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By e-mail

6 June 2018

Mr Bonny Loo
Assistant Legal Adviser
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr Loo,

Securities and Futures (Open-ended Fund Companies) Rules (L.N. 97)

I refer to your letter of 24 May 2018 seeking clarifications in relation to the captioned Rules (“the Rules”). Having consulted the Securities and Futures Commission (“SFC”) and the Companies Registry (“CR”), I set out below the further information requested.

Use of notes

Pursuant to section 13 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571) (“SFO”), a note located in the text of the Ordinance is for information only and does not have legislative effect. Further, pursuant to section 12 of Part 1 of Schedule 1 to the SFO, this applies to any notes in subsidiary legislation made under the SFO. Hence, the notes in the Rules have no legislative effect. Given the clarity in the

SFO, we do not consider that a provision similar to the proposed new section 26I(2) under the Inland Revenue (Amendment) (No. 4) Bill 2018¹ is needed in this case.

Constructive notice

Rules 11, 12 and 110 reflect the established company law principles regarding the protection of third parties dealing with a company on the one hand and a director's duties to declare material interests which may conflict with the director's duties to the company on the other hand. They are based on equivalent provisions in the Companies Ordinance (Cap. 622) ("CO") regarding the capacity of conventional companies in its dealings with third parties (sections 117 and 120 of the CO) and the duty of directors of conventional companies to declare material interests to ensure fair dealing between the director and the company (section 536(5) of the CO).

It is our policy that the regulation of open-ended fund companies ("OFCs") and their officers is consistent with that of conventional companies under the CO, save for necessary differences owing to the investment fund aspect of an OFC.

Defences

We confirm that the use of "establish" imposes an evidential (rather than legal or persuasive) burden on the defendant in relation to the relevant matters relating to the defences in the provisions mentioned in paragraph (e) of your letter of 24 May 2018.

Privileges

Privilege against self-incrimination

Rule 49 is modelled on section 865 of the CO. A similar provision can also be found in section 187 of the SFO and section 30 of the Financial Reporting Council Ordinance (Cap. 588).

¹ The proposed new section 26I(2) to be added to the Inland Revenue Ordinance (Cap. 112) reads, "A note located in the text of this Division is provided for information only and has no legislative effect."

Rule 49 abrogates the common law privilege against self-incrimination and replaces it with a statutory prohibition on how an answer given in an investigation/enquiry can be used. If a person makes a claim under rule 49(3) before answering the investigator/enquirer's question, the self-incriminating answer is not admissible against him in criminal proceedings. Rule 49(1) requires the investigator/enquirer to inform or remind the person concerned of the limitations on the admissibility of evidence imposed by rule 49(2). If the person does not make such a claim, the statutory prohibition does not apply.

We are of the view that this provision is capable of being given effect to in a manner which is consistent with Article 11(2)(g) of the Hong Kong Bill of Rights ("HKBOR"), which guarantees that a person is not compelled to testify against himself or to confess guilt in the determination of any criminal charge against him.

The privilege does not apply to records or documents which have been produced pursuant to rule 46(1)(a). This rule is modelled on section 873 of the CO. Even though such records or documents may be produced as evidence, the rights of the accused are protected under rule 49(3) on providing any information or explanation in respect of the records or documents. In any event, a court would have the general residual discretion to exclude evidence where this is necessary to ensure a fair trial for the accused.

The four-step proportionality test laid down in *Hysan Development Co Ltd v Town Planning Board* (2016) 19 HKCFAR 374 ("*Hysan*") requires that the provision or rule must (1) pursue a legitimate aim, (2) be rationally connected to that legitimate aim, and (3) be no more than is necessary to accomplish that legitimate aim. Upon the satisfaction of the first three steps, the fourth step would be to ask whether a reasonable balance has been struck between the detrimental impact and societal benefits gained.

Regarding the first three steps of the proportionality test, our view is that they should be satisfied as the aim of the provision is rationally connected to the legitimate aim of facilitating investigation on the affairs of an OFC, and we also consider that the provision is a proportionate means of achieving the said legitimate aim. Furthermore, the introduction of the statutory prohibition in rule 49 as mentioned above serves the purposes of protecting the rights of a person under investigation. There is thus a

reasonable balance referred to in the fourth step of the proportionality test.

Legal professional privilege

Although Division 7 of Part 3 does not make any express provision regarding legal professional privilege, it would not deprive a person of the privilege if it is available to him. Furthermore, section 380(4) of the SFO expressly preserves rights associated with legal professional privilege.

Inspection of records

Rule 41 provides that the Registrar of Companies (“the Registrar”) must make the OFC register available for public inspection for the purposes stated in that rule. This provision is modelled on section 45 of the CO.

The inspection of the OFC register or records entails the collection, use or disclosure of living individuals’ personal data within the meaning of the Personal Data (Privacy) Ordinance (Cap. 486) (“PDPO”) and are subject to the Data Protection Principles thereunder. Indeed, section 45 of the CO, on which rule 41 is modelled, was introduced on the recommendation of the Privacy Commissioner for Personal Data. Other than the purposes stated in rule 41, the purposes of collecting data by the CR have been laid down separately in the Personal Information Collection Statements (“PICS”). Members of the public searching the registers are reminded that subsequent use of personal data obtained from the public registers should be limited to the purposes for which the data are made available.

The provisions of the PDPO apply to the use of personal data obtained from the CR’s public registers. Any person who uses personal data for any purpose other than the purposes stated in rule 41, the PICS or in contravention of the requirements under the PDPO may be liable to pay compensation and subject to action under that Ordinance.

As illustrated above, the disclosure of personal data is subject to restricted and specified purposes. We are therefore of the view that a reasonable balance has been struck between the privacy of the individuals whose personal data are disclosed pursuant to rule 41 and the interest of the public. Having regard to the four-step proportionality test in *Hysan*, we consider that such disclosure should not be a breach of Article 29 of the

Basic Law and/or HKBOR 14.

Written resolutions

Rule 112 is modelled on section 481 of the CO (and the proposed amendments made to section 481 in the Companies (Amendment) Bill 2018). While there is no provision in the CO specifying a company to pass a written directors' resolution or a resolution without a meeting, the directors may do so if permitted by the articles. Provisions relating to directors' written resolutions are usually provided in a company's articles and such provisions may also provide for when they are regarded as passed. The same view is taken in respect of the application of rule 112 in respect of OFCs.

Statement of circumstances

Rule 122 which relates to a custodian of an OFC who resigns is modelled on section 427 of the CO, while rules 143 and 146 which relate to resigning auditors are modelled on sections 422 and 427 of the CO. The power under these three rules is given to the Court to ensure that there is no abuse of the statutory provisions by custodians and auditors. The Court must make an order directing that copies of the statement of circumstances are not to be sent if it is satisfied that the custodian or auditor is seeking needless publicity for defamatory matter or in any other situation where the custodian or auditor is abusing the use of the statement of circumstances. Examples include where the statement is given in bad faith and when there are outstanding disputes relating to the outgoing custodian or auditor and the statement of circumstances contained apparently defamatory statements against third parties which might not be supported by factual evidence.

With regard to the Court's different powers under rules 122, 143 and 146, rule 143 provides for the giving of a statement in different circumstances than under rules 119 and 144 (to which the court orders referred to in rules 122 and 146 relate). The statement given under rules 119 and 144 is required to be given where the person resigns and must contain different and more general matters than the statement under rule 143. The statement under rule 143 is not mandatory and is in addition to the statement required to be given under rule 144. It may be given by an auditor who has resigned and called a general meeting under rule 142. A statement may also be given under rule 143 by an auditor who is removed from office. Such treatment of auditors' statements of circumstances is

the same as that in the CO. Further, the Court's power as to costs is governed by the High Court Ordinance (Cap. 4) and the Rules of the High Court (Cap. 4A). The Court still has power to order costs against the maker of the statement even though no express power is stated under rule 143(6).

Offences relating to auditor's report

Rule 154(2)(a) is modelled on section 407(2)(a) of the CO. Section 408(1) of the CO also does not make the omission of section 407(2)(a) an offence. The legislative intent of rule 154(2)(a), which is similar to section 407(2)(a) of the CO, is to ensure proper and effective audit. We consider that there is no need to criminalise the omission of all statements in the auditor's report, as any omission of the relevant statement will be subject to disciplinary sanctions by the Hong Kong Institute of Certified Public Accountants already.

Parts 10 and 11

Please see the **Annex** for the marked-up version of the relevant provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) (as defined in rules 171 and 176) showing the modifications specified in rules 173 and 178 to 187.

Chinese text

Rule 40 (both the English text and the Chinese text) is modelled on section 44 of the CO. The word "annotate" is a verb and the Chinese rendition "加上註釋" means to add a note to provide information, which corresponds to the wording in rule 40(1). On the other hand, the word "note" is a noun and the Chinese rendition "註明" seeks to explain the word in Chinese using its ordinary meaning. As the relevant meanings are clear in their respective context, we are of the view that the Chinese renditions should not cause confusion.

Rule 55(2) (both the English text and the Chinese text) is modelled on section 891(2) of the CO. We are of the view that by reading the provision as a whole, it is clear that "可" (may) only refers to the phrase immediately followed by it (i.e. "施加關於保安或其他方面的合理條件"). We therefore consider that the relevant Chinese text is clear and will not give readers the impression that the Registrar may permit inspection but is

not obliged to do so.

Rules 103 and 104 (both the English text and the Chinese text) are modelled on sections 462 and 419 of the CO respectively. “罷免” is commonly used in the context of the removal of a director (or an executive officer of a company), while “免任” is more often used in relation to the removal of auditors (or other external bodies engaged by the company). Reference may be made to the following –

- (a) in section 4 to Schedule 1A of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and section 24(4) of the Financial Institutions (Resolution) Ordinance (Cap. 628), “罷免” is used in the context of the removal of a director; and
- (b) in section 99 of the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A), “免任” is used in the context of the removal of auditors.

We consider the relevant wording in the Chinese text appropriate.

Yours sincerely,



(Renita Au)

for Secretary for Financial Services and the Treasury

c.c. Securities and Futures Commission (Attn: Ms Fiona Tse)
Registrar of Companies (Attn: Mrs Karen Ho and Mr Tim Chung)
Official Receiver (Attn: Mr Alvin Sin)
Law Draftsman (Attn: Ms Mandy Ng and Miss Annet Lai)

Marked-up version of the relevant provisions of Cap. 32 (as defined in rules 171 and 176 of the Securities and Futures (Open-ended Fund Companies) Rules)

Chapter:	32	Companies (Winding Up and Miscellaneous Provisions) Ordinance	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 5

(1) In this Ordinance, unless the context otherwise requires-

a resolution for voluntary winding up (自動清盤決議) has the meaning assigned to it by section 228(2); (Added 6 of 1984 s. 2)

agent (代理人) does not include a person's counsel acting as such; (Added 6 of 1984 s. 2)

amend (修訂) includes delete, add to or vary and the doing of all or any of such things simultaneously; (Added 30 of 2004 s. 2)

articles (章程細則), in relation to a company, means the articles of association of the company;

Note-

Please also see section 98 of the Companies Ordinance (Cap 622). A condition of an existing company's memorandum of association is to be regarded as a provision of the company's articles. (Replaced 28 of 2012 ss. 912 & 920)

authorized financial institution (認可財務機構) means an authorized institution within the meaning of section 2 of the Banking Ordinance (Cap 155); (Added 12 of 1998 s. 2. Amended 49 of 1995 s. 53)

book and paper (簿冊及文據) and **book or paper** (簿冊或文據) include accounts, deeds, writings, and documents;

certificate of solvency (有償債能力證明書) means a certificate issued under section 233; (Added 28 of 2003 s. 2)

Commission (監察委員會) means-

- (a) subject to paragraphs (b) and (c), the Securities and Futures Commission referred to in section 3(1) of the Securities and Futures Ordinance (Cap 571);
- (b) where any relevant transfer order made under section 25 of that Ordinance is in force, the recognized exchange company concerned or both the Securities and Futures Commission and the recognized exchange company concerned, in accordance with the provisions of that order; or
- (c) where any relevant transfer order made under section 68 of that Ordinance is in force, the recognized exchange controller concerned or both the Securities and Futures Commission and the recognized exchange controller concerned, in accordance with the provisions of that order; (Replaced 5 of 2002 s. 407)

Companies Register (公司登記冊) has the meaning given by section 2(1) of the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)

company (公司) means-

- (a) a company formed and registered under the Companies Ordinance (Cap 622); or
- (b) an existing company; (Replaced 28 of 2012 ss. 912 & 920)

company limited by guarantee (擔保有限公司) has the meaning given by section 9 of the Companies Ordinance (Cap 622) for the purposes of that Ordinance; (Added 28 of 2012 ss. 912 & 920)

company limited by shares (股份有限公司) has the meaning given by section 8 of the Companies Ordinance (Cap 622) for the purposes of that Ordinance; (Added 28 of 2012 ss. 912 & 920)

company secretary (公司秘書) includes any person occupying the position of company secretary (by whatever name called); (Added 28 of 2012 ss. 912 & 920)

contributory (分擔人) has the meaning assigned to it by section 171(1); (Added 6 of 1984 s. 2. Amended 14 of 2016 s. 6)

court (法院、法庭) means the Court of First Instance; (Replaced 6 of 1984 s. 2. Amended 25 of 1998 s. 2)

creditors' voluntary winding up (債權人自動清盤) has the meaning assigned to it by section 233(4); (Added 6 of 1984 s. 2)

debenture (債權證), in relation to a company, includes debenture stock, bonds and any other debt securities of the company, whether or not constituting a charge on the assets of the company; (Replaced 28 of 2012 ss. 912 & 920)

default fine (失責罰款) has the meaning assigned to it by section 351(1A)(d); (Added 6 of 1984 s. 2. Amended 75 of 1993 s. 2)

director (董事) includes any person occupying the position of director by whatever name called;

document (文件) includes summons, notice, order, and other legal process, and registers;

existing company (原有公司) means a company formed and registered under a former Companies Ordinance; (Replaced 28 of 2012 ss. 912 & 920)

financial statements (財務報表) means-

- (a) the annual financial statements; or
- (b) the annual consolidated financial statements, as defined by section 357(1) of the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)

former Companies Ordinance (《舊有公司條例》) means-

- (a) the Companies Ordinance 1865 (1 of 1865);
- (b) the Companies Ordinance 1911 (58 of 1911); or
- (c) the pre-amended Ordinance; (Added 28 of 2012 ss. 912 & 920)

founder member (創辦成員) has the meaning given by section 2(1) of the Companies Ordinance (Cap 622); (Replaced 28 of 2012 ss. 912 & 920)

general rules (一般規則) means general rules made under section 296 and includes forms;

group of companies (公司集團) means any 2 or more companies or bodies corporate one of which is the holding company of the other or others; (Added 6 of 1984 s. 2)

image record (影像紀錄) means a record produced using the imaging method and, where the context permits, includes a record in a legible form; (Added 28 of 2003 s. 2)

imaging method (影像處理方法) means a method by which documents in a legible form or in the form of microfilm are scanned by a scanner and the information recorded therein is converted into electronic images, which are then stored on electronic storage media capable of being retrieved and reproduced in a legible form; (Added 28 of 2003 s. 2)

issued generally (公開發出), in relation to a prospectus, means issued to persons who are not existing members or debenture holders of the company; (Added 78 of 1972 s. 2)

limited company (有限公司) means a company limited by guarantee or a company limited by shares; (Added 28 of 2012 ss. 912 & 920)

liquidator (清盤人) includes a provisional liquidator holding such office by virtue of section 194(1)(a) or (aa) or (1A); (Added 46 of 2000 s. 2. Amended 14 of 2016 s. 6)

manager (經理), in relation to a company, means a person who, under the immediate authority of the board of directors, exercises managerial functions but does not include-

- (a) a receiver or manager of the property of the company; or
- (b) a special manager of the estate or business of the company appointed under section 216; (Added 28 of 2003 s. 2)

member (成員), in relation to a company, means-

- (a) a founder member of the company; or
- (b) a person who agrees to become a member of the company and whose name is entered, as a member, in the company's register of members; (Added 28 of 2012 ss. 912 & 920)

members' voluntary winding up (成員自動清盤) has the meaning assigned to it by section 233(4); (Added 6 of 1984 s. 2)

non-Hong Kong company (非香港公司) means a company incorporated outside Hong Kong that-

- (a) establishes a place of business in Hong Kong on or after the commencement date of Part 16 of the Companies Ordinance (Cap 622); or
- (b) has established a place of business in Hong Kong before that commencement date and continues to have a place of business in Hong Kong at that commencement date; (Replaced 28 of 2012 ss. 912 & 920)

officer (高級人員), in relation to a body corporate, includes a director, manager or company secretary of the body corporate; (Added 80 of 1974 s. 2. Amended 28 of 2012 ss. 912 & 920)

officer who is in default (失責高級人員) has the meaning assigned to it by section 351(2); (Added 6 of 1984 s. 2)

Official Receiver (破產管理署署長) means the Official Receiver appointed under the Bankruptcy Ordinance (Cap 6); (Added 30 of 1999 s. 2)

ordinary resolution (普通決議) has the meaning given by section 563 of the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)

place of business (營業地點), in relation to a non-Hong Kong company, has the meaning given by section 774(1) of the Companies Ordinance (Cap 622); (Added 30 of 2004 s. 2. Amended 28 of 2012 ss. 912 & 920)

pre-amended Ordinance (《修訂前的本條例》) means the Companies Ordinance (Cap 32) as in force from time to time before the commencement date* of section 2 of Schedule 9 to the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)

prescribed (訂明) means as respects the provisions of this Ordinance relating to the winding-up of companies, prescribed by general rules, and as respects the other provisions of this Ordinance, prescribed by the Chief Executive in Council; (Amended 23 of 1999 s. 3)

printed (印刷、印製) means produced by ordinary letterpress or lithography; (Added 4 of 1963 s. 2. Amended 28 of 2012 ss. 912 & 920)

private company (私人公司) has the meaning given by section 11 of the Companies Ordinance (Cap 622) for the purposes of that Ordinance; (Added 6 of 1984 s. 2. Amended 28 of 2012 ss. 912 & 920)

prospectus (招股章程)-

- (a) subject to paragraph (b), means any prospectus, notice, circular, brochure, advertisement, or other document-
 - (i) offering any shares in or debentures of a company (including a company incorporated outside Hong Kong, and whether or not it has established a place of business in Hong Kong) to the public for subscription or purchase for cash or other consideration; or
 - (ii) calculated to invite offers by the public to subscribe for or purchase for cash or other consideration any shares in or debentures of a company (including a company incorporated outside Hong Kong, and whether or not it has established a place of business in Hong Kong);
- (b) does not include any prospectus, notice, circular, brochure, advertisement, or other document-
 - (i) to the extent that it is a publication falling within section 38B(2); or
 - (ii) to the extent that it contains or relates to an offer specified in Part 1 of the Seventeenth Schedule as read with the other Parts of that Schedule; (Replaced 30 of 2004 s. 2)

recognized exchange company (認可交易所) means a company recognized under section 19(2) of the Securities and Futures Ordinance (Cap 571) as an exchange company for operating a stock market; (Added 5 of 2002 s. 407)

recognized exchange controller (認可控制人) has the same meaning as in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 5 of 2002 s. 407)

recognized stock market (認可證券市場) has the same meaning as in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 5 of 2002 s. 407)

record (紀錄) includes not only a written record but any record conveying information or instructions by any other means whatsoever; (Added 28 of 2003 s. 2)

registered non-Hong Kong company (註冊非香港公司) means a non-Hong Kong company that is registered in the Companies Register as a registered non-Hong Kong company; (Added 28 of 2012 ss. 912 & 920)

