was first appointed and brought down to the end of twelve months from the commencement of the winding up, shall be sent within 30 days from the expiration of such twelve months, or within such extended period as the Registrar of Companies may sanction, and the subsequent statements shall be sent at intervals of half a year, each statement being brought down to the end of the half year for which it is sent. In cases in

which the assets of the company have been fully realized and distributed before the expiration of a half-yearly interval a final statement shall be sent forthwith.

- (2) Subject to the next succeeding rule, Form 82, and where applicable Forms 84, 85, and 86, shall be used, and the directions specified in the Form shall (unless the Registrar of Companies otherwise directs) be observed in reference to every statement.
- (3) Every statement shall be sent in duplicate, and shall be verified by an affidavit in Form 83.

155. Where in a voluntary winding up or a winding up under the supervision of the court a Liquidator has not during any period for which a statement has to be sent received or paid any money on account of the company he shall at the period when he is required to transmit his statement, send to the Registrar of Companies the prescribed statement in Form 82, in duplicate, containing the particulars therein required with respect to the proceedings in and position of the liquidation, and with such statement shall also send an affidavit of no receipts or payments in Form 83.

Affidavit of no receipts or payments. Forms 82 and 83.

UNCLAIMED FUNDS AND UNDISTRIBUTED ASSETS IN THE HANDS OF A LIQUIDATOR

156. (1) All money in the hands or under the control of a Liquidator of a company representing unclaimed dividends, which for six months from the date when the dividend become payable have remained in the hands or under the control of the Liquidator, shall forthwith, on the expiration of the six months, be paid into the Companies Liquidation Account.

Payments of undistribute and unclaimed money into companies Liquidation Account.

(2) In a voluntary winding up or a winding up under the supervision of the court all other money in the hands or under the control of a Liquidator of a company, representing unclaimed or undistributed assets, which under sub section (1) of section 273 of

the Ordinance, the Liquidator is to pay into the Companies Liquidation Account, shall be ascertained as on the date to which the statement of receipts and payments sent in to the Registrar of Companies is brought down, and the amount to be paid to the Companies Liquidation Account shall be the minimum balance of such money which the Liquidator has had in his hands or under his control during the six months immediately preceding the date to which the statement is brought down, less such part (if any) thereof as the Director may authorize him to retain for the immediate purposes of the liquidation. Such amount shall be paid into the Companies Liquidation Account within fourteen days from the date to which the statement of account is brought down.

(3) Notwithstanding anything in this rule, any monies representing unclaimed or undistributed assets or dividends in the hands of the Liquidator at the date of the dissolution of the company shall forthwith be paid by him into the Companies Liquidation Account.

(4) A Liquidator whose duty it is to pay into the Companies Liquidation Account money representing unclaimed or undistributed assets of the company shall apply to the Director in such manner as he may direct for a paying-in order, which paying-in order shall be an authority to the Bank to receive the payment.

(5) In a voluntary winding up or a winding up under the supervision of the court, money invested or deposited at interest by a Liquidator shall be deemed to be money under his control, and when such money forms part of the minimum balance payable into the Companies Liquidation Account pursuant to paragraph (2) of this rule, the Liquidator shall realize the investment or withdraw the deposit, and shall pay the proceeds into the Companies Liquidation Account;

Provided that where the money is invested in Government securities, such securities may, with the permission of the Deputy Secretary to the Treasury, be transferred to the control of the Deputy Secretary to the Treasury, instead of being forthwith realized and the proceeds thereof paid into the Companies Liquidation Account. In the latter case, if and when the

money represented by the securities is required wholly or in part for the purposes of the Liquidation, the Deputy Secretary to the Treasury may realize the securities wholly or in part and pay the proceeds of realisation into the Companies Liquidation Account and deal with the same in the same way as other monies paid into the said Account may be dealt with.

157. In a voluntary winding up or a winding up under the supervision of the court, every person who has acted as Liquidator of any company, whether the liquidation has been concluded or not, shall furnish to the Director particulars of any money in his hands or under his control representing unclaimed or undistributed assets of the company and such other particulars as the Director may require for the purpose of ascertaining or getting in any money payable into the Companies Liquidation Account. The Director may require such particulars to be verified by affidavit.

Liquidator to furnish information to the Director. Form 87.

158. (1) In a voluntary winding up or a winding up under the supervision of the court, the Director may at any time order any person referred to in rule 157 to submit to him an account verified by affidavit of the sums received and paid by such person as Liquidator of the company and may direct an audit of the account by an auditor to be named by the Director.

The Director may call for verified accounts.

(2) The Director shall communicate to such person the name of the auditor and such person shall thereupon produce to that auditor all such books, papers and documents as the auditor may require for the purpose of carrying out a proper audit of the account.