Registrar (處長) means the Registrar of Companies appointed under section 21(1) of the Companies Ordinance (Cap 622); (Replaced 6 of 1984 s. 2. Amended 28 of 2012 ss. 912 & 920)

shadow director (幕後董事), in relation to a body corporate, means a person in accordance with whose directions or instructions (excluding advice given in a professional capacity) the directors, or a majority of the directors, of the body corporate are accustomed to act; (Replaced 28 of 2012 ss. 912 & 920)

share (股份)-

- (a) means a share in a company's share capital; and
- (b) if any of the company's shares is converted into stock, includes stock; (Replaced 28 of 2012 ss. 912 & 920)

special resolution (特別決議) has the meaning given by section 564 of the Companies Ordinance (Cap 622); (Added 28 of 2012 ss. 912 & 920)

specified corporation (指明法團) means a company or a non-Hong Kong company; (Added 30 of 2004 s. 2)

specified form (指明格式), in relation to a particular provision of this Ordinance, means the appropriate form specified for the time being under section 2A, for the purposes of that provision; (Added 3 of 1997 s. 3)

structured product (結構性產品) has the meaning given by section 1A of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 8 of 2011 s. 17)

the minimum subscription (最低認購額) has the meaning assigned to it by section 42(2); (Added 6 of 1984 s. 2)

the time of the opening of the subscription lists (開立認購名單的時間) has the meaning assigned to it by section 44A(1); (Added 6 of 1984 s. 2)

transaction at an undervalue (遜值交易)-see section 265E; (Added 14 of 2016 s. 6)

unfair preference (不公平優惠)-see section 266A; (Added 14 of 2016 s. 6)

unlimited company (無限公司) has the meaning given by section 10 of the Companies Ordinance (Cap 622) for the purposes of that Ordinance. (Replaced 28 of 2012 ss. 912 & 920)

(Amended 1 of 1949 s. 22; 10 of 1987 s. 2; 86 of 1992 s. 2; 5 of 2002 s. 407; 30 of 2004 s. 2; 28 of 2012 ss. 912 & 920)

(2) (Repealed 28 of 2012 ss. 912 & 920)

(3) References in this Ordinance to a body corporate or to a corporation shall be construed as not including a corporation sole but as including a company incorporated outside Hong Kong. (Added 80 of 1974 s. 2)

(4) For the purposes of this Ordinance, a company shall, subject to the provisions of subsection (6), be deemed to be a subsidiary of another company, if-

(a) that other company-

(i) controls the composition of the board of directors of the first-mentioned company; or (Amended 6 of 1984 s. 2)

(ii) controls more than half of the voting rights of the first-mentioned company; or (Amended 28 of 2012 ss. 912 & 920)

(iii) holds more than half of the issued share capital of the first-mentioned company (excluding any part of it which carries no right to participate beyond a specified amount in a distribution of either profits or capital); or

(b) the first-mentioned company is a subsidiary of any company which is that other company's subsidiary. (Added 80 of 1974 s. 2)

(5) For the purposes of subsection (4), the composition of a company's board of directors shall be deemed to be controlled by another company if that other company by the exercise of some power exercisable by it, without the consent of any other person, can appoint or remove all or a majority of the directors, and, for the purposes of this provision, that other company shall be deemed to have power to make such an appointment if- (Amended 12 of 2005 s. 2)

(a) a person cannot be appointed as a director without the exercise in his favour by that other company of such a power; or

(b) a person's appointment as a director follows necessarily from his being a director or other officer of that other company. (Added 80 of 1974 s. 2)

(6) In determining whether one company is a subsidiary of another company-

(a) any shares held or power exercisable by that other company in a fiduciary capacity shall be treated as not held or exercisable by it;

(b) subject to paragraphs (c) and (d), any shares held or power exercisable-

(i) by any person as a nominee for that other company (except where that other company is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a subsidiary of that other company, not being a subsidiary which is concerned only in a fiduciary capacity, shall be treated as held or exercisable by that other company;

(c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first-mentioned company or of a trust deed for securing any issue of such debentures shall be disregarded; and

(d) any shares held or power exercisable by, or by a nominee for, that other company or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that other company if the ordinary business of that other company or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business. (Added 80 of 1974 s. 2)

(7) A reference in this Ordinance to the holding company of a company shall be read as a reference to a company of which that last-mentioned company is a subsidiary. (Added 80 of 1974 s. 2)

(8) In subsections (4), (5), (6) and (7) the expression **company** (公司) includes any body corporate or corporation. (Added 4 of 1976 s. 2)

(8A) (Repealed 28 of 2012 ss. 912 & 920)

(9) For the avoidance of doubt it is declared that a reference, in relation to any purpose of this Ordinance, to any form, matter, particular or information specified by the Registrar means, except where it is provided otherwise,

- specified by him for the time being for that purpose. (Added 3 of 1997 s. 3)
- (10) Any provision of this Ordinance that refers (in whatever words) to-
- the founder members; (Amended 30 of 2004 s. 2)
 - the members or shareholders of a company;
 - a majority of members or shareholders of a company; or
 - a specified number or percentage of members or shareholders of a company,
- shall, unless the context otherwise requires, apply with necessary modifications in relation to a company that has only one founder member or that has only one person as a member or shareholder, as the case may be. (Added 28 of 2003 s. 2. Amended 30 of 2004 s. 2)
- (11) Any provision of this Ordinance that refers (in whatever words) to-
- the directors of a company;
 - the board of directors of a company;
 - a majority of the directors of a company; or
 - a specified number or percentage of the directors of a company,
- shall, unless the context otherwise requires, apply with necessary modifications in relation to a private company that has only one director. (Added 28 of 2003 s. 2)
- (12) The reference to a non-Hong Kong company in the definition of *specified corporation* in subsection (1) shall, before the commencement of section 1(1) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), be deemed to be a reference to an oversea company as is for the time being defined under this Ordinance. (Added 30 of 2004 s. 2 and L.N. 81 of 2005)

(Amended E.R. 1 of 2014)
[cf. 1929 c. 23 s. 380 U.K.]
(**Format changes—E.R. 1 of 2014)

Note:

* **Commencement date: 3 March 2014.**

** **The format of this section has been updated to the current legislative styles.**

Section:	79	Payment of certain debts out of assets subject to floating charge in priority to claims under the charge	E.R. 2 of 2012	02/08/2012
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- (1) Where a receiver is appointed on behalf of the holders of any debentures of ~~a company~~ an open-ended fund company secured by a charge which, as created, was a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the ~~company~~ open-ended fund company is not at the time in course of being wound up, the debts, which in every winding-up are under the ~~provisions of Part V~~ subject provisions of Part 11 relating to preferential payments to be paid in priority to all other debts, shall, according to their respective priorities under the subject provision of Part 11 that is the same as section 265 of Cap. 32, be paid out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures. (Amended 10 of 1987 s. 3)
- (1A) In the application of the ~~provisions of Part V~~ subject provisions of Part 11, the subject provision of Part 11 that is the same as section 265 of Cap. 32 shall be construed as if the provision for payment of accrued holiday remuneration becoming payable on the termination of employment before or by the effect of the winding-up order or resolution were a provision for payment of such remuneration becoming payable on the termination of employment before or by the effect of the appointment of the receiver or possession being taken as aforesaid. (Added 6 of 1984 s. 45)
- (2) The periods of time mentioned in the said ~~provisions of Part V~~ subject provisions of Part 11 shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.
- (3) Any payments made under this section shall be recouped as far as may be out of the assets of the ~~company~~ open-ended fund company available for payment of general creditors.

(Amended 6 of 1984 s. 45)
[cf. 1925 c. 23 s. 78 U.K.]

Note:

* **Commencement date: 31 August 1984.**

Part:	V	Contributories	L.N. 190 of 2016	13/02/2017
Division:	1			
Subdivision:	2			

(Added 14 of 2016 s. 19)

Section:	170	Liability as contributories of present and past <u>shareholders</u> <u>members</u>	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 19

- (1) In the event of ~~a company~~ an open-ended fund company being wound up, every present and past ~~member~~ shareholder shall be liable to contribute to the assets of the ~~company~~ open-ended fund company to an amount sufficient for payment of its debts and liabilities, and the costs, charges, and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, subject to the provisions of subsection (2) and the following qualifications-
- a past ~~member~~ shareholder shall not be liable to contribute if he has ceased to be a ~~member~~ shareholder for 1 year or upwards before the commencement of the winding up;
 - a past ~~member~~ shareholder shall not be liable to contribute in respect of any debt or liability of the ~~company~~ open-ended fund company contracted after he ceased to be a ~~member~~ shareholder;
 - a past ~~member~~ shareholder shall not be liable to contribute unless it appears to the court that the existing ~~members~~ shareholders are unable to satisfy the contribution required to be made by them in pursuance of this Ordinance;
 - in the case of ~~a company~~ an open-ended fund company limited by shares no contribution shall be required from any ~~member~~ shareholder exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past ~~member~~ shareholder;
 - in the case of a company limited by guarantee, no contribution shall, subject to the provisions of subsection (3), be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;
 - nothing in this Ordinance or the Companies Ordinance (Cap 622) shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual ~~members~~ shareholders on the policy or contract is restricted, or whereby the funds of the ~~company~~ open-ended fund company are alone made liable in respect of the policy or contract; (Amended 28 of 2012 ss. 912 & 920)
 - a sum due to any ~~member~~ shareholder of ~~a company~~ an open-ended fund company, in his character of a ~~member~~ shareholder, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the ~~company~~ open-ended fund company, payable to that ~~member~~ shareholder in a case of competition between himself and any other creditor not a ~~member~~ shareholder of the ~~company~~ open-ended fund company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.
- (2) In the winding up of a limited company, any director, whether past or present, whose liability is, under the provisions of the pre-amended Ordinance, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company: (Amended 28 of 2012 ss. 912 & 920)
- Provided that-
- a past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;
 - a past director shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;
 - subject to the articles of the company, a director shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding up. (Amended 6 of 1984 s. 127)
- (3) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in

the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.
[cf. 1929 c. 23 s. 157 U.K.]

Section:	170A	Liability of directors and shareholders involved in share redemption or buy-back out of capital	L.N. 190 of 2016	13/02/2017
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- (1) This section applies where a company is being wound up and—
 - (a) it has under Division 4 of Part 5 of the Companies Ordinance (Cap 622) made a payment out of capital in respect of the redemption or buy-back of any of its own shares (*payment out of capital*) from a person (*past shareholder*); and
 - (b) the aggregate amount of the company's assets and the amounts paid by way of contribution to its assets (apart from this section) is insufficient for payment of its debts and liabilities, and the costs, charges and expenses of the winding up.
- (2) If the winding up commenced on, or within 1 year after, the date on which the payment out of capital was made, then the following persons are liable to contribute to the company's assets in accordance with subsection (3) so as to enable the insufficiency mentioned in subsection (1)(b) to be met—
 - (a) the past shareholder; and
 - (b) the directors who signed the solvency statement required to be made under section 259(1) of the Companies Ordinance (Cap 622) in relation to the payment out of capital (except a director who shows that the director had reasonable grounds for forming the opinion expressed in the statement).
- (3) For the purposes of subsection (2)—
 - (a) the past shareholder is liable to contribute an amount not exceeding the amount of the payment out of capital made by the company in respect of the shares redeemed or bought back from the past shareholder; and
 - (b) the directors are jointly and severally liable with the past shareholder to contribute the amount to which the past shareholder is liable to contribute.
- (4) A person who has contributed any amount to the assets of a company under this section may apply to the court for an order directing any other person who is jointly and severally liable in respect of that amount to pay the person an amount that the court thinks just and equitable.
- (5) The limitations under section 170 on any liability to contribute do not apply in relation to liability accruing under this section.

(Added 14 of 2016 s. 20)

Section:	171	Meaning of contributory*	L.N. 190 of 2016	13/02/2017
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- (1) The term **contributory** (分擔人) means every person liable to contribute to the assets of ~~a company~~an open-ended fund company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory. (Amended 14 of 2016 s. 21)
- (2) A reference in ~~a company~~an open-ended fund company's ~~articles~~instrument of incorporation to a contributory does not (unless the context requires) include a person who is a contributory only by virtue of section 170A. (Added 14 of 2016 s. 21)

[cf. 1929 c. 23 s. 158 U.K.]

Note:

* (Amended 14 of 2016 s. 21)

Section:	172	Nature of liability of contributory	E.R. 2 of 2012	02/08/2012
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The liability of a contributory shall create a debt of the nature of a specialty accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

[cf. 1929 c. 23 s. 159 U.K.]

Section:	173	Contributories in case of death of membershareholder	E.R. 2 of 2012	02/08/2012
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- (1) If a contributory dies either before or after he has been placed on the list of contributories, his

personal representatives shall be liable in due course of administration to contribute to the assets of the companyopen-ended fund company in discharge of his liability and shall be contributories accordingly. (Amended 6 of 1984 s. 128)

(2) (Repealed 6 of 1984 s. 128)

(3) If the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory, and for compelling payment thereof of the money due.

[cf. 1929 c. 23 s. 160 U.K.]

Section:	174	Contributories in case of bankruptcy of <u>shareholder member</u>	E.R. 2 of 2012	02/08/2012
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If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories-

- (a) his trustee in bankruptcy shall represent him for all the purposes of the winding up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the companyopen-ended fund company; and
- (b) there may be proved against the estate of the bankrupt the estimated value of his liability to future calls as well as calls already made.

[cf. 1929 c. 23 s. 161 U.K.]

Section:	175	(Repealed 27 of 1971 s. 15)		30/06/1997
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Part:	V	Voluntary Winding Up	L.N. 190 of 2016	13/02/2017
Division:	3			

(Added 14 of 2016 s. 57)

Part:	V	Resolutions for and Commencement of Voluntary Winding Up	L.N. 190 of 2016	13/02/2017
Division:	3			
Subdivision:	1			

(Added 14 of 2016 s. 57)

Section:	228	Circumstances in which <u>companyopen-ended fund company</u> may be wound up voluntarily	L.N. 190 of 2016	13/02/2017
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(iii) (Repealed 14 of 2016 s. 57)

Cross-heading repealed 14 of 2016 s. 57

(1) ~~A company~~An open-ended fund company may be wound up voluntarily-

- (a) when the period, if any, fixed for the duration of the companyopen-ended fund company by the articlesinstrument of incorporation expires, or the event, if any, occurs on the occurrence of which the articlesinstrument of incorporation provide that the companyopen-ended fund company is to be dissolved, and the companyopen-ended fund company in general meeting has passed a resolution requiring the companyopen-ended fund company to be wound up voluntarily; (Replaced 6 of 1984 s. 160. Amended 28 of 2012 ss. 912 & 920)
- (b) if the companyopen-ended fund company resolves by special resolution that the companyopen-ended fund company be wound up voluntarily;
- (c) (Repealed 14 of 2016 s. 58)
- (d) if the directors of the companyopen-ended fund company or, in the case of ~~a company~~an open-ended fund company having more than 2 directors, the majority of the directors, deliver to the Registrar a winding-up statement under section 228A. (Added 75 of 1993 s. 13. Amended 28 of 2003 s. 82)

(2) In this Ordinance, the expression **a resolution for voluntary winding up** (自動清盤決議) means a

resolution passed under subsection (1)(a) or (b). (Amended 75 of 1993 s. 13)

(Amended 14 of 2016 s. 58)
[cf. 1929 c. 23 s. 225 U.K.]

Section:	228A	Special procedure for voluntary winding up of <u>companyopen-ended fund company</u> in case of inability to continue its business	L.N. 190 of 2016	13/02/2017
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Expanded Cross Reference:

241, 242, 243, 243A, 244, 244A, 245, 246, 247, 248

- (1) The directors of a companyan open-ended fund company or, in the case of a companyan open-ended fund company having more than 2 directors, the majority of the directors, may, if they have formed the opinion that the companyopen-ended fund company cannot by reason of its liabilities continue its business- (Amended 14 of 2016 s. 59)
- (a) pass a resolution to the effect that-
- (i) the companyopen-ended fund company cannot by reason of its liabilities continue its business;
 - (ii) they consider it necessary that the companyopen-ended fund company be wound up and that the winding up should be commenced under this section because it is not reasonably practicable for it to be commenced under another section of this Ordinance; and
 - (iii) meetings of the companyopen-ended fund company and of its creditors will be summoned for a date not later than 28 days after the delivery of a winding-up statement to the Registrar;
- (b) cause a meeting of the companyopen-ended fund company to be summoned for a date not later than 28 days after the delivery of a winding-up statement to the Registrar; and
- (c) appoint a person as the provisional liquidator in the winding up of the companyopen-ended fund company with effect from the commencement of the winding up. (Amended 14 of 2016 s. 59)
- (1A) After taking the actions specified in subsection (1)(a), (b) and (c), the directors or the majority of the directors may deliver a winding-up statement to the Registrar. (Added 14 of 2016 s. 59)
- (1B) The winding-up statement delivered to the Registrar must-
- (a) be in the specified form;
 - (b) be signed by one of the directors; and
 - (c) contain a statement by the director signing the winding-up statement certifying that-
 - (i) a resolution has been passed under subsection (1);
 - (ii) a meeting of the companyopen-ended fund company has been summoned for the date and time stated in the winding-up statement; and
 - (iii) a provisional liquidator of the name and address stated in the winding-up statement has been appointed and that the appointment will take effect from the commencement of the winding up. (Added 14 of 2016 s. 59)
- (2) The resolution referred to in subsection (1) and the winding-up statement shall specify the reasons in support of the consideration mentioned in paragraph (a)(ii) of that subsection. (Amended 14 of 2016 s. 59)
- (3) A winding-up statement shall have no effect for the purposes of this Ordinance unless it is delivered to the Registrar for registration within 7 days after the date on which it is made.
- (4) A director of a companyan open-ended fund company who signs a winding-up statement without having reasonable grounds- (Amended 14 of 2016 s. 59)
- (a) for the opinion that the companyopen-ended fund company cannot by reason of its liabilities continue its business; (Amended 14 of 2016 s. 59)
 - (b) to consider that the winding up of the companyopen-ended fund company should be commenced under this section because it is not reasonably practicable for it to be commenced under another section of this Ordinance; or (Amended 14 of 2016 s. 59)
 - (c) for certifying any of the matters referred to in subsection (1B)(c), (Added 14 of 2016 s. 59)
- shall be liable to a fine and imprisonment.
- (5) Where a winding-up statement is delivered to the Registrar-
- (a) the winding up of the companyopen-ended fund company shall commence at the time of the delivery of that statement; and
 - (b) (Repealed 14 of 2016 s. 59)
 - (c) the directors shall cause a meeting of the creditors of the companyopen-ended fund company to be