(3) If such person fails or omits to produce such books, papers and documents as the auditor may require for the purposes of the audit, the Director may report such failure or omission to the court. The court may make such order thereon as it deems fit.

(4) For the purposes of section 273 of the Ordinance, and the rules, the court has and may exercise all the powers conferred by the Insolvency Ordinance, with respect to the discovery and realization of the property

of an insolvent, and the provisions of that Ordinance with respect thereto shall, with any necessary modification, apply to proceedings under section 273 of the Ordinance.

Application to the court for enforcing an account, and getting in money.

159. An application to the court by the Director for the purpose of ascertaining and getting in money payable into the Companies Liquidation Account pursuant to section 273 of the Ordinance, shall be made by motion.

Application for payment out by person entitled.

160. An application by a person claiming to be entitled to any money paid into the Companies Liquidation Account in pursuance of section 273 of the Ordinance, shall be made in such form and manner as the Director may from time to time direct, and shall, unless the Director otherwise directs, be accompanied by the certificate of the Liquidator that the person claiming is entitled and such further evidence as the Director may direct.

Application by Liquidator for payment out.

161. A Liquidator who requires to make payments out of money paid into the Companies Liquidation Account in pursuance of section 273 of the Ordinance, either by way of distribution or in respect of the cost and expenses of the proceedings, shall apply in such form and manner as the Director may direct, and the Director may thereupon either make an order for payment to the Liquidator of the sum required by him for the purposes aforesaid, or may direct cheques to be issued to the Liquidator for transmission to the persons to whom the payments are to be made.

RELEASE OF LIQUIDATOR IN A WINDING UP BY THE COURT

Proceedings for release of Liquidator. Forms 88, 89 and 90.

162. (1) A Liquidator in a winding up by the court before making application to the court for his release, shall give notice of his intention so to do all the creditors who have proved their debts, and to all the contributories, and shall send with the notice a summary of all receipts and payments in the winding up.

(2) When the court has granted to a Liquidator his release, a notice of the order granting the release shall be gazetted. The Liquidator shall provide the cost of the advertisement of the notice in the Government Gazette, which he may charge against the company's assets.

Form 93 (9).

163. (1) The Director may order that the books and papers of a company which has been wound up shall not be destroyed for such period (not exceeding five years from the dissolution of the company) as he thinks proper.

Disposal of books and papers.

(2) Any creditor or contributory may make representations to the Director with regard to the destruction of such books and papers and may appeal to the court from any order made by him under this rule.

(3) Subject to any order of the court, the Director may by a further order vary or rescind any order made by him under this rule.

(4) A resolution for the destruction of the books and papers of such a company within the said period of five years or any shorter period fixed by an order of the Director in force at the date of such resolution shall not take effect until the expiration of such period of five years or of such shorter period unless the Director shall otherwise direct.

(5) At least one week's notice shall be given to the Director of any application to the court for an order for the destruction of the books and papers of a company before the expiration of such period of five years or shorter period.

OFFICIAL RECEIVERS

164. Where a company against which a windingup order has been made has no available assets, the Official Receiver shall not be required to incur any expense in relation to the winding up without the express directions of the court.

Duties where no assets.

165. (1) Where a Liquidator is appointed by the court in a windingup by the court, the Official Receiver shall account to the Liquidator.

Accounting by Official Receiver.

(2) If the Liquidator is dissatisfied with the account or any part thereof, he may report the matter to the court.

(3) The provisions of the rules as to Liquidators and their accounts shall not apply to the Official Receiver when he is Liquidator, but he shall account in such manner as the court may from time to time direct.

Official Receiver to act where no Committee of Inspection.

166. Where there is no Committee of Inspection in a winding up by the court any functions of the Committee of Inspection which devolve on the court may, subject to the directions of the court, be exercised by the Official Receiver.

Appeals from Director or Official Receiver.

167. (1) An appeal to the court—

(a) from any decision of the Director made under section 273 (4) of the Ordinance, or

(b) from any act or decision of the Official Receiver acting otherwise than as Liquidator of a company,

shall be brought within twenty-one days from the time when the decision or act appealed against is done, pronounced, or made.

(2) Every appeal to the court shall be made by filing in the court a written petition of appeal setting out the grounds of such appeal and shall be signed by the appellant or his proctor.

Applications under section 189 and section 265 (3) of the Ordinance.

168. An application by the Registrar of Companies to the court to examine on oath the Liquidator or any other person pursuant to section 189, of the Ordinance or to confer on the Director or any person designated by him for the purpose with respect to the company concerned the powers of investigating the affairs of the company mentioned in subsection (3) of section 265 of the Ordinance, shall be by summary procedure under Chapter XXIV of the Civil Procedure Code, and shall be supported by a report to the court stating the circumstances in which the application is made.