- summoned for a date not later than 28 days after the delivery of that statement. (Amended 14 of 2016 s. 59)
- (6) A director who fails to comply with subsection (5)(c) commits an offence and is liable on conviction to a fine. (Amended 14 of 2016 s. 59)
 - (7) The provisional liquidator appointed under subsection (1)(c) may-
 - (a) summon a meeting of the companyopen-ended fund company if the directors have not, prior to the delivery of the winding-up statement to the Registrar, caused a meeting of the companyopen-ended fund company to be summoned under subsection (1)(b); and
 - (b) summon a meeting of the creditors of the companyopen-ended fund company if the directors fail to comply with subsection (5)(c). (Replaced 14 of 2016 s. 59)
 - (8) Without limiting section 262A, no person may be appointed as, or act as, a provisional liquidator under subsection (1)(c) unless- (Amended 14 of 2016 s. 59)
 - (a) that person has consented in writing to the appointment; and
 - (b) that person is a solicitor, or a certified public accountant under the Professional Accountants Ordinance (Cap 50). (Amended 23 of 2004 s. 56; 14 of 2016 s. 59)
 - (8A) An appointment that is made in contravention of subsection (8) is void. (Added 14 of 2016 s. 59)
 - (8B) A person who acts as a provisional liquidator in contravention of subsection (8) commits an offence and is liable on conviction to a fine. (Added 14 of 2016 s. 59)
 - (9) Within 15 days after the commencement of the winding up of the companyopen-ended fund company, the directors shall give notice in the Gazette of- (Amended 14 of 2016 s. 59)
 - (a) the commencement of the winding up of the companyopen-ended fund company by the delivery to the Registrar of the winding-up statement and the date of such delivery; and
 - (b) the appointment of the provisional liquidator and his name and address.
 - (9A) A director who fails to comply with subsection (9) commits an offence and is liable on conviction to a fine and, for continued default, to a daily default fine. (Added 14 of 2016 s. 59)
 - (10) A provisional liquidator appointed under subsection (1)(c) must, within 15 days after the commencement of the winding up of the companyopen-ended fund company, deliver to the Registrar for registration a notice of his appointment in the specified form, which notice shall include the following particulars- (Amended 14 of 2016 s. 59)
 - (a) his name;
 - (b) his address; and
 - (c) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him.
 - (11) A person appointed as a provisional liquidator under subsection (1)(c) who ceases to act as such must, within 15 days after the date of his ceasing to act- (Amended 14 of 2016 s. 59)
 - (a) publish in the Gazette a notice of that fact; and
 - (b) deliver to the Registrar for registration a notice of that fact in the specified form.
 - (12) If any change occurs in the particulars given in a notice delivered to the Registrar under subsection (10), the provisional liquidator shall, within 15 days after the date of the change, deliver to the Registrar for registration a notice of that change in the specified form, unless he has previously given notice to the Registrar under subsection (11). (Amended 14 of 2016 s. 59)
 - (13) A person who fails to comply with subsection (10), (11) or (12) commits an offence and is liable on conviction to a fine and, for continued default, to a daily default fine. (Amended 14 of 2016 s. 59)
 - (14) A provisional liquidator appointed under subsection (1)(c) shall- (Amended 14 of 2016 s. 59)
 - (a) unless a liquidator is sooner appointed, hold office until a meeting of the creditors of the companyopen-ended fund company summoned under this section or, if that meeting is adjourned, any adjourned meeting, may allow;
 - (b) take into his custody or under his control all the property and things in action to which the companyopen-ended fund company is or appears to be entitled; and
 - (c) be entitled, out of the funds of the companyopen-ended fund company, to such remuneration as the committee of inspection or, if there is no such committee, the creditors, may fix and to reimbursement of expenses properly incurred by him, but he shall not be liable, and no civil action or other proceedings shall lie against him, in respect of acts properly done by him.
 - (15) All the powers of the directors cease during the period of the provisional liquidator's appointment except-
 - (a) so far as may be necessary for enabling the directors to comply with this section; or
 - (b) if the court sanctions the continuance of those powers for any other purpose. (Replaced 14 of 2016 s. 59)
 - (16) (Repealed 14 of 2016 s. 59)
 - (17) In relation to every winding up commenced under this section-

- (a) section 241 shall apply to a meeting of the creditors of the companyopen-ended fund company summoned under this section as it applies to a meeting of the creditors of a companyan open-ended fund company summoned under that section except that-
- (i) for the words "at which the resolution for voluntary winding up is to be proposed" in subsection (1)(a) of that section there shall be substituted the words "under section 228A(1)(b)"; (Amended 14 of 2016 s. 59)
 - (ii) the advertisement of the meeting of creditors required by subsection (2) of that section must occur at least 7 days before the meeting of creditors; and (Replaced 14 of 2016 s. 59)
 - (iii) subsection (5) of that section shall be omitted;
- (b) subject to paragraph (a), sections 241 to 248 shall apply as they apply in relation to a creditors' voluntary winding up. <* Note - Exp. X-Ref.: Sections 241, 242, 243, 243A, 244, 244A, 245, 246, 247, 248 *>

(20) In this section-

winding-up statement (清盤陳述書) means the winding-up statement described in subsection (1B). (Added 14 of 2016 s. 59)

(Replaced 28 of 2003 s. 83)

Note:

Commencement date: 13 February 2004.

Section:	228B	Other powers, duties and liabilities of provisional liquidator appointed under section 228A	L.N. 190 of 2016	13/02/2017
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- (1) Subject to subsection (2), a provisional liquidator appointed under section 228A(1)(c)—
 - (a) has, for the period of the provisional liquidator's appointment, the like powers as a liquidator in a creditors' voluntary winding up;
 - (b) is, for that period, subject to the like duties as such a liquidator; and
 - (c) is subject to the like liabilities as such a liquidator.
- (2) Except as provided in subsection (3), the provisional liquidator may exercise a power conferred by subsection (1)(a) only with the sanction of the court.
- (3) The provisional liquidator may, without sanction of the court—
 - (a) take into the provisional liquidator's custody, or under the provisional liquidator's control, all the property and things in action to which the companyopen-ended fund company is or appears to be entitled;
 - (b) dispose of perishable goods and other goods that are likely to diminish in value if not immediately disposed of; and
 - (c) do anything that may be necessary to protect the companyopen-ended fund company's assets.
- (4) The court has the same jurisdiction and powers over a provisional liquidator appointed under section 228A(1)(c) as it has over a liquidator in a creditors' voluntary winding up.
- (5) A provisional liquidator who, without reasonable excuse, exercises a power conferred by subsection (1)(a) in contravention of subsection (2) commits an offence and is liable on conviction to a fine.
- (6) A provisional liquidator appointed under section 228A(1)(c) must—
 - (a) attend the meeting of the creditors of the companyopen-ended fund company summoned under section 228A; and
 - (b) report to the meeting on any exercise of the provisional liquidator's powers, whether or not those powers are exercised under this section.
- (7) A provisional liquidator who, without reasonable excuse, fails to comply with subsection (6) commits an offence and is liable on conviction to a fine.

(Added 14 of 2016 s. 60)

Section:	229	Notice of resolution to wind up voluntarily	L.N. 190 of 2016	13/02/2017
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- (1) When a companyan open-ended fund company has passed a resolution for voluntary winding up, it shall, within 15 days after the passing of the resolution, give notice of the resolution by advertisement in the Gazette. (Amended 1 of 1949 s. 16; 15 of 1955 s. 6; 14 of 2016 s. 61)
- (2) If default is made in complying with this section, the companyopen-ended fund company and every officer

of the ~~company~~open-ended fund company who is in default shall be liable to a fine and, for continued default, to a daily default fine, and for the purposes of this subsection the liquidator of the ~~company~~open-ended fund company shall be deemed to be an officer of the ~~company~~open-ended fund company. (Amended 7 of 1990 s. 2; L.N. 587 of 1995)

[cf. 1929 c. 23 s. 226 U.K.]

Section:	230	Commencement of voluntary winding up	E.R. 2 of 2012	02/08/2012
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Except as provided in section 228A(5)(a), a voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntary winding up.

(Amended 75 of 1993 s. 15; 28 of 2003 s. 84)

[cf. 1929 c. 23 s. 227 U.K.]

Part:	V	Consequences of Voluntary Winding Up	L.N. 190 of 2016	13/02/2017
Division:	3			
Subdivision:	2			

(Added 14 of 2016 s. 62)

Section:	231	Effect of voluntary winding up on business and status of company<u>open-ended fund company</u>	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 62

In case of a voluntary winding up, the ~~company~~open-ended fund company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof: Provided that the corporate state and corporate powers of the ~~company~~open-ended fund company shall, notwithstanding anything to the contrary in its ~~articles~~instrument of incorporation, continue until it is dissolved.

[cf. 1929 c. 23 s. 228 U.K.]

Section:	232	Avoidance of transfers, &c., after commencement of voluntary winding up	E.R. 2 of 2012	02/08/2012
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Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the ~~members~~shareholders of the ~~company~~open-ended fund company, made after the commencement of a voluntary winding up, shall be void.

[cf. 1929 c. 23 s. 229 U.K.]

Part:	V	Certificate of Solvency	L.N. 190 of 2016	13/02/2017
Division:	3			
Subdivision:	3			

(Added 14 of 2016 s. 63)

Section:	233	Certificate of solvency in case of proposal to wind up voluntarily	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 63

- (1) Subject to subsection (1A), where it is proposed to wind up a ~~company~~an open-ended fund company voluntarily, the directors of the ~~company~~open-ended fund company or, in the case of a ~~company~~an open-ended fund company having more than 2 directors, the majority of the directors, may at a meeting of the directors issue a certificate in the specified form (the *certificate of solvency*), signed by the directors, to the effect that they have made a full inquiry into the affairs of the ~~company~~open-ended fund company, and that, having so done, they have formed the opinion that the ~~company~~open-ended fund company will be able to pay its debts in full within such period not exceeding 12 months from the commencement of the winding up

as may be specified in the certificate of solvency. (Amended 30 of 1999 s. 17)

- (1A) A certificate of solvency may be issued by the directors of the company open-ended fund company other than at a meeting of the directors if, but only if, before the certificate is issued, a resolution has been passed by the directors authorizing the certificate to be issued. (Replaced 28 of 2003 s. 86)
- (2) A certificate of solvency shall have no effect for the purposes of this Ordinance unless- (Amended 28 of 2003 s. 86)
- (a) it is issued within the 5 weeks immediately preceding the date of the passing of the resolution for winding up the company open-ended fund company or on that date but before the passing of the resolution and is delivered to the Registrar for registration not later than the date of delivery to the Registrar of a copy of the resolution; and (Amended 79 of 1988 s. 7)
- (b) it embodies a statement of the company open-ended fund company's assets and liabilities as at the latest practicable date before the issuing of the certificate.
- (3) Any director of a company open-ended fund company signing a certificate of solvency under this section without having reasonable grounds for the opinion that the company open-ended fund company will be able to pay its debts in full within the period specified in the certificate, shall be liable to a fine and imprisonment; and if the company open-ended fund company is wound up in pursuance of a resolution passed within the period of 5 weeks after the issuing of the certificate, but its debts are not paid or provided for in full within the period stated in the certificate, it shall be presumed until the contrary is shown that the director did not have reasonable grounds for his opinion. (Amended 7 of 1990 s. 2)
- (4) A winding up in the case of which a certificate of solvency has been issued and delivered under this section is in this Ordinance referred to as ***a members' voluntary winding up***, and a winding up in the case of which a certificate of solvency has not been issued and delivered as aforesaid is in this Ordinance referred to as ***a creditors' voluntary winding up***.

(Replaced 6 of 1984 s. 162. Amended 28 of 2003 s. 86)
[cf. 1948 c. 38 s. 283 U.K.]

Note:

* **Commencement date: 31 August 1984.**

** **Commencement date: 13 February 2004.**

Part:	V	Provisions Applicable to Members' Voluntary Winding Up	L.N. 190 of 2016	13/02/2017
Division:	3			
Subdivision:	4			

(Added 14 of 2016 s. 64)

Section:	234	Provisions applicable to members' winding up	L.N. 190 of 2016	13/02/2017
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Expanded Cross Reference:

235, 235A, 236, 237, 237A, 237B, 238, 239

Cross-heading repealed 14 of 2016 s. 64

The provisions contained in sections 235 to 239 shall apply in relation to a members' voluntary winding up. <* Note - Exp. X-Ref.: Sections 235, 235A, 236, 237, 237A, 237B, 238, 239 *>

(Amended 6 of 1984 s. 163; 14 of 2016 s. 65)
[cf. 1929 c. 23 s. 231 U.K.]

Section:	235	Power of <u>company open-ended fund company</u> to appoint and fix remuneration of liquidators	E.R. 2 of 2012	02/08/2012
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- (1) The company open-ended fund company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company open-ended fund company, and may fix the remuneration to be paid to him or them.

- (2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the companyopen-ended fund company in general meeting, or the liquidator, sanctions the continuance thereof. [cf. 1929 c. 23 s. 232 U.K.]

Section:	235A	Power to remove liquidator	E.R. 2 of 2012	02/08/2012
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- (1) The companyopen-ended fund company may by special resolution remove a liquidator from office at a general meeting of which notice specifying the intention to propose such resolution has been duly given to the creditors and the liquidator.
- (2) The court may, on the application of any creditor or contributory, order that a liquidator whom it is proposed to remove from office under this section shall not be so removed.
- (3) A general meeting for the purpose of this section may be convened by any contributory.
- (Added 6 of 1984 s. 164)

Section:	236	Power to fill vacancy in office of liquidators	L.N. 163 of 2013	03/03/2014
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- (1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the companyopen-ended fund company, the companyopen-ended fund company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.
- (2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.
- (3) The meeting shall be held in manner provided by this Ordinance or ~~the Companies Ordinance (Cap 622)~~ these Rules or by the articlesinstrument of incorporation, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court. (Amended 28 of 2012 ss. 912 & 920)
- [cf. 1929 c. 23 s. 233 U.K.]

Section:	237	Power of liquidator to accept shares, &c. as consideration for sale of property of <u>companyopen-ended fund company</u>	E.R. 2 of 2012	02/08/2012
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- (1) Where ~~a companyan~~ open-ended fund company is proposed to be, or is in course of being, wound up voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Ordinance or not (in this section called the transferee company) the liquidator of the first-mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the membersshareholders of the transferor company, or may enter into any other arrangement whereby the membersshareholders of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.
- (2) Any sale or arrangement in pursuance of this section shall be binding on the membersshareholders of the transferor company.
- (3) If any membersshareholder of the transferor company, whether he voted in favour of the special resolution or not, expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the companyopen-ended fund company within 7 days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration. (Amended 25 of 1998 s. 2)
- (4) If the liquidator elects to purchase the membersshareholder's interest, the purchase money must be paid before the companyopen-ended fund company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.
- (5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators, but, if an order is made within a year for winding up the company by the court, the special resolution shall not be valid unless sanctioned by the court.

(6) (Repealed 25 of 1998 s. 2)

(Amended 6 of 1984 s. 165)
[cf. 1929 c. 23 s. 234 U.K.]

Section:	237A	Duty of liquidator to summon creditors' meeting, etc. in case of insolvency#	L.N. 190 of 2016	13/02/2017
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(1) This section applies if the liquidator of ~~a company~~ an open-ended fund company is of the opinion that the ~~company~~ open-ended fund company will not be able to pay its debts in full within the period stated in the certificate of solvency. (Replaced 14 of 2016 s. 66)

(1A) The liquidator must—

- (a) summon a meeting of the creditors of the ~~company~~ open-ended fund company for a date not later than 28 days after the day on which the liquidator formed that opinion;
- (b) send notices of the meeting to the creditors at least 7 days before the date on which the meeting is to be held; and
- (c) cause the notice of the meeting to be advertised—
 - (i) once in the Gazette; and
 - (ii) at least once in an English language newspaper and a Chinese language newspaper circulating in Hong Kong. (Added 14 of 2016 s. 66)

(1B) If the liquidator is not a person who would be disqualified under section 262B(3) from acting as liquidator in the winding up of the ~~company~~ open-ended fund company were it a creditors' voluntary winding up, the liquidator must make a disclosure statement that complies with section 262D before notices of the meeting are sent to the creditors. (Added 14 of 2016 s. 66)

(1C) If the liquidator is a person who would be disqualified under section 262B(3) from acting as a liquidator in the winding up of the ~~company~~ open-ended fund company were it a creditors' voluntary winding up, the liquidator must state in the notices of the meeting that the liquidator—

- (a) would be disqualified under section 262B(3) from acting as liquidator of the ~~company~~ open-ended fund company when the winding up of the ~~company~~ open-ended fund company becomes a creditors' voluntary winding up under section 237B(1); and
- (b) although would be allowed under section 237B(3)(a) to continue to act as liquidator of the ~~company~~ open-ended fund company, he or she would cease to be the liquidator of the ~~company~~ open-ended fund company immediately after the conclusion of the meeting. (Added 14 of 2016 s. 66)

(1D) At any time before the date on which the meeting is to be held, the liquidator must, as the creditors or any of them may reasonably require, provide the creditors or any of them, free of charge, with any information concerning the ~~company~~ open-ended fund company' s affairs so required. (Added 14 of 2016 s. 66)

(1E) The liquidator must inform the creditors, in the notice of the meeting, of the liquidator' s duty to provide information as imposed by subsection (1D). (Added 14 of 2016 s. 66)

(1F) The liquidator must also—

- (a) prepare a full statement of the position of the ~~company~~ open-ended fund company' s affairs that complies with subsection (1G); and
- (b) lay that statement before the meeting. (Added 14 of 2016 s. 66)

(1G) The full statement of the position of the ~~company~~ open-ended fund company' s affairs must show—

- (a) the particulars of the ~~company~~ open-ended fund company' s assets, debts and liabilities;
- (b) the names of the ~~company~~ open-ended fund company' s creditors and the estimated amount of the claim of each of the creditors;
- (c) the securities held by each of the creditors;
- (d) the date on which each of the securities was given; and
- (e) any further or other information as may be prescribed. (Added 14 of 2016 s.

66) (1H) The liquidator must attend and preside at the meeting. (Added 14 of 2016 s. 66)

(2) The creditors may, at a meeting summoned by the liquidator under this section, appoint another liquidator in place of the liquidator. (Amended 14 of 2016 s. 66)

- (3) A liquidator who, without reasonable excuse, fails to comply with subsection (1A), (1B), (1C), (1D), (1E), (1F) or (1H) commits an offence and is liable on conviction to a fine. (Replaced 14 of 2016 s. 66)

(Added 6 of 1984 s. 166)
[cf. 1948 c. 38 s. 288 U.K.]

Note:

* **Commencement date: 31 August 1984.**

(Amended 14 of 2016 s. 66)

Section:	237B	Conversion to creditors' voluntary winding up in case of insolvency	L.N. 190 of 2016	13/02/2017
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- (1) On the day when the meeting of the creditors of the company open-ended fund company is held under section 237A, the winding up becomes a creditors' voluntary winding up.
- (2) When the winding up becomes a creditors' voluntary winding up under subsection (1), this Ordinance accordingly applies to the winding up of the company open-ended fund company as a creditors' voluntary winding up as if the certificate of solvency concerned had not been issued by the directors of the company open-ended fund company.
- (3) If, when the winding up becomes a creditors' voluntary winding up under subsection (1), the person holding the office of liquidator of the company open-ended fund company is disqualified under section 262B(3) from acting as liquidator of the company open-ended fund company, then—
 - (a) despite sections 262A and 262B and rule 155 of the Companies (Winding-up) Rules (Cap 32 sub. leg. H), the person may continue to act as liquidator of the company open-ended fund company until the meeting is concluded, but solely for the purposes of complying with section 237A; and
 - (b) immediately after the conclusion of the meeting, the person ceases to be the liquidator of the company open-ended fund company and for the purposes of this Ordinance, the Companies (Winding-up) Rules (Cap 32 sub. leg. H) and the Companies Ordinance (Cap 622) is taken to have been removed from that office.