BOOKS TO BE KEPT, AND RETURNS MADE, BY OFFICERS OF
COURT

169. (1) The Secretary of the court shall keep books in Forms 91 and 92 and the particulars given under the different heads in such books shall be entered forthwith after each proceeding has been concluded.

Books to be kept by Secretary of court. Forms 91 and 92.

(2) The Secretary of the court shall make and transmit to the Registrar of Companies such extracts from the books kept under paragraph (1), and shall furnish the Registrar of Companies with such information and returns, as he may from time to time require.

GAZETTING IN A WINDING UP BY THE COURT

170. (1) All notices subsequent to the making by the court of a winding-up order in pursuance of the Ordinance or the rules requiring publication in the Government Gazette shall be gazetted by the Director.

Gazetting notices. Form 93.

(2) Where any winding-up order is amended, and also in any case in which any matter which has been gazetted has been amended or altered, or in which a matter has been wrongly or inaccurately gazetted, the Director shall re-gazette such order or matter with the necessary amendments and alterations in the prescribed form, at the expense of the company's assets, or otherwise as the court may direct.

171. (1) Whenever the Government Gazette contains any advertisement relating to any winding-up proceedings the Official Receiver or Liquidator as the case may be shall file in the court a memorandum referring to and giving the date of the advertisement.

Filing memorandum of Gazette Notices. Form 94.

(2) In the case of an advertisement in a daily English newspaper, the Official Receiver or Liquidator as the case may be shall keep a copy of the paper, and a memorandum referring to and giving the date of the advertisement shall be filed in the court.

(3) For this purpose one copy of each daily newspaper in which any advertisement relating to any winding-up proceeding in the court is inserted, shall be left with or sent to the Official Receiver or Liquidator as the case may be by the person who inserts the advertisement.

MISCELLANEOUS

Application
of existing
procedure.

172. In all proceedings in or before the court or over which the court has jurisdiction under the Ordinance and rules, where no other provision is made by the Ordinance or rules, the practice and procedure shall unless the court otherwise in any special case directs, be in accordance, as far as practicable, with the existing practice and procedure of the court in civil proceedings.

Fees.

173. The fees specified in the Second Schedule shall be paid in respect of the matters therein mentioned.

Payment of
expenses of
person
summoned or
noticed to
attend.

174. The party applying for a summons or notice to attend shall, before the summons or notice is granted, and within a period to be fixed by the court, pay into court, or give security for payment of, such a sum of money as appears to the court to be sufficient to defray the travelling and other expenses of the person summoned or noticed to attend, in passing to and from the court in which he is required to attend, and for one day's attendance :

Provided that in the case of a witness residing within four miles of the court at which his attendance is required, no such payment shall be made nor security given ;

And provided further that the making of any such payment and the giving of any such security shall in no case be a condition precedent to the issue of a summons or notice to attend, but in every case (except the case of a witness residing within four miles from the court) where summons or notice issues without such payment having been made or security given, the person summoned or noticed to attend shall be informed on the face of the summons or notice that such is the case and that it is not obligatory on him to attend.

Interpreta-
tion.

175. In these rules, unless the context otherwise requires—

“the company” means a company which is being wound up, or against which proceedings to have it wound up have been commenced ;

- "the court" means the District Court having jurisdiction to wind up the company ;
- "the Director" means the Director of Commerce and includes the Deputy Director of Commerce and any Assistant Director of Commerce ;
- "the Ordinance" means the Companies Ordinance ;
- "proceedings" means the proceedings in the winding up of a company under the Ordinance ;
- "the rules" means these rules and includes the forms set out in the First Schedule hereto ;
- "taxing officer" means the officer who is empowered by section 214 of the Civil Procedure Code to tax bills of costs.

FIRST SCHEDULE

TABLE OF FORMS

Form.

1. Petition.
2. Petition by unpaid Creditor on Simple Contract.
3. Advertisement of petition.
4. Affidavit of Service of Petition on Members, Officers, or Servants.
5. Affidavit of Service of Petition on Liquidator.
6. Affidavit Verifying Petition.
7. Affidavit Verifying Petition of a Limited Company.
8. Order appointing a Provisional Liquidator after Presentation of Petition, and before Order to Wind Up.
9. Notice of Intention to appear on Petition.
10. List of Parties attending the Hearing of a Petition.
11. Notification to Official Receiver of Winding-up Order.
12. Notification to Official Receiver of Order pronounced for appointment of Provisional Liquidator prior to Winding-up Order being made.
13. Order for Winding Up by the Court.
14. Notice of Order to Wind Up (For Newspaper).
15. Order for Winding Up, subject to Supervision.
16. Affidavit by Special Manager verifying Account.
17. Statement of Affairs.
18. Report of Result of Meeting of Creditors or Contributors.
19. Order Appointing Liquidator.
20. Advertisement of Appointment of Liquidator.
21. Certificate that Liquidator or Special Manager has given Security.
22. Order Directing a Public Examination.
23. Notice to attend Public Examination.
24. Warrant against Person who fails to attend Examination.
25. Disclaimer of Lease.