(Added 14 of 2016 s. 67)

Section:	238	Duty of liquidator to call general meeting at end of each year	L.N. 190 of 2016	13/02/2017
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- (1) In the event of the winding up continuing for more than 1 year, the liquidator shall summon a general meeting of the company open-ended fund company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Official Receiver may allow, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year. (Amended 14 of 2016 s. 68)
- (2) If the liquidator fails to comply with this section, he shall be liable to a fine. (Amended 22 of 1950 Schedule; 7 of 1990 s. 2)

(Amended 6 of 1984 s. 167)
[cf. 1929 c. 23 s. 235 U.K.]

Section:	239	Final meeting and dissolution	L.N. 190 of 2016	13/02/2017
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- (1) As soon as the affairs of the company open-ended fund company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company open-ended fund company has been disposed of, and thereupon shall call a general meeting of the company open-ended fund company for the purpose of laying before it the account, and giving any explanation thereof. (Amended 14 of 2016 s. 69)
- (2) The meeting shall be called by advertisement in the Gazette, specifying the time, place, and object thereof, and published 1 month at least before the meeting.
- (3) Within 1 week after the meeting, the liquidator shall send to the Registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine and, for continued default, to a daily default fine:

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of the subsection as to the making of the return shall be deemed to have been complied with.

- (4) The Registrar on receiving the account and either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of 3 months from the registration of the return the companyopen-ended fund company shall be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the companyopen-ended fund company is to take effect for such time as the court thinks fit.

- (5) It shall be the duty of the person on whose application an order of the court under this section is made, within 7 days after the making of the order, to deliver to the Registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine and, for continued default, to a daily default fine.
- (6) If the liquidator fails to call a general meeting of the companyopen-ended fund company as required by this section, he shall be liable to a fine. (Added 6 of 1984 s. 168)

(Amended 6 of 1984 s. 168; 7 of 1990 s. 2)
[cf. 1929 c. 23 s. 236 U.K.]

Section:	239A	(Repealed 14 of 2016 s. 70)	L.N. 190 of 2016	13/02/2017
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Part:	V	Provisions Applicable to Creditors' Voluntary Winding Up	L.N. 190 of 2016	13/02/2017
Division:	3			
Subdivision:	5			

(Added 14 of 2016 s. 71)

Section:	240	Provisions applicable to creditors' winding up	L.N. 190 of 2016	13/02/2017
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Expanded Cross Reference:

241, 242, 243, 243A, 244, 244A, 245, 246, 247, 248

Cross-heading repealed 14 of 2016 s. 71

- (1) Subject to subsection (2), the provisions contained in sections 241 to 248 shall apply in relation to a creditors' voluntary winding up. <* Note - Exp. X-Ref.: Sections 241, 242, 243, 243A, 244, 244A, 245, 246, 247, 248 *> (Amended 14 of 2016 s. 72)
- (2) Sections 241, 242 and 243A do not apply in relation to a winding up that becomes a creditors' voluntary winding up under section 237B(1). (Added 14 of 2016 s. 72)

[cf. 1929 c. 23 s. 237 U.K.]

Section:	241	Meeting of creditors	L.N. 190 of 2016	13/02/2017
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- (1) The companyopen-ended fund company shall- (Amended 14 of 2016 s. 73)
- cause a meeting of the creditors of the companyopen-ended fund company to be summoned for a date not later than 14 days after the day on which there is to be held the meeting of the companyopen-ended fund company at which the resolution for voluntary winding up is to be proposed; and
 - cause notices of the meeting of creditors to be sent by post to the creditors at least 7 days before the day on which the meeting is to be held.
- (2) The companyopen-ended fund company shall cause notice of the meeting of the creditors to be advertised once in the Gazette and once at least in, respectively, an English language newspaper and a Chinese language newspaper circulating in Hong Kong. (Replaced 6 of 1984 s. 170)
- (3) The directors of the companyopen-ended fund company shall-
- cause a full statement of the position of the companyopen-ended fund company's affairs that complies with subsection (3A) to be laid before the meeting of creditors to be held as provided in subsection (1);

and

(b) appoint one of their number to preside at the said meeting.

(3A) The full statement of the position of the companyopen-ended fund company' s affairs must show-

- (a) the particulars of the companyopen-ended fund company' s assets, debts and liabilities;
- (b) the names of the companyopen-ended fund company' s creditors and the estimated amount of the claim of each of the creditors;
- (c) the securities held by each of the creditors;
- (d) the date on which each of the securities was given; and
- (e) any further or other information as may be prescribed (Added 14 of 2016 s. 73)

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the companyopen-ended fund company at which the resolution for voluntary winding up is to be proposed is adjourned to a date later than the day of the meeting of creditors held under subsection (1), and the resolution is passed at an adjourned meeting, any resolution passed at that meeting of creditors shall have effect as if it had been passed immediately after the passing of the resolution for winding up the companyopen-ended fund company.

(6) If default is made-

- (a) by the companyopen-ended fund company, without reasonable excuse, in complying with subsection (1) or (2);
- (b) by the directors of the companyopen-ended fund company, without reasonable excuse, in complying with subsection (3);
- (c) by any director of the companyopen-ended fund company, without reasonable excuse, in complying with subsection (4),

the companyopen-ended fund company, directors or director, as the case may be, commits an offence and is liable on conviction to a fine, and, in the case of default by the companyopen-ended fund company, every officer of the companyopen-ended fund company who is in default commits an offence and is liable on conviction to the like penalty. (Amended 22 of 1950 Schedule; 6 of 1984 s. 170; 7 of 1990 s. 2)

(Amended 14 of 2016 s. 73)

[cf. 1929 c. 23 s. 238 U.K.]

Section:	242	Appointment of liquidator	E.R. 2 of 2012	02/08/2012
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The creditors and the companyopen-ended fund company at their respective meetings mentioned in section 241 may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the companyopen-ended fund company, and if the creditors and the companyopen-ended fund company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the companyopen-ended fund company shall be liquidator:

Provided that in the case of different persons being nominated any director, ~~member~~shareholder, or creditor of the companyopen-ended fund company may, within 7 days after the date on which the nomination was made by the creditors, apply to the court for an order either directing that the person nominated as liquidator by the companyopen-ended fund company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

[cf. 1929 c. 23 s. 239 U.K.]

Section:	243	Appointment of committee of inspection	L.N. 190 of 2016	13/02/2017
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(1) The creditors at the meeting to be held in pursuance of section 237A or 241 or at any subsequent meeting, may, if they think fit, appoint a committee of inspection consisting of not less than 3, and not more than 7 persons, and if such a committee is appointed the companyopen-ended fund company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint one or more persons that they think fit to act as members of the committee, but the number of persons appointed by the creditors and the companyopen-ended fund company must not in total exceed 7: (Amended 14 of 2016 s. 74)

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the companyopen-ended fund company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the court otherwise directs, be

qualified to act as members of the committee, and on any application to the court under this provision the court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

- (1A) However, a liquidator may apply to the court for an order to vary the minimum or maximum number of members mentioned in subsection (1) and the court may make an order that it thinks fit. (Added 14 of 2016 s. 74)
- (2) Subject to the provisions of this section and to ~~general rules~~[provisions of the Winding-up Rules applicable to a voluntary winding up of a company](#), sections 206A, 207, 207A, 207B, 207C, 207D, 207E, 207F, 207G, 207H, 207I, 207J, 207K and 207L apply with respect to a committee of inspection appointed under this section as they apply with respect to a committee of inspection appointed in a winding up by the court. (Amended 14 of 2016 s. 74)
- (3) A body corporate may be a member of the committee but cannot act as a member otherwise than by a representative authorized under section 207A. (Added 14 of 2016 s. 74)

[cf. 1929 c. 23 s. 240 U.K.]

Section:	243A	Powers and duties of liquidator nominated by company open-ended fund company	L.N. 190 of 2016	13/02/2017
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- (1) Except as provided in subsection (2), before a meeting of the creditors of the [company open-ended fund company](#) is held under section 241, a person who is nominated by the [company open-ended fund company](#) to be liquidator under section 242 (*the liquidator*) may exercise a power conferred by section 251(1) only with the sanction of the court.
- (2) The liquidator may, without sanction of the court—
- take into the liquidator's custody, or under the liquidator's control, all the property and things in action to which the [company open-ended fund company](#) is or appears to be entitled;
 - dispose of perishable goods and other goods that are likely to diminish in value if not immediately disposed of; and
 - do anything that may be necessary to protect the [company open-ended fund company](#)'s assets.
- (3) The liquidator must—
- attend the meeting of creditors held under section 241; and
 - report to the meeting on any exercise of the liquidator's powers, whether or not those powers are exercised under this section.
- (4) If section 241(1) is not complied with, the liquidator must apply to the court for directions as to the manner in which the default is to be remedied within 7 days of the later of the following—
- the day on which the liquidator was nominated by the [company open-ended fund company](#);
 - the day on which the liquidator first became aware of the default.
- (5) If section 241(2), (3) or (4) is not complied with, the liquidator may apply to the court for directions as to the manner in which the default is to be remedied.
- (6) A liquidator who, without reasonable excuse, exercises a power conferred by section 251(1) in contravention of subsection (1) commits an offence and is liable on conviction to a fine.
- (7) A liquidator who, without reasonable excuse, fails to comply with subsection (3) or (4) commits an offence and is liable on conviction to a fine.

(Added 14 of 2016 s. 75)

Section:	244	Fixing of liquidators' remuneration and cesser of directors' powers	E.R. 2 of 2012	02/08/2012
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- (1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators.
- (2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

[cf. 1929 c.23 s. 241 U.K.]

Section:	244A	Removal of liquidator	L.N. 190 of 2016	13/02/2017
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- (1) This section does not apply to the removal of a liquidator appointed by, or by the direction of, the court.

- (2) If not less than one-tenth in value of the creditors of ~~a company~~ an open-ended fund company request in writing a liquidator of the ~~company~~ open-ended fund company to convene a meeting of creditors to consider the removal of a liquidator, the liquidator who receives the request must—
- convene the meeting within 21 days from the date the request is received; and
 - specify in the notice of the meeting the proposal of moving a resolution to remove a liquidator.
- (3) If a meeting of creditors is not convened under subsection (2)(a), any creditor of the ~~company~~ open-ended fund company may convene a meeting of creditors for considering the removal of the liquidator for which the meeting was requested to convene under subsection (2).
- (4) The creditor who convenes a meeting of creditors under subsection (3) must specify in the notice of the meeting the proposal of moving a resolution to remove a liquidator.
- (5) A liquidator may be removed by a resolution passed by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors convened under this section and voting on the resolution.
- (6) The court may, on application by a creditor or contributory of the ~~company~~ open-ended fund company, order that a liquidator whom it is proposed to remove from office under this section is not to be so removed.

(Added 14 of 2016 s. 76)

Section:	245	Power to fill vacancy in office of liquidator	L.N. 190 of 2016	13/02/2017
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If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator— (Amended 14 of 2016 s. 77)

- for a liquidator appointed by, or by the direction of, the court, the court may appoint a person to fill the vacancy; and
- for any other liquidator, the creditors may appoint a person to fill the vacancy.

(Amended 14 of 2016 s. 77)

[cf. 1929 c. 23 s. 242 U.K.]

Section:	246	Application of section 237 to a creditors' voluntary winding up	E.R. 2 of 2012	02/08/2012
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Section 237 shall apply in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up, with the modification that the powers of the liquidator under the said section shall not be exercised except with the sanction either of the court or of the committee of inspection.

[cf. 1929 c. 23 s. 243 U.K.]

Section:	247	Duty of liquidator to call meetings of company <u>open-ended fund company</u> and of creditors at end of each year	L.N. 190 of 2016	13/02/2017
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- (1) In the event of the winding up continuing for more than 1 year, the liquidator shall summon a general meeting of the ~~company~~ open-ended fund company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Official Receiver may allow, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.
- (1A) Despite subsection (1), if—
- a winding up becomes a creditors' voluntary winding up under section 237B(1); and
 - the meeting of creditors under section 237A is held 3 months or less before the end of the first year from the commencement of the winding up,
- then the liquidator is not required by this section to summon a meeting of creditors at the end of that year. (Added 14 of 2016 s. 78)
- (2) If the liquidator fails to comply with this section, he shall be liable to a fine. (Amended 22 of 1950 Schedule; 7 of 1990 s. 2)

(Amended 6 of 1984 s. 171)

[cf. 1929 c. 23 s. 244 U.K.]

Section:	248	Final meeting and dissolution	E.R. 2 of 2012	02/08/2012
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- (1) As soon as the affairs of the companyopen-ended fund company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the companyopen-ended fund company has been disposed of, and thereupon shall call a general meeting of the companyopen-ended fund company and a meeting of the creditors, for the purpose of laying the account before the meetings, and giving any explanation thereof.
- (2) Each such meeting shall be called by advertisement in the Gazette, specifying the time, place, and object thereof, and published 1 month at least before the meeting.
- (3) Within 1 week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the Registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine and, for continued default, to a daily default fine:
Provided that, if a quorum is not present at either such meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.
- (4) The Registrar on receiving the account and in respect of each such meeting either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of 3 months from the registration thereof the companyopen-ended fund company shall be dissolved:
Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the companyopen-ended fund company is to take effect for such time as the court thinks fit.
- (5) It shall be the duty of the person on whose application an order of the court under this section is made, within 7 days after the making of the order, to deliver to the Registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine and, for continued default, to a daily default fine.
- (6) If the liquidator fails to call a general meeting of the companyopen-ended fund company or a meeting of the creditors as required by this section, he shall be liable to a fine. (Added 6 of 1984 s. 172)

(Amended 6 of 1984 s. 172; 7 of 1990 s. 2)
[cf. 1929 c. 23 s. 245 U.K.]

Part:	V	Provisions Applicable to Voluntary Winding Up	L.N. 190 of 2016	13/02/2017
Division:	3			
Subdivision:	6			

(Added 14 of 2016 s. 79)

Section:	249	Provisions applicable to voluntary winding up	L.N. 190 of 2016	13/02/2017
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Expanded Cross Reference:

250, 250A, 251, 252, 253, 254, 255, 255A, 256, 257

Cross-heading repealed 14 of 2016 s. 79

Unless otherwise stated in a provision contained in sections 250 to 257, those sections apply to every voluntary winding up. <* Note - Exp. X-Ref.: Sections 250, 250A, 251, 252, 253, 254, 255, 255A, 256, 257 *>

(Replaced 14 of 2016 s. 80)

Section:	250	Distribution of property of <u>companyopen-ended fund company</u>	E.R. 2 of 2012	02/08/2012
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Subject to the provisions of this Ordinance as to preferential payments, the property of a companyan open-ended fund company shall, on its winding up, be applied in satisfaction of its liabilities pari passu, and, subject to such application, shall, unless the articlesinstrument of incorporation otherwise provide, be distributed among the

members/shareholders according to their rights and interests in the company/open-ended fund company.

[cf. 1929 c. 23 s. 247 U.K.]

Section:	250A	Directors' powers before nomination or appointment of liquidator	L.N. 190 of 2016	13/02/2017
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- (1) Except as provided in subsection (3), in a members' voluntary winding up, after the company/open-ended fund company has passed a resolution for voluntary winding up and before the appointment of a liquidator of the company/open-ended fund company, the directors may exercise their powers only with the sanction of the court.
- (2) In a creditors' voluntary winding up, after the company/open-ended fund company has passed a resolution for voluntary winding up and before the nomination or appointment of a liquidator of the company/open-ended fund company, the directors—
 - (a) except as provided in paragraph (b) and subsection (3), may exercise their powers only with the sanction of the court; and
 - (b) may exercise their powers so far as may be necessary for the purpose of enabling the directors to secure compliance with section 241.
- (3) The directors may, without sanction of the court—
 - (a) dispose of perishable goods and other goods that are likely to diminish in value if not immediately disposed of; and
 - (b) do anything that may be necessary to protect the company/open-ended fund company' s assets.
- (4) A director of the company/open-ended fund company who, without reasonable excuse, exercises a power in contravention of subsection (1) or (2) commits an offence and is liable on conviction to a fine.

(Added 14 of 2016 s. 81)

Section:	251	Powers and duties of liquidator in voluntary winding up	L.N. 190 of 2016	13/02/2017
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- (1) Subject to section 243A, a liquidator may- (Amended 14 of 2016 s. 82)
 - (a) exercise any of the powers specified in Part 1 of Schedule 25-
 - (i) in the case of a members' voluntary winding up-with the sanction of a special resolution of the company/open-ended fund company; and
 - (ii) in the case of a creditors' voluntary winding up-with the sanction of the court or the committee of inspection or, if there is no such committee, a meeting of the creditors; (Replaced 14 of 2016 s. 82)
 - (b) without sanction, exercise any of the other powers by this Ordinance given to the liquidator in a winding up by the court;
 - (c) exercise the power of the court under this Ordinance of settling a list of contributories, and the list of contributories shall be prima facie evidence of the liability of the persons named therein to be contributories;
 - (d) exercise the power of the court of making calls;
 - (e) summon general meetings of the company/open-ended fund company for the purpose of obtaining the sanction of the company/open-ended fund company by special resolution or for any other purpose he may think fit. (Amended 6 of 1984 s. 174)
- (2) The liquidator shall pay the debts of the company/open-ended fund company and shall adjust the rights of the contributories among themselves.
- (3) When several liquidators are appointed, any power given by this Ordinance may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than 2.

[cf. 1929 c. 23 s. 248 U.K.]

Section:	252	Court may appoint and remove liquidator in voluntary winding up	E.R. 2 of 2012	02/08/2012
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- (1) If from any cause whatever there is no liquidator acting, the court may appoint a liquidator.
- (2) The court may, on cause shown, remove a liquidator and appoint another liquidator.

[cf. 1929 c. 23 s. 249 U.K.]

Section:	253	Notice by liquidator of his appointment or ceasing to act	L.N. 190 of 2016	13/02/2017
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- (1) The liquidator shall, within 15 days after the date of his appointment- (Amended 14 of 2016 s. 83)
 - (a) publish in the Gazette a notice of his appointment; and
 - (b) deliver to the Registrar for registration a notice of his appointment in the specified form, which notice shall include the following particulars-
 - (i) his name;
 - (ii) his address; and
 - (iii) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him.
- (2) A person appointed as a liquidator who ceases to act as such shall, within 15 days after the date of his ceasing to act- (Amended 14 of 2016 s. 83)
 - (a) publish in the Gazette a notice of that fact; and
 - (b) deliver to the Registrar for registration a notice of that fact in the specified form.
- (3) If any change occurs in the particulars given in a notice delivered to the Registrar under subsection (1)(b), the liquidator shall, within 15 days after the date of the change, deliver to the Registrar for registration a notice of that change in the specified form, unless he has previously given notice to the Registrar under subsection (2)(b). (Amended 14 of 2016 s. 83)
- (4) A person who fails to comply with subsection (1), (2) or (3) shall be liable to a fine and, for continued default, to a daily default fine.
- (5) This section does not apply to a provisional liquidator appointed under section 228A(1)(c). (Amended 14 of 2016 s. 83)

(Replaced 28 of 2003 s. 88)

Section:	254	Arrangement, when binding on creditors	E.R. 2 of 2012	02/08/2012
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- (1) Any arrangement entered into between ~~a company~~ an open-ended fund company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the ~~company~~ open-ended fund company if sanctioned by a special resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors. (Amended 6 of 1984 s. 176)
- (2) Any creditor or contributory may, within 3 weeks from the completion of the arrangement, appeal to the court against it, and the court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

[cf. 1929 c. 23 s. 251 U.K.]

Section:	255	Power to apply to court to have questions determined or powers exercised	E.R. 2 of 2012	02/08/2012
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- (1) The liquidator, or the Commission or any contributory or creditor may apply to the court to determine any question arising in the winding up of ~~a company~~ an open-ended fund company, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the court might exercise if the ~~company~~ open-ended fund company were being wound up by the court.
- (2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.
- (3) A copy of an order made by virtue of this section staying the proceedings in the winding up shall forthwith be delivered by the ~~company~~ open-ended fund company, or otherwise as may be prescribed, to the Registrar for registration. (Added 6 of 1984 s. 177)

[cf. 1929 c. 23 s. 252 U.K.]

Section:	255A	Audit of liquidator's accounts in voluntary winding up	L.N. 190 of 2016	13/02/2017
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- (1) The liquidator shall keep an account of his receipts and payments as liquidator and, subject to subsection (2), shall cause the account to be audited.
- (2) An audit under this section is not required if—

- (a) for a members' voluntary winding up, the ~~company~~open-ended fund company by ordinary resolution so determines; and
- (b) for a creditors' voluntary winding up—
 - (i) the committee of inspection so determines; or
 - (ii) if there is no such committee, the creditors by resolution so determine. (Replaced 14 of 2016 s. 84)
(Added 6 of 1984 s. 178)

Section:	256	Costs of voluntary winding up	E.R. 2 of 2012	02/08/2012
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All costs, charges, and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall be payable out of the assets of the ~~company~~open-ended fund company in priority to all other claims.
[cf. 1929 c. 23 s. 254 U.K.]

Section:	257	Saving for rights of creditors and contributories	E.R. 2 of 2012	02/08/2012
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The winding up of a ~~company~~an open-ended fund company shall not bar the right of any creditor or contributory to have it wound up by the court as an unregistered company, but in the case of an application by a contributory, the court must be satisfied that the rights of the contributories will be prejudiced by a voluntary winding up.
[cf. 1929 c. 23 s. 255 U.K.]

Section:	258	(Repealed 6 of 1984 s. 179)		30/06/1997
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(iv) (Repealed 6 of 1984 s. 179)

Section:	259	(Repealed 6 of 1984 s. 179)		30/06/1997
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Section:	260	(Repealed 6 of 1984 s. 179)		30/06/1997
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Section:	261	(Repealed 6 of 1984 s. 179)		30/06/1997
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Section:	262	(Repealed 6 of 1984 s. 179)		30/06/1997
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Part: Division:	V 4A	Provisional Liquidator and Liquidator—Restrictions on Appointment, Disqualification, Disclosure and Validity of Acts	L.N. 190 of 2016	13/02/2017
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(Division 4A added 14 of 2016 s. 85)

Section:	262A	Restrictions on appointment of provisional liquidator or liquidator, etc.	L.N. 190 of 2016	13/02/2017
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- (1) A person in respect of whom the conditions specified in subsection (2) are not met—
 - (a) must not be appointed, or nominated for appointment, as a provisional liquidator or liquidator of a ~~company~~an open-ended fund company; and
 - (b) must not act as a provisional liquidator or liquidator of a ~~company~~an open-ended fund company.
- (2) The conditions are—
 - (a) the person is not disqualified under section 262B; and
 - (b) for a person required under section 262C(2) to make a disclosure statement—
 - (i) the person has made a disclosure statement that complies with section 262D (*disclosure statement*); and
 - (ii) section 262C(2)(b) is complied with in relation to the disclosure statement.
- (3) An appointment that is made in contravention of subsection (1)(a), or that is based on a nomination made

in contravention of subsection (1)(a), is void.

- (4) Except as provided in section 237B(3)(a), a person who acts as a provisional liquidator or liquidator in contravention of subsection (1)(b) commits an offence and is liable on conviction to a fine.

Section:	262B	Persons disqualified from being appointed etc. as provisional liquidator or liquidator	L.N. 190 of 2016	13/02/2017
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- (1) This section does not apply in relation to the Official Receiver and, in addition, subsection (3) does not apply in relation to a members' voluntary winding up.
- (2) The following persons are disqualified from being appointed or nominated for appointment, and from acting, as a provisional liquidator or liquidator of ~~a company~~an open-ended fund company—
- a body corporate;
 - an undischarged bankrupt;
 - a person against whom a disqualification order is in force, other than such a person who has the leave of the court to be appointed or to act as the provisional liquidator or liquidator of the ~~company~~open-ended fund company;
 - a person who has been found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering the person's property and affairs;
 - a person who is subject to a guardianship order made under Part IVB of the Mental Health Ordinance (Cap 136).
- (3) Subject to subsection (1), except with the leave of the court, the following persons are disqualified from being appointed or nominated for appointment, and from acting, as a provisional liquidator or liquidator of ~~a company~~an open-ended fund company—
- a creditor of the ~~company~~open-ended fund company;
 - a debtor of the ~~company~~open-ended fund company;
 - a director of the ~~company~~open-ended fund company, or a person who has been a director of the ~~company~~open-ended fund company;
 - a company secretary of the ~~company~~open-ended fund company, or a person who has been a company secretary of the ~~company~~open-ended fund company;
 - the auditor of the ~~company~~open-ended fund company, or a person who was the auditor of the ~~company~~open-ended fund company at any time on or after the starting day of 2 years before the commencement of the winding up (**former auditor**);
 - a receiver or manager of the property of the ~~company~~open-ended fund company;
 - the investment manager of the open-ended fund company, or a person who has been an investment manager of the open-ended fund company;
 - the custodian of the open-ended fund company, or a person who has been a custodian of the open-ended fund company.
- (4) For the purposes of subsection (3)(a), a person is not a creditor of the ~~company~~open-ended fund company only because a debt is owed to the person by the ~~company~~open-ended fund company in the person's capacity as a provisional liquidator or liquidator of the ~~company~~open-ended fund company.
- (5) For the purposes of subsection (3)(e)—
- if the auditor or the former auditor is a firm, the disqualification under that subsection extends to the following persons—
 - a person who was a partner in the firm when the firm was appointed as the auditor;
 - a person who became a partner in the firm after the firm had been appointed as the auditor (whether or not the firm had ceased to be the auditor when the person became the firm's partner); and
 - if the auditor or the former auditor is a corporate practice as defined by section 2(1) of the Professional Accountants Ordinance (Cap 50), the disqualification under that subsection extends to the following persons—
 - a person who was a director of the corporate practice when the corporate practice was appointed as the auditor;
 - a person who became a director of the corporate practice after the corporate practice had been appointed as the auditor (whether or not the corporate practice had ceased to be the auditor when the person became its director).
- (6) In this section—
court (法院) has the meaning given by section 168R(5);

disqualification order (取消資格令) has the meaning given by section 168R(5);

firm (商號) means a firm as from time to time constituted.

Section:	262C	Disclosure statement	L.N. 190 of 2016	13/02/2017
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- (1) This section does not apply in relation to—
 - (a) a members' voluntary winding up;
 - (b) the Official Receiver; or
 - (c) a person who is appointed as provisional liquidator by the Official Receiver under section 194(1A).
- (2) Subject to subsection (3), before a person may be appointed, or nominated for appointment, as a provisional liquidator or liquidator—
 - (a) the person must make a disclosure statement that complies with section 262D (**disclosure statement**); and
 - (b) the disclosure statement must be—
 - (i) for an appointment by the court—delivered to the court before the appointment;
 - (ii) for an appointment or nomination at a meeting of the companyopen-ended fund company, of the creditors or of the contributories—tabled at the meeting before the appointment or nomination (as the case requires); and
 - (iii) for an appointment by the directors of the companyopen-ended fund company under section 228A—delivered to the directors before the appointment or tabled at a meeting of directors considering the appointment before the appointment.
- (3) If a person—
 - (a) has been appointed as a provisional liquidator under section 193; and
 - (b) continues to hold the office of provisional liquidator by virtue of section 194(1)(aa),
 then the disclosure statement made by the person for the appointment under section 193 (as supplemented by any supplementary statement that the person may have made under section 262F) is to be taken for the purposes of this Division as the disclosure statement made by the person in respect of the person's office under section 194(1)(aa), and subsection (2)(b) is taken to have been complied with.
- (4) To avoid doubt, a provisional liquidator of a companyan open-ended fund company who seeks to be appointed, or nominated for appointment, as the liquidator in the winding up of the companyopen-ended fund company must make a disclosure statement under subsection (2) in respect of the office of liquidator.

Section:	262D	Matters to be disclosed in disclosure statement	L.N. 190 of 2016	13/02/2017
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- (1) A disclosure statement must—
 - (a) contain a confirmation by the person making the statement—
 - (i) that the person is not disqualified under section 262B; or
 - (ii) if the person would have been disqualified under section 262B(2)(c) or (3) but for the leave of the court, that the leave of the court has been obtained; and
 - (b) disclose—
 - (i) whether any of the relationships set out in subsection (2) exists; and
 - (ii) if such a relationship exists—
 - (A) the details of the relationship; and
 - (B) the person's reasons for believing that the existence of the relationship would not result in the person having a conflict of interest or duty.
- (2) The relationships are—
 - (a) the person making the statement is, or was at any time within 2 years before making the statement—
 - (i) a membersshareholder of the companyopen-ended fund company, its holding company or its subsidiary;
 - (ii) a creditor or debtor of the companyopen-ended fund company, its holding company or its subsidiary;
 - (iii) a director or company secretary of the companyopen-ended fund company, its holding company or its subsidiary;
 - (iv) an employee of the companyopen-ended fund company, its holding company or its subsidiary;
 - (v) an auditor of the companyopen-ended fund company;
 - (vi) a receiver or manager of the property of the companyopen-ended fund company;
 - (vii) a provisional liquidator or liquidator of the companyopen-ended fund company;
 - (viii) a legal advisor of the companyopen-ended fund company, its holding company or its subsidiary; or

- (ix) a financial advisor of the ~~company~~open-ended fund company, its holding company or its subsidiary;
(x) an investment manager of the open-ended fund company, its holding company or its subsidiary; or
(xi) a custodian of the open-ended fund company, its holding company or its subsidiary;
- (b) the person making the statement is an immediate family member of an individual who is, or was at any time within 2 years before the making of the statement, a person mentioned in paragraph (a)(iii), (v), (vi) or (vii);
- (c) if the person making the statement is a partner in a firm—
 - (i) the firm or any other partner in the firm is, or was at any time within 2 years before the making of the statement, a person mentioned in a subparagraph of paragraph (a);
 - (ii) any other partner in the firm is an immediate family member of an individual who is, or was at any time within 2 years before the making of the statement, a person mentioned in paragraph (a)(iii), (v), (vi) or (vii);
- (d) if the person making the statement is a director of a body corporate—
 - (i) the body corporate, or any other director or any company secretary of the body corporate, is, or was at any time within 2 years before the making of the statement, a person mentioned in a subparagraph of paragraph (a);
 - (ii) any other director or any company secretary of the body corporate is an immediate family member of an individual who is, or was at any time within 2 years before the making of the statement, a person mentioned in paragraph (a)(iii), (v), (vi) or (vii).
- (3) For the purposes of subsection (2)(a)(ii), a person is not a creditor of the ~~company~~open-ended fund company only because a debt is owed to the person by the ~~company~~open-ended fund company in the person's capacity as provisional liquidator or liquidator of the ~~company~~open-ended fund company.
- (4) A person who, in a disclosure statement omits to state any relationship required to be disclosed under subsection (1)(b) commits an offence and is liable on conviction to a fine.
- (5) If a person is charged with an offence under subsection (4) for omitting to state a relationship, it is a defence for the person to prove that the person, after having made all reasonable enquiries, had no reasonable grounds for believing that the relationship existed.
- (6) In this section—

firm (商號) means a firm as from time to time constituted;

immediate family member (家人), in relation to an individual, means a spouse, parent, child, sibling, grandparent or grandchild of the individual.

Section:	262E	Convenor's duty concerning disclosure statement	L.N. 190 of 2016	13/02/2017
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- (1) Subject to subsection (2), the convenor of a meeting at which the appointment, or nomination for appointment, of a provisional liquidator or liquidator is to be considered must ensure that subsections (3) and (4) are complied with.
- (2) Subsection (1) does not apply in relation to a members' voluntary winding up unless the convenor of the meeting is a liquidator who is required to summon a meeting of the creditors under section 237A.
- (3) Notice of the meeting referred to in subsection (1) must—
 - (a) be accompanied by—
 - (i) a copy of the disclosure statement made under section 262C by each person who is proposed to be appointed, or nominated for appointment, as the provisional liquidator or liquidator; and
 - (ii) if the meeting is summoned under section 237A and the liquidator is required to make a disclosure statement under section 237A(1B), a copy of the disclosure statement made under section 237A(1B); and
 - (b) state that a membersshareholder, director, creditor or contributory (as the case requires) who wishes to propose a person (other than being a person mentioned in paragraph (a)) for appointment, or for nomination for appointment, as the provisional liquidator or liquidator must, before the meeting, send to the convenor a disclosure statement made by that other person under section 262C.
- (4) The disclosure statements mentioned in subsection (3)(a) and all other disclosure statements received before the meeting must be tabled at the meeting.
- (5) A convenor who contravenes subsection (1) commits an offence and is liable on conviction to a fine.
- (6) In this section—

convenor (召集人) means any person who summons a meeting of—

- (a) the ~~company~~open-ended fund company;
- (b) the directors of the ~~company~~open-ended fund company;
- (c) the creditors of the ~~company~~open-ended fund company; or
- (d) the contributories of the ~~company~~open-ended fund company.

Section:	262F	Updating disclosure statement	L.N. 190 of 2016	13/02/2017
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- (1) This section applies to a provisional liquidator or liquidator who has made a disclosure statement under section 262C(2) or 237A(1B).
- (2) If a provisional liquidator or liquidator of a ~~company~~an open-ended fund company becomes aware of—
 - (a) a relationship referred to in section 262D(2) that has not been disclosed in the subsisting disclosure statement made by the provisional liquidator or liquidator in respect of his or her office of provisional liquidator or liquidator of the ~~company~~open-ended fund company;
 - (b) a change in any of the facts or relationships confirmed or disclosed in the subsisting disclosure statement; or
 - (c) an error in the subsisting disclosure statement,
 the provisional liquidator or liquidator must, within 14 days from the day when he or she becomes aware of the relationship, change or error, make a supplementary statement that complies with subsection (3) and take the steps as required under subsection (4), (5) or (6).
- (3) The supplementary statement must provide details of the relationship, change or error referred to in subsection (2).
- (4) In the case of a provisional liquidator appointed under section 193, and in the case of such a provisional liquidator who continues to act under section 194(1)(aa), the provisional liquidator must—
 - (a) submit the subsisting disclosure statement and the supplementary statement to the court; and
 - (b) apply to the court for directions.
- (5) In the case of a provisional liquidator appointed under section 228A, the provisional liquidator must send a copy of the subsisting disclosure statement and the supplementary statement to each director of the ~~company~~open-ended fund company.
- (6) In the case of a liquidator, the liquidator must send a copy of the subsisting disclosure statement and the supplementary statement to each creditor of the ~~company~~open-ended fund company.
- (7) A provisional liquidator or liquidator who contravenes subsection (2) commits an offence and is liable on conviction to a fine.
- (8) In this section—

subsisting disclosure statement (存續披露陳述書) means a disclosure statement made under section 262C(2) or 237A(1B) and includes any supplementary statement that may have been made under this section in respect of the disclosure statement.

Section:	262G	Validity of acts of provisional liquidator and liquidator	L.N. 190 of 2016	13/02/2017
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- (1) The acts of a person acting as a provisional liquidator or liquidator are valid even if it is afterwards discovered that—
 - (a) there was a defect in the appointment or nomination for appointment of the person as a provisional liquidator or liquidator;
 - (b) the person was not qualified to hold office as a provisional liquidator or liquidator or was disqualified from holding office as a provisional liquidator or liquidator; or
 - (c) the person had ceased to be a provisional liquidator or liquidator.
- (2) Subsection (1) applies even if the appointment of the person as a provisional liquidator or liquidator is void under section 228A(8A) or 262A(3).

Part:	V	Provisions Applicable to Every Mode of Winding Up	L.N. 190 of 2016	13/02/2017
Division:	5			

(Added 14 of 2016 s. 86)

Part:	V	Proof and Ranking of Claims	L.N. 190 of 2016	13/02/2017
Division:	5			
Subdivision:	1			

(Added 14 of 2016 s. 86)

Section:	263	Debts of all descriptions to be proved	L.N. 190 of 2016	13/02/2017
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(v) (Repealed 14 of 2016 s. 86)

Cross-heading repealed 14 of 2016 s.86

In every winding up (subject in the case of insolvent open-ended fund companies to the application in accordance with the provisions of this Ordinance of the law of bankruptcy) all debts payable on a contingency, and all claims against the companyopen-ended fund company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the companyopen-ended fund company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

[cf. 1929 c. 23 s. 261 U.K.]

Section:	264	Application of bankruptcy rules in winding up of insolvent <u>open-ended fund</u> companies	E.R. 2 of 2012	02/08/2012
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In the winding up of an insolvent companyopen-ended fund company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the companyopen-ended fund company may come in under the winding up, and make such claims against the companyopen-ended fund company as they respectively are entitled to by virtue of this section.

(Amended 6 of 1984 s. 180)

[cf. 1929 c. 23 s. 262 U.K.]

Section:	264A	Interest on debts	E.R. 2 of 2012	02/08/2012
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- (1) In the winding up of a companyan open-ended fund company, not being an insolvent companyopen-ended fund company, interest is payable in accordance with this section on the taxed costs of the petition and any debt proved in the winding up, including so much of any such debt as represents interest on the remainder. (Amended 46 of 2000 s. 33)
- (2) Any surplus remaining after the payment of debts proved in a winding up referred to in subsection (1) shall, before being applied for any other purpose, be applied in paying interest on the taxed costs of the petition and those debts in respect of the period during which the taxed costs of the petition and the debt have been outstanding, in the case of- (Amended 46 of 2000 s. 33)
 - (a) a winding up by court-
 - (i) where the company has by special resolution resolved that the company be wound up, since the date of the resolution; and
 - (ii) in any other case, since the date of the winding-up order; and
 - (b) a voluntary winding up, since the commencement of the winding up (which must be construed having regard to section 228A(5)(a) or 230, as may be appropriate). (Amended 28 of 2003 s. 89)
- (3) All interest under this section ranks equally, whether or not the debts on which it is payable rank equally.
- (4) The rate of interest payable under this section in respect of any debt is whichever is the greater of the following-
 - (a) the rate specified under section 49(1)(b) of the High Court Ordinance (Cap 4); and (Amended 25 of 1998 s. 2)
 - (b) the rate applicable to that debt apart from the winding up.

(Added 3 of 1997 s. 43)

[cf. 1986 c. 45 s. 189 U.K.]