Form.

26. Notice of Disclaimer of Lease.
27. Notice by Liquidator requiring Payment of Money or Delivery of Books, &c., to Liquidator.
28. Provisional List of Contributories to be made out by Liquidator.
29. Notice to Contributories of Appointment to settle List of Contributories.
30. Affidavit of Postage of Notices of Appointment to settle List of Contributories.
31. Certificate of Liquidator of Final Settlement of the List of Contributories.
32. Notice to Contributory of Final Settlement of List of Contributories and that his name is included.
33. Affidavit of Service of Notice to Contributory.
34. Order on Application to vary List of Contributories.
35. Supplemental List of Contributories.
36. Notice to each Member of Committee of Inspection of Meeting for Sanction to proposed Call.
37. Advertisement of Meeting of Committee of Inspection to sanction proposed Call.
38. Resolution of Committee of Inspection sanctioning Call.
39. Application for Leave to make a Call.
40. Affidavit of Liquidator in support of Proposal for Call.
41. Advertisement of Application for leave to make a Call.
42. Order giving Leave to make a Call.
43. Document making a Call.
44. Notice of Call sanctioned by Committee of Inspection to be sent to Contributory.
45. Notice to be served with the Order sanctioning a Call.
46. Affidavit in support of Application for Order for Payment of Call.
47. Order for Payment of Call due from a Contributory.
48. Affidavit of Service of Order for Payment of Call.
49. Proof of Debt. General Form.
50. Proof of Debt of Workmen.
51. Notice of Rejection of Proof of Debt.
52. List of Proofs to be Filed under Rule 75.
53. Notice to Creditors of Intention to declare Dividend.
54. Notice to Persons claiming to be Creditors of Intention to Declare Final Dividend.
55. Notice of Dividend.
56. Certified List of Proofs under Rule 80 of the Companies Winding-up Rules, 1939, and Application for issue of Cheques for Dividend on Companies Liquidation Account.
57. Certified List of Proofs filed under Rule 80 of the Companies Winding-up Rules, Special Bank Case.
58. Authority to Liquidator to Pay Dividends to another Person.
59. Notice of Return to Contributories.
60. Schedule or List of Contributories holding Paid-up Shares to whom a Return is to be Paid.

Form.

61. Notice to Creditors of First Meeting.
62. Notice to Contributories of First Meeting.
63. Notice to Directors and Officers of Company to attend First Meeting of Creditors or Contributories.
64. List of Creditors to be used at every Meeting.
65. Notice of Meeting (General Form).
66. Affidavit of Postage of Notices of Meeting.
67. Certificates of Postage of Notices (General).
68. Authority to Deputy to act as Chairman of Meeting and use Proxies.
69. Memorandum of Adjournment of Meeting.
70. General Proxy.
71. Special Proxy.
72. Application to Court to authorize a special Bank Account.
73. Order of Court for special Bank Account.
74. Certificate and Request by Committee of Inspection as to Investment of Funds.
75. Request by Committee of Inspection to Director of Commerce and Industries to Sell Securities.
76. Certificate by Committee of Inspection as to Audit of Liquidator's Accounts.
77. Affidavit verifying Liquidator's Account under Section 188.
78. Liquidator's Trading Account under Section 188.
79. Affidavit verifying Liquidator's Trading Account under Section 188.
80. Request to deliver Bill for Taxation.
81. Certificate of Taxation.
82. Statement of Receipts and Payments and General Directions as to Statements.
83. Affidavit verifying Statement of Liquidator's Account under Section 272.
84. Liquidator's Trading Account under Section 272.
85. List of Dividends or Composition.
86. List of Amounts Paid or Payable to Contributories.
87. Affidavit verifying Account of Unclaimed and Undistributed Funds.
88. Notice to Creditors and Contributories of intention to apply for Release.
89. Application by Liquidator to the Court for Release.
90. Statement to accompany Notice of Application for Release.
91. Register of Winding-up Orders to be kept in the Courts.
92. Register of Petitions to be kept in the Courts.
93. Notices for Government Gazette.
94. Memorandum of Advertisement OR Gazetting.
95. Notice of appointment of Liquidator pursuant to Section 241.
96. Certificate of Receipt.