Section:	264B	Extortionate credit transactions	E.R. 2 of 2012	02/08/2012
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- (1) This section applies, in relation to ~~a company~~ an open-ended fund company being wound up where the ~~company~~ open-ended fund company is, or has been, a party to a transaction for, or involving, the provision of credit to the ~~company~~ open-ended fund company.
- (2) The court may, on the application of the liquidator, make an order with respect to the transaction if the transaction is or was extortionate and was entered into in the period of 3 years ending on, in the case of-
 - (a) a winding up by court-
 - (i) where the company has by special resolution resolved that the company be wound up, the date of the resolution; and
 - (ii) in any other case, the date of the winding-up order; and
 - (b) a voluntary winding up, the commencement of the winding up (which must be construed having regard to section 228A(5)(a) or 230, as may be appropriate). (Amended 28 of 2003 s. 90)
- (3) For the purposes of this section a transaction is extortionate if, having regard to the risk accepted by the person providing the credit-
 - (a) the terms of it are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of credit; or
 - (b) it otherwise grossly contravenes ordinary principles of fair dealing, and it shall be presumed, unless the contrary is proved, that a transaction with respect to which an application is made under this section is or, as the case may be, was extortionate.
- (4) An order under this section with respect to any transaction may contain such one or more of the following as the court thinks fit, that is to say-
 - (a) provision setting aside the whole or part of any obligation created by the transaction;
 - (b) provision otherwise varying the terms of the transaction or varying the terms on which any security for the purposes of the transaction is held;
 - (c) provision requiring any person who is or was a party to the transaction to pay to the liquidator any sums paid to that person, by virtue of the transaction, by the ~~company~~ open-ended fund company;
 - (d) provision requiring any person to surrender to the liquidator any property held by him as security for the purposes of the transaction; or
 - (e) provision directing accounts to be taken between any persons.

(Added 3 of 1997 s. 43)
[cf. 1986 c. 45 s. 244 U.K.]

Section:	265	Preferential payments	L.N. 71 of 2017	26/06/2017
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- (1) In a winding up there shall be paid in priority to all other debts-
 - (a) (Repealed 6 of 1984 s. 181)
 - (b) any-
 - (i) payment from the Protection of Wages on Insolvency Fund under section 18 of the Protection of Wages on Insolvency Ordinance (Cap 380) to any clerk or servant in respect of wages or salary or both in respect of services rendered to the ~~company~~ open-ended fund company if such payment was made during a period of 4 months before the commencement of the winding up; and (Amended 48 of 1987 s. 8)
 - (ii) wages and salary (including commission provided that the amount thereof is fixed or ascertainable at the relevant date) of any clerk or servant in respect of services rendered to the ~~company~~ open-ended fund company during the relevant period not exceeding, together with any payment under sub-paragraph (i), \$3000; (Replaced 12 of 1985 s. 29)
 - (c) any-
 - (i) payment from the Protection of Wages on Insolvency Fund under section 18 of the Protection of Wages on Insolvency Ordinance (Cap 380) to any labourer or workman in respect of wages, whether payable for time or for piece work, in respect of services rendered to the ~~company~~ open-ended fund company if such payment was made during a period of 4 months before the commencement of the winding up; and (Amended 48 of 1987 s. 8)
 - (ii) wages of any labourer or workman, whether payable for time or for piece work, in respect of services rendered to the ~~company~~ open-ended fund company during the relevant period not exceeding, together with any payment under sub-paragraph (i), \$3000; (Replaced 12 of 1985 s. 29)

- (ca) any severance payment payable to an employee under the Employment Ordinance (Cap 57), not exceeding in respect of each employee \$6000; (Added 55 of 1974 s. 2)
- (caa) any long service payment payable to an employee under the Employment Ordinance (Cap 57), not exceeding in respect of each employee \$8000; (Added 77 of 1985 s. 2)
- (cb) any amount due in respect of compensation or liability for compensation under the Employees' Compensation Ordinance (Cap 282) accrued before the relevant date and, where the compensation is a periodical payment, the amount due in respect thereof shall be taken to be the amount of the lump sum for which the periodical payment could, if redeemable, be redeemed on an application being made for that purpose under the Employees' Compensation Ordinance (Cap 282), but this paragraph shall not apply to any amount due in respect of compensation or liability for compensation where the company open-ended fund company has entered into a contract with a person carrying on accident insurance business in Hong Kong in respect of its liability under the Employees' Compensation Ordinance (Cap 282) for personal injury by accident to the employee to whom the compensation or liability for compensation is due or where the company open-ended fund company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company open-ended fund company; (Added 4 of 1977 s. 2. Amended 6 of 1984 s. 259)
- (cc) any wages in lieu of notice payable to an employee under the Employment Ordinance (Cap 57), not exceeding in respect of each employee one month's wages or \$2000 whichever is the lesser; (Added 4 of 1977 s. 2)
- (cd) all accrued holiday remuneration becoming payable to any clerk, servant, workman or labourer (or in the case of his death to any other person in his right) on the termination of his employment before or by the effect of the winding-up order or resolution; (Added 6 of 1984 s. 181)
- (ce) any payment from the Employees Compensation Assistance Fund under Part IV of the Employees Compensation Assistance Ordinance (Cap 365) representing an amount due by the company open-ended fund company in respect of compensation or liability for compensation under the Employees' Compensation Ordinance (Cap 282) accrued before the relevant date; (Added 54 of 1991 s. 47)
- (cf) any amount of unpaid contribution or any amount deemed to be unpaid contribution calculated in accordance with rules made under section 73(1)(n) of the Occupational Retirement Schemes Ordinance (Cap 426) which should have been paid by the company open-ended fund company being wound up in accordance with the terms of an occupational retirement scheme within the meaning of that Ordinance before the commencement of the winding up:
Provided that where such amount exceeds \$50000 in respect of an employee, 50% of such part of the amount that exceeds \$50000 shall not be paid in priority to all other debts under this subsection; (Added 88 of 1992 s. 84)
- (cg) (without prejudice to any right or liability under a trust) any amount of salaries deducted by the company open-ended fund company being wound up from its employees' salaries for the purpose of making contributions in respect of such employees to the funds of an occupational retirement scheme within the meaning of the Occupational Retirement Schemes Ordinance (Cap 426) which have not been paid into such funds; (Added 88 of 1992 s. 84)
- (ch) any amount of unpaid contribution under, or any amount of unpaid contribution calculated in accordance with, the Mandatory Provident Fund Schemes Ordinance (Cap 485) which should have been paid by the company open-ended fund company being wound up in accordance with the provisions of that Ordinance before the commencement of the winding up:
Provided that where such amount exceeds \$50000 in respect of an employee, 50% of such part of the amount that exceeds \$50000 shall not be paid in priority to all other debts under this subsection; (Added 80 of 1995 s. 49)
- (ci) any amount deducted by the company open-ended fund company being wound up from the relevant income of its relevant employees for the purpose of making contributions in respect of such relevant employees to the approved trustee of a registered scheme within the meaning of the Mandatory Provident Fund Schemes Ordinance (Cap 485) which have not been paid to that approved trustee; (Added 80 of 1995 s. 49)
- (cj) any sum and interest thereon payable to the Mandatory Provident Fund Schemes Authority under section 17(7) of the Mandatory Provident Fund Schemes Ordinance (Cap 485); (Added 80 of 1995 s. 49)
- (d) all statutory debts due from the company open-ended fund company to the Government at the relevant date and which became due and payable within 12 months next before that date. (Replaced 6 of 1984 s. 181. Amended 23 of 1999 s. 3)
- (da) (Repealed 30 of 1999 s. 18)

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- (db) where the company being wound up is or was a bank and, at the commencement of the winding up, held deposits, to each depositor- (Amended 7 of 2004 s. 55)
- (i) in respect of the deposits, or portion thereof, that the depositor holds in his own right, the aggregate amount so held on deposit, up to the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits;
 - (ii) in respect of the deposits, or portion thereof, that the depositor holds as a bare trustee for each of the beneficiaries, the aggregate amount so held on deposit, up to, subject to subsection (5J), the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits so held for the beneficiary;
 - (iii) in respect of the deposits, or portion thereof, that the depositor holds in a client account for each of the clients, the aggregate amount so held on deposit, up to, subject to subsection (5J), the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits so held for the client; and
 - (iv) in respect of the deposits, or portion thereof, that the depositor holds as a trustee (but not a bare trustee) under each of the trusts, the aggregate amount so held on deposit, up to the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(2) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits so held under the trust; (Added 83 of 1995 s. 16. Amended 7 of 2004 s. 55; 11 of 2010 s. 14)
- (e) where the company being wound up is an insurer, any sum payable to a person in respect of any claim (other than a claim for a refund of premium) made under or in accordance with a contract of insurance (but not a contract of reinsurance) effected by the insurer as part of its general business carried on in or from Hong Kong, unless-
- (i) such sum is, under the contract or in the ordinary course of business, payable in a place outside Hong Kong where assets of the company are maintained and under the law of that place the claim in respect of which the sum is payable is, in the event of a winding up, accorded priority with respect to those assets over claims which under the contract or in the ordinary course of business are payable at any other place; or
 - (ii) the person to whom the sum is payable is entitled with respect to the claim to claim compensation under any scheme designed to secure compensation to persons in circumstances where the insurer becomes insolvent; (Added 79 of 1988 s. 8)
- (ea) where the company being wound up is an insurer, any payment from the Employees Compensation Assistance Fund under Part IV of the Employees Compensation Assistance Ordinance (Cap 365) representing a sum payable by the company to a person in respect of any claim (other than a claim for refund of premium) made under or in accordance with a contract of insurance issued for the purposes of Part IV of the Employees' Compensation Ordinance (Cap 282) effected by the insurer as part of its general business carried on in or from Hong Kong; unless such sum is, under the contract or in the ordinary course of business, payable in a place outside Hong Kong where assets of the company are maintained and under the law of that place the claim in respect of which the sum is payable is, in the event of a winding up, accorded priority with respect to those assets over claims which under the contract or in the ordinary course of business are payable at any other place; (Added 54 of 1991 s. 47)
- (f) where the company being wound up is an insurer, any sum payable (after offsetting the amount of any sums owing from the claimant) to a person in respect of any claim (other than a claim for a refund of premium) made under or in accordance with a contract of reinsurance effected by the insurer, as reinsurer, as part of its general business carried on in or from Hong Kong, unless such sum is, under the contract or in the ordinary course of business, payable in a place outside Hong Kong where assets of the company are maintained and under the law of that place the claim in respect of which the sum is payable is, in the event of a winding up, accorded priority with respect to those assets over claims which under the contract or in the ordinary course of business are payable at any other place. (Added 79 of 1988 s. 8)
- (1A) Where the relevant date is on or after 1 June 1970 but before 1 April 1977, the sum of \$6000 shall be deemed to be substituted in each case for the sums of \$3000 referred to in paragraphs (b) and (c) respectively of subsection (1). (Added 41 of 1970 s. 2. Amended 4 of 1977 s. 2)
- (1B) Where the relevant date is on or after 1 April 1977, the sum of \$8000 shall be deemed to be substituted in each case for the sums of \$3000 referred to in paragraphs (b) and (c) respectively, and for the sum of \$6000 referred to in paragraph (ca), of subsection (1). (Added 4 of 1977 s. 2)

- (2) Subject to subsection (1)(b) and (c), where any payment on account of wages or salary, or severance payment, or long service payment or wages in lieu of notice payable under the Employment Ordinance (Cap 57), or accrued holiday remuneration, has been made to any clerk, servant, workman or labourer in the employment of an company open-ended fund company out of money advanced by some person for that purpose, that person shall in a winding up have a right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of which that clerk, servant, workman or labourer would have been entitled to priority in the winding up has been diminished by reason of the payment having been made. (Amended 6 of 1984 s. 181; 12 of 1985 s. 29(3); 77 of 1985 s. 2)
- (3) The debts specified in subsection (1)(b), (c), (ca), (caa), (cb), (cc), (cd), (ce), (cf), (cg), (ch), (ci) and (cj)- (Amended 55 of 1974 s. 2; 4 of 1977 s. 2; 6 of 1984 s. 181; 77 of 1985 s. 2; 54 of 1991 s. 47; 88 of 1992 s. 84; 80 of 1995 s. 49)
- (a) shall have priority over the debts specified in subsection (1)(d);
 - (b) shall rank equally among themselves; and
 - (c) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Replaced 41 of 1970 s. 2)
- (3A) The debts specified in subsection (1)(d) shall have priority over the debts specified in subsection (1)(da), (db), (e), (ea) and (f). (Added 79 of 1988 s. 8. Amended 54 of 1991 s. 47; 10 of 1993 s. 2; 83 of 1995 s. 16)
- (3AAA) The debts specified in subsection (1)(da) shall have priority over the debts specified in subsection (1)(db), (e), (ea) and (f). (Added 10 of 1993 s. 2. Amended 83 of 1995 s. 16)
- (3AAAA) The debts specified in subsection (1)(db)-
- (a) shall have priority over the debts in subsection (1)(e), (ea) and (f);
 - (b) shall rank equally among themselves; and
 - (c) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Added 83 of 1995 s. 16)
- (3AA) The debts specified in subsection (1)(e) and (ea)-
- (a) shall have priority over the debts specified in subsection (1)(f);
 - (b) shall rank equally among themselves; and
 - (c) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Added 79 of 1988 s. 8. Amended 54 of 1991 s. 47)
- (3AB) The debts specified in subsection (1)(f)-
- (a) shall rank equally among themselves; and
 - (b) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Added 79 of 1988 s. 8)
- (3B) The debts specified in subsection (1) shall, so far as the assets of the company open-ended fund company available for payment of general creditors are insufficient to meet those debts, have priority over the claims of holders of debentures under any charge created as a floating charge by the company open-ended fund company, and shall be paid accordingly out of any property comprised in or subject to the charge. (Added 41 of 1970 s. 2. Amended 10 of 1987 s. 9)
- (4) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.
- (5) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company open-ended fund company within 3 months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof. (Amended 41 of 1970 s. 2)
- (5A) Any money paid under a charge under subsection (5) shall be a debt due from the company open-ended fund company to the landlord or other person having distrained, and such debt shall be discharged so far as the assets are sufficient to meet it after payment of the debts specified in subsection (1) but before payment of the other debts proved in the winding up. (Added 41 of 1970 s. 2)
- (5B) Where in any winding up assets have been recovered under an indemnity for costs of litigation given by certain creditors, or have been protected or preserved by the payment of moneys or the giving of indemnity by creditors, or where expenses in relation to which a creditor has indemnified a liquidator have been recovered, the court may, on the application of the Official Receiver or the liquidator or any such creditor, make such order as it deems just with respect to the distribution of those assets and the amount of those expenses so recovered with a view to giving those creditors an advantage over others in consideration of the risk run by them in so doing. (Added 6 of 1984 s. 181)
- (5C) Any remuneration in respect of a period of holiday or of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company open-ended fund company

during that period. (Added 6 of 1984 s. 181)

(5D) The deposits given priority under subsection (1)(db) do not include the following-

- (a) terms deposits where the current term agreed to by the depositor at the most recent time it was negotiated exceeds 5 years;
- (b) deposits made after the date of publication of a notice in the Gazette under section 28(2)(b) of the Banking Ordinance (Cap 155) that the company has been removed from the register and has ceased to be a bank. (Added 83 of 1995 s. 16)

(5E) If-

- (a) an arrangement has been entered into or carried out on or after the specified date in relation to a deposit with the company except where the arrangement is one in pursuance of a legally enforceable obligation incurred prior to that date;
- (b) the arrangement has, or would have had but for this subsection, the effect of enabling a person to become entitled to priority under subsection (1)(db), to which the person would otherwise not be entitled; and
- (c) it would be concluded, having regard to-
 - (i) the manner in which, and the circumstances under which, the arrangement was entered into or carried out;
 - (ii) the form and substance of the arrangement; and
 - (iii) the result in relation to the operation of this Ordinance that, but for this subsection, would have been achieved by the arrangement,

that the arrangement was entered into or carried out for the sole or dominant purpose of enabling the person, either alone or in conjunction with other persons, to become entitled to priority under subsection (1)(db), to which the person would otherwise not be entitled,

the priority given under subsection (1)(db) shall apply as if the arrangement or any part thereof had not been entered into or carried out. (Replaced 7 of 2004 s. 55)

(5F) Deposits given priority under subsection (1)(db) do not include-

- (a) a deposit held for the account of the Exchange Fund established by the Exchange Fund Ordinance (Cap 66);
- (b) a deposit held by an excluded person in his own right, or, in the case of a deposit held by an excluded person and a non-excluded person in their own right (except where those persons carry on business in partnership), the portion of the deposit attributable to the excluded person's share in the deposit;
- (c) a deposit held by a depositor as a bare trustee for an excluded person, or in a client account for an excluded person as the depositor's client, or, in the case of a deposit so held for an excluded person and a non-excluded person (except where those persons carry on business in partnership), the portion of the deposit attributable to the excluded person's share in the deposit; and
- (d) a deposit held by a depositor as a trustee (but not a bare trustee) for an excluded person only. (Replaced 7 of 2004 s. 55)

(5G) For the purposes of subsection (5F)(b) and (c), if a deposit is held by more than one person in their own right or held for more than one person, each of those persons is deemed to have an equal share in the deposit unless the contrary is proved to the satisfaction of the liquidator or provisional liquidator. (Added 7 of 2004 s. 55)

(5H) For the purposes of paragraph (db) of subsection (1)-

- (a) if the depositor referred to in subparagraph (i) of that paragraph consists of 2 or more persons-
 - (i) in the case where the persons carry on business in partnership, those persons are, for the purpose of priority given under that paragraph, a single and continuing body of persons as distinct from the persons who may from time to time be the members of the partnership;
 - (ii) in any other case, each of those persons is deemed to have an equal share in the deposit, or the relevant portion thereof, unless the contrary is proved to the satisfaction of the liquidator or provisional liquidator;
- (b) if the beneficiary or client referred to in subparagraph (ii) or (iii) of that paragraph consists of 2 or more persons-
 - (i) in the case where the persons carry on business in partnership, those persons are, for the purpose of priority given under that paragraph, a single and continuing body of persons as distinct from the persons who may from time to time be the members of the partnership;
 - (ii) in any other case, each of those persons is deemed to have an equal share in the deposit, or the relevant portion thereof, unless the contrary is proved to the satisfaction of the liquidator or provisional liquidator; and
- (c) if the depositor referred to in subparagraph (iv) of that paragraph consists of 2 or more persons, those persons are, for the purpose of priority given under that paragraph, a single and continuing body of persons as distinct from the persons who may from time to time be the trustees. (Added 7 of 2004 s. 55)

(5I) If a deposit, or portion thereof, held by a depositor in a client account for a client is also held by the depositor as a trustee (whether a bare trustee or not) under a trust (whether a bare trust or not), the deposit or portion is, for the purposes of this section, taken as being held by the depositor for the client and not as such trustee. (Added 7 of 2004 s. 55)

(5J) If-

(a) a person has more than one of the following capacities-

(i) a depositor holding one or more deposits, or portion thereof, in his own right;

(ii) a beneficiary for whom one or more deposits, or portion thereof, is or are held by a depositor as a bare trustee;

(iii) a client for whom one or more deposits, or portion thereof, is or are held by a depositor in a client account; and

(b) the aggregate of the amount that shall be paid in priority under subsection (1)(db)(i), (ii) or (iii) in respect of the relevant deposits or portions would, but for this subsection, have exceeded the limit on the total amount of compensation to which a person is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581),

the amount that shall be paid in priority under subsection (1)(db)(ii) or (iii) shall abate in equal proportions among themselves so that the aggregate referred to in paragraph (b) shall be that limit prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581). (Added 7 of 2004 s. 55. Amended 11 of 2010 s. 14)

(6) In this section-

accrued holiday remuneration (累算的假日薪酬) includes, in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment (including any order made or direction given under any Ordinance), are payable on account of the remuneration which would, in the ordinary course, have become payable to him in respect of a period of holiday had his employment with the ~~company~~open-ended fund continued until he became entitled to be allowed the holiday, and, without limitation, includes any pay for untaken statutory holidays and pay for untaken annual leave; (Amended 7 of 2012 s. 11)

arrangement (安排) includes an arrangement, transaction, operation or scheme whether or not such arrangement, transaction, operation or scheme is enforceable, or intended to be enforceable, by legal proceedings; (Added 7 of 2004 s. 55)

bank (銀行) has the same meaning as in the Banking Ordinance (Cap 155); (Added 83 of 1995 s. 16)

bare trustee (被動受託人) has the same meaning as in the Deposit Protection Scheme Ordinance (Cap 581); (Added 7 of 2004 s. 55)

chief executive (行政總裁) has the same meaning as in the Banking Ordinance (Cap 155); (Added 7 of 2004 s. 55)

client account (客戶帳戶), in relation to a depositor, means an account maintained by the depositor with a bank for the purpose of holding money held by the depositor for a client of the depositor, whether or not other money may be held in the account; (Added 7 of 2004 s. 55)

controller (控權人) has the same meaning as in the Banking Ordinance (Cap 155); (Added 83 of 1995 s. 16. Amended 7 of 2004 s. 55)

deposit (存款) and **depositor** (存款人) have the same meaning as in the Deposit Protection Scheme Ordinance (Cap 581); (Added 83 of 1995 s. 16. Amended 7 of 2004 s. 55; 11 of 2010 s. 14)

Employees Compensation Assistance Fund (僱員補償援助基金) means the fund established by section 7 of the Employees Compensation Assistance Ordinance (Cap 365); (Added 54 of 1991 s. 47)

excluded person (豁除人士), in relation to a deposit maintained with the company being wound up, means-

(a) a related company of the company;

(b) an officer of the company being wound up or its related company on-

(i) the date immediately preceding the date on which a Manager within the meaning of section 2(1) of the Banking Ordinance (Cap 155) is appointed in respect of the company being wound up under section 52 of that Ordinance; or

(ii) the date on which the petition for the winding up of the company being wound up is presented, whichever is the earlier;

(c) a multilateral development bank as defined in section 2(1) of the Banking Ordinance (Cap 155); (Amended 19 of 2005 s. 7)

(d) an authorized financial institution; or

(e) a foreign bank; (Added 7 of 2004 s. 55)

foreign bank (外地銀行) means a company that-

- (a) is incorporated outside Hong Kong;
- (b) is not an authorized financial institution; and
- (c) may, in or outside the place where it is incorporated, lawfully take deposits from the general public (whether or not on current account), or is authorized or recognized as a bank in that place; (Added 7 of 2004 s. 55)

general business (一般業務) means insurance business not being long term business as defined in section 2(1) of the Insurance Ordinance (Cap 41); (Added 79 of 1988 s. 8. Amended 12 of 2015 s. 100)

insurer (保險人) means a person carrying on insurance business; (Added 79 of 1988 s. 8)

manager (經理) has the same meaning as in the Banking Ordinance (Cap 155); (Added 83 of 1995 s. 16)

non-excluded person (非豁除人士) means a person who is not an excluded person; (Added 7 of 2004 s. 55)

officer (人員), in relation to a company that is an authorized financial institution, means-

- (a) a director of the company;
- (b) a chief executive of the company;
- (c) a controller of the company; or
- (d) a manager of the company; (Added 7 of 2004 s. 55)

pay for untaken annual leave (未放年假薪酬), in relation to any person, means any sum which, by virtue either of the person's contract of employment or of any enactment (including any order made or direction given under any Ordinance), is payable-

- (a) in respect of annual leave to which the person has become entitled to be allowed but which the person has not taken; or
- (b) on account of the remuneration in respect of annual leave that would have become payable to the person if the person's employment had continued until the person became entitled to be allowed the annual leave, and, without limitation, includes any sum payable under section 41D of the Employment Ordinance (Cap 57); (Added 7 of 2012 s. 11)

pay for untaken statutory holidays (未放法定假日薪酬) means any sum payable under the Employment Ordinance (Cap 57) or a contract of employment in respect of a statutory holiday (within the meaning of that Ordinance) that has not been taken as a holiday (within the meaning of that Ordinance); (Added 7 of 2012 s. 11)

Protection of Wages on Insolvency Fund (破產欠薪保障基金) means the fund deemed to be established and continued in existence under section 6 of the Protection of Wages on Insolvency Ordinance (Cap 380); (Added 12 of 1985 s. 29(3))

related company (關連公司), in relation to a company, means-

- (a) a subsidiary of the company;
- (b) a holding company of the company; or
- (c) a subsidiary of the holding company; (Added 7 of 2004 s. 55)

specified date (指明日期), in relation to a company, means-

- (a) the date on which a Manager within the meaning of section 2(1) of the Banking Ordinance (Cap 155) is appointed in respect of the company under section 52 of that Ordinance; or
- (b) the date on which the petition for the winding up of the company is presented, whichever is the earlier; (Added 7 of 2004 s. 55)

statutory debt (法定債項) means a debt the liability for which and the amount of which are determined by or under any provision in any Ordinance; (Amended 23 of 1999 s. 3)

the relevant date (有關日期) means-

- (a) in the case of a company ordered to be wound up compulsorily, the date of the appointment (or first appointment) of a provisional liquidator or, if no such appointment was made, the date of the winding-up order, unless in either case the company had commenced to be wound up voluntarily before that date; and
- (b) in any case where paragraph (a) does not apply, the date of the commencement of the winding up;

the relevant period (有關期間) means-

- (a) in a case where a company is being wound up by the court and the relevant date in the case of that company is a date other than the date of the commencement of the winding up, the period-
 - (i) beginning 4 months next before the commencement of the winding up and ending on the relevant date; or
 - (ii) beginning 4 months next before the last day of service within the meaning of section 16(4) of the Protection of Wages on Insolvency Ordinance (Cap 380) of any clerk or servant or labourer or workman, as the case may be, who has made an application for an ex gratia payment under section

15(1) of that Ordinance, and ending on that last day of service, (Replaced 68 of 1996 s. 5) whichever is the earlier;

(b) in any case where paragraph (a) does not apply, the period-

(i) of 4 months next before the relevant date; or

(ii) beginning 4 months next before the last day of service within the meaning of section 16(4) of the Protection of Wages on Insolvency Ordinance (Cap 380) of any clerk or servant or labourer or workman, as the case may be, who has made an application for an ex gratia payment under section

15(1) of that Ordinance, and ending on that last day of service, (Replaced 68 of 1996 s. 5) whichever is the earlier; (Replaced 48 of 1987 s. 8)

wages (工資) includes, in relation to any person, any sum which, by virtue of his contract of employment, is payable to him as a Lunar New Year bonus, but does not include any accrued holiday remuneration. (Replaced 6 of 1984 s. 181)

(7) The Companies (Amendment) Ordinance 1984 (6 of 1984) shall not apply in the case of a winding up where the relevant date occurred before the commencement* of that Ordinance, and, in such a case, the provisions relating to preferential payments which would have applied if that Ordinance had not been enacted shall be deemed to remain in full force. (Added 6 of 1984 s. 181)

(8) The Fourth Schedule to the Protection of Wages on Insolvency Ordinance 1985 (12 of 1985) shall not apply in the case of a winding up where the date of the commencement of the winding up occurred before the commencement+ of that Ordinance, and, in such case, the provisions relating to preferential payments which would have applied if that Ordinance had not been enacted shall be deemed to remain in full force (Added 12 of 1985 s. 29(3))

(9) The Companies (Amendment) (No. 3) Ordinance 1988 (79 of 1988) shall not apply in the case of a winding up where the date of the commencement of the winding up occurred before the commencement of that Ordinance, and, in such a case, the provisions relating to preferential payments which would have applied if that Ordinance had not been enacted shall be deemed to remain in full force. (Added 79 of 1988 s. 8)

(10) Section 5(a) of the Protection of Wages on Insolvency (Amendment) Ordinance 1996 (68 of 1996) (**the amending Ordinance**) shall not apply in the case of a winding up to which an application under section 15(1) of the Protection of Wages on Insolvency Ordinance (Cap 380) relates where such application is made before the commencement** of the amending Ordinance, and in such a case, the provisions relating to preferential payments which would have applied if the amending Ordinance had not been enacted shall be deemed to remain in full force. (Added 68 of 1996 s. 5)

(11) In the case of a winding up where the relevant date has occurred before the commencement*** of the Schedule to the Deposit Protection Scheme (Amendment) Ordinance 2010 (11 of 2010), that Schedule applies in relation to that winding up if the specified event within the meaning of section 22(1) of the Deposit Protection Scheme Ordinance (Cap 581) occurs on or after the commencement of that Schedule. (Added 11 of 2010 s. 14)

(Amended E.R. 2 of 2012)
[cf. 1929 c. 23 s. 264 U.K.]

Note:

* **Commencement date: 31 August 1984.**

+ **Commencement date: 19 April 1985.**

** **Commencement date: 6 December 1996.**

*** **Commencement date: 1 January 2011.**

++ **Sections 265(1)(da) was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-**

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed."

Part:	V	Effect of Winding Up on Antecedent and Other Transactions	L.N. 190 of 2016	13/02/2017
Division:	5			
Subdivision:	2			

(Added 14 of 2016 s. 87)

Section:	265A	Interpretation of Subdivision 2	L.N. 190 of 2016	13/02/2017
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- (1) For the purposes of this Subdivision, the question of whether a person is an associate of another person is to be determined in accordance with sections 265B and 265C.
- (2) In sections 265B and 265C, a provision that a person is an associate of another person means that they are associates of each other.
- (3) For the purposes of this Subdivision, a person is connected with a companyan open-ended fund company if that person is—
 - (a) an associate of a director or shadow director of the companyopen-ended fund company; or
 - (b) an associate of the companyopen-ended fund company.
- (4) For the purposes of this Subdivision, a companyan open-ended fund company goes into liquidation when—
 - (a) the companyopen-ended fund company passes a resolution for voluntary winding up;
 - (b) a winding-up statement is delivered to the Registrar for registration under section 228A for the companyopen-ended fund company; or
 - (c) (if the company has not gone into liquidation because of paragraph (a) or (b)) the court makes a winding-up order in respect of the company.
- (5) A note located in the text of this Subdivision is provided for information only and has no legislative effect.

(Added 14 of 2016 s. 88)

Section:	265B	Meaning of associate	L.N. 190 of 2016	13/02/2017
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- (1) A person is an associate of another person if that person is—
 - (a) a spouse or cohabitant of that other person;
 - (b) a relative of that other person, or of that spouse or cohabitant; or
 - (c) a spouse or cohabitant of that relative.
- (2) A person is an associate of another person if that person is in partnership with—
 - (a) that other person; or
 - (b) a spouse, cohabitant or relative of that other person.
- (3) A person in the capacity as trustee of a trust is an associate of another person if—
 - (a) the beneficiaries of the trust include that other person or an associate of that other person; or
 - (b) the terms of the trust confer a power that may be exercised for the benefit of that other person or an associate of that other person.
- (4) In this section—
 - (a) a reference to a spouse includes a former spouse and a reputed spouse; and
 - (b) a reference to a cohabitant includes a former cohabitant.
- (5) For the purposes of this section—
 - (a) a person is a cohabitant of another person if that person and that other person (whether they are of the same sex or opposite sex) live together as a couple in an intimate relationship; and
 - (b) a person is a relative of another person if that person is a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant of that other person.
- (6) For the purposes of subsection (5)(b)—
 - (a) a relationship of the half blood is treated as a relationship of the whole blood;
 - (b) a stepchild or adopted child of a person is treated as that person's child; and
 - (c) a child born out of wedlock is treated as the legitimate child of that child's mother and reputed father.

(Added 14 of 2016 s. 88)

Section:	265C	Meaning of associate: further provisions	L.N. 190 of 2016	13/02/2017
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- (1) A person is an associate of another person if that person—

- (a) employs that other person; or
- (b) is employed by that other person.
- (2) A person is an associate of a company if that person is a director, shadow director or other officer of the company.
- (3) A company is an associate of another company if—
 - (a) the same person has control of both;
 - (b) a person has control of one and—
 - (i) persons who are associates of that person; or
 - (ii) that person and persons who are associates of that person, have control of the other; or
 - (c) a group of 2 or more persons has control of each company, and both groups—
 - (i) consist of the same persons; or
 - (ii) would consist of the same persons if (in one or more cases) a member of either group were replaced by a person who is an associate of that member.
- (4) A company is an associate of another person if—
 - (a) that person has control of the company; or
 - (b) that person and persons who are associates of that person together have control of the company.
- (5) For the purposes of this section—
 - (a) a person has control of a company if—
 - (i) any or all of the directors of the company, or of another company which has control of it, are accustomed to act in accordance with that person's directions or instructions; or
 - (ii) that person is entitled to exercise, or control the exercise of, more than 30% of the voting power at any general meeting of the company or of another company which has control of it; and
 - (b) if 2 or more persons together satisfy either subparagraph (i) or (ii) of paragraph (a), they have control of the company.
- (6) For the purposes of this section, **company** (公司) includes a body corporate (whether incorporated in Hong Kong or elsewhere), and references to directors, shadow directors and other officers of a company and to voting power at any general meeting of a company have effect with any necessary modifications.

(Added 14 of 2016 s. 88)

Section:	265D	Transactions at an undervalue voidable in certain circumstances	L.N. 190 of 2016	13/02/2017
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- (1) This section applies in relation to ~~a company~~ an open-ended fund company if the ~~company~~ open-ended fund company goes into liquidation.
- (2) If the ~~company~~ open-ended fund company has at a relevant time (within the meaning of section 266B) entered into a transaction with a person at an undervalue, the liquidator may apply to the court for an order under subsection (3).
- (3) Subject to section 266C, on an application under subsection (2), the court may make an order that it thinks fit for restoring the position to what it would have been if the ~~company~~ open-ended fund company had not entered into that transaction.
- (4) The court must not make an order under subsection (3) if it is satisfied that—
 - (a) the ~~company~~ open-ended fund company entered into the transaction in good faith and for the purpose of carrying on its business; and
 - (b) at the time the ~~company~~ open-ended fund company did so, there were reasonable grounds for believing that the transaction would benefit the ~~company~~ open-ended fund company.

(Added 14 of 2016 s. 88)

Section:	265E	Meaning of transaction at an undervalue	L.N. 190 of 2016	13/02/2017
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- ~~A company~~ An open-ended fund company enters into a transaction with a person at an undervalue if—
- (a) the ~~company~~ open-ended fund company makes a gift to that person, or otherwise enters into a transaction with that person on terms that provide for the ~~company~~ open-ended fund company to receive no consideration; or
 - (b) the ~~company~~ open-ended fund company enters into a transaction with that person for a consideration the

value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the company open-ended fund company.

(Added 14 of 2016 s. 88)

Section:	266	Unfair preferences voidable in certain circumstances	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 87

- (1) This section applies in relation to a company an open-ended fund company if the company open-ended fund company goes into liquidation.
- (2) If the company open-ended fund company has at a relevant time (within the meaning of section 266B) given an unfair preference to a person, the liquidator may apply to the court for an order under subsection (3).
- (3) Subject to section 266C, on an application under subsection (2), the court may make an order that it thinks fit for restoring the position to what it would have been if the company open-ended fund company had not given that unfair preference.
- (4) The court must not make an order under subsection (3) unless the company open-ended fund company was influenced, in deciding to give that unfair preference, by a desire to produce in relation to that person the effect mentioned in section 266A(1)(b).
- (5) A company An open-ended fund company which has given an unfair preference to a person connected with the company open-ended fund company (otherwise than by reason only of being its employee) at the time the unfair preference was given is presumed, unless the contrary is shown, to have been influenced, in deciding to give it, by the desire mentioned in subsection (4).

(Replaced 14 of 2016 s. 89)

Section:	266A	Meaning of unfair preference	L.N. 190 of 2016	13/02/2017
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- (1) A company An open-ended fund company gives an unfair preference to a person if—
 - (a) that person is—
 - (i) one of the company open-ended fund company's creditors; or
 - (ii) a surety or guarantor for any of the company open-ended fund company's debts or other liabilities; and
 - (b) the company open-ended fund company does anything or suffers anything to be done which has the effect of putting that person into a position which, in the event of the company open-ended fund company going into insolvent liquidation, will be better than the position that person would have been in if that thing had not been done.
- (2) For the purposes of subsection (1)(b), a company an open-ended fund company goes into insolvent liquidation if it goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up.
- (3) The fact that something has been done pursuant to the order of any court does not, without more, prevent the doing or suffering of that thing from constituting the giving of an unfair preference.

(Replaced 14 of 2016 s. 89)

Section:	266B	Relevant time under sections 265D and 266	L.N. 190 of 2016	13/02/2017
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- (1) Subject to subsections (2) and (3), the time at which a company an open-ended fund company enters into a transaction at an undervalue or gives an unfair preference is a relevant time for the purposes of sections 265D(2) and 266(2) if the transaction is entered into, or the unfair preference given—
 - (a) for a transaction at an undervalue—at a time in the period of 5 years ending with the day on which the winding up of the company open-ended fund company commences;
 - (b) for an unfair preference which is not a transaction at an undervalue and is given to a person who is connected with the company open-ended fund company (otherwise than by reason only of being its employee)—at a time in the period of 2 years ending with the day on which the winding up of the company open-ended fund company commences; and
 - (c) in any other case of an unfair preference which is not a transaction at an undervalue—at a time in the period of 6 months ending with the day on which the winding up of the company open-ended fund

company commences.

Note—

1. For the time at which a winding up by the court commences, see section 184.
2. For the time at which a voluntary winding up commences, see sections 209B(a)(i), 228A(5)(a) and 230.
- (2) The time mentioned in subsection (1)(a), (b) or (c) is not a relevant time for the purposes of sections 265D(2) and 266(2) unless either of the following conditions is satisfied—
 - (a) the companyopen-ended fund company is unable to pay its debts (within the meaning of section 178) at that time;
 - (b) the companyopen-ended fund company becomes unable to pay its debts (within the meaning of section 178) in consequence of the transaction or unfair preference.
- (3) The conditions under subsection (2)(a) and (b) are presumed to be satisfied, unless the contrary is shown, in relation to a transaction at an undervalue which is entered into by a companyan open-ended fund company with a person connected with the companyopen-ended fund company (otherwise than by reason only of being its employee).

(Replaced 14 of 2016 s. 89)

Section:	266C	Orders under sections 265D and 266	L.N. 190 of 2016	13/02/2017
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- (1) Without limiting sections 265D(3) and 266(3), an order under either of those sections with respect to a transaction at an undervalue entered into by a companyan open-ended fund company, or an unfair preference given by a companyan open-ended fund company, may do one or more of the following—
 - (a) require any property transferred as part of the transaction, or in connection with the giving of the unfair preference, to be vested in the companyopen-ended fund company;
 - (b) require any property to be vested in the companyopen-ended fund company if it represents in any person's hands the application of—
 - (i) the proceeds of sale of property so transferred; or
 - (ii) money so transferred;
 - (c) release or discharge (in whole or in part) any security given by the companyopen-ended fund company;
 - (d) require a person to pay, in respect of benefits received by that person from the companyopen-ended fund company, any sums to the liquidator that the court may direct;
 - (e) provide for a surety or guarantor whose obligations to a person were released or discharged (in whole or in part) under the transaction, or by the giving of the unfair preference, to be under any new or revived obligations to that person as the court thinks appropriate;
 - (f) provide—
 - (i) for security to be provided for the discharge of any obligation imposed by or arising under the order;
 - (ii) for such an obligation to be charged on any property; and
 - (iii) for the security or charge to have the same priority as a security or charge released or discharged (in whole or in part) under the transaction or by the giving of the unfair preference;
 - (g) provide for the extent to which a person—
 - (i) whose property is vested by the order in the companyopen-ended fund company; or
 - (ii) on whom obligations are imposed by the order, is to be able to prove in the winding up of the companyopen-ended fund company for debts or other liabilities which arose from, or were released or discharged (in whole or in part) under the transaction or by the giving of the unfair preference.
- (2) An order under section 265D(3) or 266(3) may affect the property of, or impose an obligation on, any person whether or not that person is the person with whom the companyopen-ended fund company entered into the transaction or, as the case may be, the person to whom the unfair preference was given.
- (3) Despite subsection (2)—
 - (a) the order must not prejudice—
 - (i) any interest in property which was acquired from a person other than the companyopen-ended fund company and was acquired in good faith and for value; or
 - (ii) any interest deriving from such an interest; and
 - (b) the order must not require a person who received a benefit from the transaction or unfair preference in good faith and for value to pay a sum to the liquidator, except where that person was a party to the transaction or the payment is to be in respect of an unfair preference given to that person at a time when that person was a creditor of the companyopen-ended fund company.

- (4) If a person (*third party*) has acquired an interest in property from a person other than the companyopen-ended fund company, or has received a benefit from the transaction or unfair preference, then unless the contrary is shown, it is presumed for the purposes of subsection (3)(a) and (b) that the interest was acquired or the benefit was received otherwise than in good faith if, at the time of the acquisition or receipt—
- (a) the third party had notice of—
 - (i) the relevant circumstances; and
 - (ii) the relevant proceedings; or
 - (b) the third party—
 - (i) was connected with the companyopen-ended fund company; or
 - (ii) was connected with, or was an associate of, the person with whom the companyopen-ended fund company entered into the transaction or to whom the companyopen-ended fund company gave the unfair preference.
- (5) For the purposes of subsection (4)(a)(i), the relevant circumstances are—
- (a) for a transaction at an undervalue—the fact that the companyopen-ended fund company entered into the transaction at an undervalue; or
 - (b) for an unfair preference—the circumstances which amounted to the giving of the unfair preference by the companyopen-ended fund company.
- (6) For the purposes of subsection (4)(a)(ii), a third party had notice of the relevant proceedings if—
- (a) in the case of the companyopen-ended fund company going into liquidation on the making of a winding-up order on a petition—that party had notice of the fact that—
 - (i) the petition had been presented; or
 - (ii) the companyopen-ended fund company had gone into liquidation;
 - (b) in the case of the companyopen-ended fund company going into liquidation on the delivery of a winding-up statement to the Registrar under section 228A—that party had notice of the fact that—
 - (i) a resolution had been passed under section 228A(1)(a) in respect of the companyopen-ended fund company; or
 - (ii) the companyopen-ended fund company had gone into liquidation; or
 - (c) in any other case—that party had notice of the fact that the companyopen-ended fund company had gone into liquidation.

(Added 14 of 2016 s. 90)

Section:	266D	Application of sections 265D to 266C	L.N. 190 of 2016	13/02/2017
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Sections 265D, 265E, 266, 266A, 266B and 266C apply without limiting the availability of any other remedy, even in relation to a transaction which the companyopen-ended fund company had no power to enter into, or an unfair preference which the companyopen-ended fund company had no power to give.

(Added 14 of 2016 s. 90)

Section:	267	Effect of floating charge	L.N. 190 of 2016	13/02/2017
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- (1) This section applies in relation to ~~a company~~ an open-ended fund company if the companyopen-ended fund company goes into liquidation.
- (2) If the companyopen-ended fund company creates a floating charge on its undertaking or property at a relevant time (within the meaning of section 267A), the charge is invalid except to the extent of the amount specified in subsection (3).
- (3) The amount is the aggregate of—
- (a) the value of so much of the consideration for the creation of the charge that consists of—
 - (i) money paid to the companyopen-ended fund company at the same time as, or after, the creation of the charge;
 - (ii) money paid at the direction of the companyopen-ended fund company at the same time as, or after, the creation of the charge; or
 - (iii) property or services supplied to the companyopen-ended fund company at the same time as, or after, the creation of the charge; and
 - (b) the amount of any interest that is payable on the amount mentioned in paragraph (a)(i), (ii) or (iii) pursuant to the charge or consideration agreement, at—

- (i) the rate specified in the charge or consideration agreement; or
 - (ii) the rate of 12% per annum,
- whichever is the lesser.
- (4) For the purposes of subsection (3)(a)(iii), the value of any property or services supplied as consideration for a floating charge is the amount in money which, at the time they were supplied, could reasonably have been expected to be obtained—
- (a) for supplying the property or services in the ordinary course of business; and
 - (b) on the same terms (apart from the consideration) as those on which they were supplied to the companyopen-ended fund company.
- (5) In this section—

consideration agreement (代價協議)—

- (a) in relation to the value mentioned in subsection (3)(a)(i), means the agreement pursuant to which the money was paid to the companyopen-ended fund company;
- (b) in relation to the value mentioned in subsection (3)(a)(ii), means the agreement pursuant to which the money was paid at the direction of the companyopen-ended fund company; or
- (c) in relation to the value mentioned in subsection (3)(a)(iii), means the agreement pursuant to which the property or services were supplied to the companyopen-ended fund company;

floating charge (浮動押記) means a charge which, when created, was a floating charge.

(Replaced 14 of 2016 s. 91)

Section:	267A	Relevant time under section 267	L.N. 190 of 2016	13/02/2017
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- (1) For a floating charge created in favour of a person who is connected with the companyopen-ended fund company, the time at which the charge is created is a relevant time for the purposes of section 267(2) if it is created at a time in the period of 2 years ending with the day on which the winding up of the companyopen-ended fund company commences.
- (2) For a floating charge created in favour of any person other than a person connected with the companyopen-ended fund company, the time at which the charge is created is a relevant time for the purposes of section 267(2) if—
 - (a) it is created at a time in the period of 12 months ending with the day on which the winding up of the companyopen-ended fund company commences; and
 - (b) the companyopen-ended fund company—
 - (i) is unable to pay its debts (within the meaning of section 178) at that time; or
 - (ii) becomes unable to pay its debts (within the meaning of section 178) in consequence of the transaction under which the charge is created.

Note—

- 1. For the time at which a winding up by the court commences, see section 184.
- 2. For the time at which a voluntary winding up commences, see sections 209B(a)(i), 228A(5)(a) and 230.

(Added 14 of 2016 s. 92)

Section:	268	Disclaimer of onerous property in case of <u>companyopen-ended fund company</u> wound up	E.R. 2 of 2012	02/08/2012
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- (1) Where any part of the property of a companyopen-ended fund company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the companyopen-ended fund company, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the court and subject to the provisions of this section, by writing signed by him, at any time within 12 months after the commencement of the winding up or such extended period as may be allowed by the court, disclaim the property:
 Provided that, where any such property has not come to the knowledge of the liquidator within 1 month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within 12 months after he has become aware thereof or such extended period as may be allowed by the court.

- (2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest, and liabilities of the companyopen-ended fund company, and the property of the companyopen-ended fund company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the companyopen-ended fund company and the property of the companyopen-ended fund company from liability, affect the rights or liabilities of any other person.
- (3) The court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the court thinks just.
- (4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of 28 days after the receipt of the application or such further period as may be allowed by the court, given notice to the applicant that he intends to apply to the court for leave to disclaim, and, in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the companyopen-ended fund company shall be deemed to have adopted it.
- (5) The court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the companyopen-ended fund company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.
- (6) The court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Ordinance in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose: Provided that, where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favour of any person claiming under the companyopen-ended fund company, whether as under-lessee or as a person entitled to a mortgage or charge, except upon the terms of making that person-
 - (a) subject to the same liabilities and obligations as those to which the companyopen-ended fund company was subject under the lease in respect of the property at the commencement of the winding up; or
 - (b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,
 and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any under-lessee or person entitled to a mortgage or charge who declines to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the companyopen-ended fund company who is willing to accept an order upon such terms, the court shall have power to vest the estate and interest of the companyopen-ended fund company in the property in any person liable either personally or in a representative character, and either alone or jointly with the companyopen-ended fund company to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the companyopen-ended fund company. (Amended 6 of 1984 s. 184)
- (7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the companyopen-ended fund company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

[cf. 1929 c. 23 s. 267 U.K.]

Section:	269	Restriction of rights of creditor as to execution or attachment in case of <u>companyopen-ended fund company</u> being wound up	E.R. 2 of 2012	02/08/2012
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- (1) Where a creditor has issued execution against the goods or lands of a companyopen-ended fund company or has attached any debt due to the companyopen-ended fund company, and the companyopen-ended fund company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the companyopen-ended fund company unless he has completed the execution or attachment before the commencement of the winding up:

Provided that-

- (a) where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which the creditor so had notice shall for the purposes of the foregoing provision be substituted for the date of the commencement of the winding up; and
 - (b) a person who purchases in good faith under a sale by the bailiff any goods of ~~a company~~ an open-ended fund company on which an execution has been levied shall in all cases acquire a good title to them against the liquidator; and (Amended 6 of 1984 s. 185)
 - (c) the rights conferred by this subsection on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit. (Added 6 of 1984 s. 185)
- (2) For the purposes of this Ordinance-
- (a) an execution against goods is completed by seizure and sale or by the making of a charging order under section 20 of the High Court Ordinance (Cap 4); (Amended 25 of 1998 s. 2)
 - (b) an attachment of a debt is completed by the receipt of the debt; and
 - (c) an execution against land is completed by seizure, by the appointment of a receiver, or by the making of a charging order under the said section 20. (Replaced 52 of 1987 s. 44)
- (3) In this section, **goods** (貨品) includes all chattels personal, and **bailiff** (執達主任) includes any officer charged with the execution of a writ or other process.

[cf. 1929 c. 23 s. 268 U.K.]

Section:	270	Duties of bailiff as to goods taken in execution	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (2A), where any goods of ~~a company~~ an open-ended fund company are taken in execution, and, before the sale thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the bailiff that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding up has been passed, the bailiff shall, on being so required, deliver the goods and any money seized or received in part satisfaction of the execution to the liquidator, but the costs of the execution shall be a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part thereof, for the purpose of satisfying that charge.
 - (2) Subject to subsection (2A), where under an execution the goods of ~~a company~~ an open-ended fund company are sold or money is paid in order to avoid sale, the bailiff shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for 14 days, and if within that time notice is served on him of a petition for the winding up of the ~~company~~ open-ended fund company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the ~~company~~ open-ended fund company and an order is made or a resolution is passed, as the case may be, for the winding up of the ~~company~~ open-ended fund company, the bailiff shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.
- (2A) The rights conferred by this section on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court thinks fit. (Added 6 1984 s. 186)
- (3) In this section, **goods** (貨品) includes all chattels personal, and **bailiff** (執達主任) includes any officer charged with the execution of a writ or other process.

(Amended 6 of 1984 s. 186)

[cf. 1929 c. 23 s. 269 U.K.]

Part:	V	Offences Antecedent to or in Course of Winding Up	L.N. 190 of 2016	13/02/2017
Division:	5			
Subdivision:	3			

(Added 14 of 2016 s. 93)

Section:	271	Offences by officers of <u>open-ended fund</u> companies in liquidation	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 93

- (1) If any person, being a past or present officer of ~~a company~~ an open-ended fund company which is at the time of

the commission of the alleged offence being wound up, whether by the court or voluntarily, or which, subsequently to that time, is ordered to be wound up by the court or passes a resolution for voluntary winding up-

- (a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the companyopen-ended fund company, and how and to whom and for what consideration and when the companyopen-ended fund company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the companyopen-ended fund company; or
- (b) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the companyopen-ended fund company as is in his custody or under his control, and which he is required by law to deliver up; or
- (c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the companyopen-ended fund company and which he is required by law to deliver up; or
- (d) within 12 months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the companyopen-ended fund company to the value of \$100 or upwards, or conceals any debt due to or from the companyopen-ended fund company; or
- (e) within 12 months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the companyopen-ended fund company to the value of \$100 or upwards; or
- (f) makes any material omission in any statement relating to the affairs of the companyopen-ended fund company; or
- (g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof; or
- (h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the companyopen-ended fund company; or
- (i) within 12 months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of, any book or paper affecting or relating to the property or affairs of the companyopen-ended fund company; or
- (j) within 12 months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the companyopen-ended fund company; or
- (k) within 12 months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters, or makes any omission in, or is privy to the fraudulent parting with, altering, or making any omission in, any document affecting or relating to the property or affairs of the companyopen-ended fund company; or
- (l) after the commencement of the winding up or at any meeting of the creditors of the companyopen-ended fund company within 12 months next before the commencement of the winding up attempts to account for any part of the property of the companyopen-ended fund company by fictitious losses or expenses; or
- (m)-(n) (Repealed 21 of 1970 s. 35)
- (o) within 12 months next before the commencement of the winding up or at any time thereafter pawns, pledges, or disposes of any property of the companyopen-ended fund company which has been obtained on credit and has not been paid for, unless such pawning, pledging, or disposing is in the ordinary way of the business of the companyopen-ended fund company; or
- (p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the companyopen-ended fund company or any of them to an agreement with reference to the affairs of the companyopen-ended fund company or to the winding up,

he shall, in the case of the offence mentioned in paragraph (o), be liable to imprisonment, and in the case of any other offence shall be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)

Provided that it shall be a good defence to a charge under any of paragraphs (a), (b), (c), (d), (f) and (o), if the accused proves that he had no intent to defraud, and to a charge under any of paragraphs (h), (i) and (j), if he proves that he had no intent to conceal the state of affairs of the companyopen-ended fund company or to defeat the law. (Amended 21 of 1970 s. 35)

- (2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under subsection (1)(o), any person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid shall be guilty of an offence, and on conviction thereof liable to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to an offence.
- (3) For the purposes of this section, **officer** (高級人員) includes a shadow director. (Amended 28 of 2003 s. 91)
(Amended 6 of 1984 s. 187)
[cf. 1929 c. 23 s. 271 U.K.]

Section:	272	Penalty for falsification of books	E.R. 2 of 2012	02/08/2012
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If any person, being a past or present officer or a contributory of any ~~company~~open-ended fund company being wound up, before or after the commencement of the winding up destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the ~~company~~open-ended fund company with intent to defraud or deceive any person, he shall be guilty of an offence and liable to imprisonment and a fine.

(Replaced 6 of 1984 s. 188. Amended 7 of 1990 s. 2)
[cf. 1948 c. 38 s. 329 U.K.]

Section:	273	Frauds by officers of <u>open-ended fund</u> companies which have gone into liquidation	E.R. 2 of 2012	02/08/2012
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If any person, being at the time of the commission of the alleged offence an officer of ~~a company~~an open-ended fund company which is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up-

- (a) (Repealed 21 of 1970 s. 35)
- (b) with intent to defraud creditors of the ~~company~~open-ended fund company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the ~~company~~open-ended fund company;
- (c) with intent to defraud creditors of the ~~company~~open-ended fund company, has concealed or removed any part of the property of the ~~company~~open-ended fund company since, or within 2 months before, the date of any unsatisfied judgment or order for payment of money obtained against the ~~company~~open-ended fund company.

he shall be guilty of an offence and liable to imprisonment and a fine.

(Amended 22 of 1950 s. 3; 6 of 1984 s. 189; 7 of 1990 s. 2)
[cf. 1929 c. 23 s. 273 U.K.]

Section:	274	Liability where proper records not kept*	L.N. 190 of 2016	13/02/2017
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- (1) If where ~~a company~~an open-ended fund company is wound up it is shown that the ~~company~~open-ended fund company has not kept accounting records that comply with ~~section 373(2) and (3) of the Companies Ordinance (Cap 622) rule 157~~ for any part of the shorter of the period of 2 years immediately preceding the commencement of the winding up, or the period between the incorporation of the ~~company~~open-ended fund company and the commencement of the winding up, every officer of the ~~company~~open-ended fund company who is in default is, unless the officer shows that the officer acted honestly and that in the circumstances in which the business of the ~~company~~open-ended fund company was carried on the default was excusable, guilty of an offence and liable to imprisonment and a fine. (Replaced 6 of 1984 s. 190. Amended 7 of 1990 s. 2; 14 of 2016 s. 94)

- (2) (Repealed 14 of 2016 s. 94)

[cf. 1929 c. 23 s. 274 U.K.]

Note:

* (Amended 14 of 2016 s. 94)

Section:	275	Responsibility of directors for fraudulent trading	E.R. 2 of 2012	02/08/2012
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- (1) If in the course of the winding up of ~~a company~~ an open-ended fund company it appears that any business of the ~~company~~ open-ended fund company has been carried on with intent to defraud creditors of the ~~company~~ open-ended fund company or creditors of any other person or for any fraudulent purpose, the court, on the application of the Official Receiver, or the liquidator or any creditor or contributory of the ~~company~~ open-ended fund company, may, if it thinks proper so to do, declare that any persons who were knowingly parties to the carrying on of the business in manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the ~~company~~ open-ended fund company as the court may direct.
- (1A) On the hearing of an application under subsection (1) the Official Receiver or the liquidator, as the case may be, may himself give evidence or call witnesses. (Added 6 of 1984 s. 191)
- (2) Where the court makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and in particular may make provision for making the liability of any person under the declaration a charge on any debt or obligation due from the ~~company~~ open-ended fund company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the ~~company~~ open-ended fund company held by or vested in him, or any ~~company~~ open-ended fund company or person on his behalf, or any person claiming as assignee from or through the person liable or any such ~~company~~ open-ended fund company or person, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subsection.
- For the purpose of this subsection, *assignee* (承讓人) includes any person to whom or in whose favour, by the directions of the person liable under the declaration, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.
- (3) Where any business of ~~a company~~ an open-ended fund company is carried on with such intent or for such purpose as is mentioned in subsection (1), every person who was knowingly a party to the carrying on of the business in manner aforesaid shall, whether or not the ~~company~~ open-ended fund company has been or is in course of being wound up, be guilty of an offence and liable to imprisonment and a fine. (Replaced 6 of 1984 s. 191. Amended 7 of 1990 s. 2)
- (4)-(5) (Repealed 6 of 1984 s. 191)
- (6) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is to be made. (Amended 76 of 1996 s. 77)
- (7) (Repealed 6 of 1984 s. 191)
- (Amended 6 of 1984 s. 191)
[cf. 1929 c. 23 s. 275 U.K.]

Section:	276	Power of court to assess damages against delinquent officer, etc.	L.N. 190 of 2016	13/02/2017
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- (1) If in the course of winding up ~~a company~~ an open-ended fund company it appears that any of the persons specified in subsection (1A) has misapplied or retained or become liable or accountable for any money or property of the ~~company~~ open-ended fund company, or been guilty of any misfeasance, breach of duty or breach of trust in relation to the ~~company~~ open-ended fund company which is actionable at the suit of the ~~company~~ open-ended fund company, the court may, on the application of the Official Receiver, or of the liquidator, or of any creditor or contributory, examine into the conduct of the person, and compel the person to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the ~~company~~ open-ended fund company by way of compensation in respect of the misapplication, retainer, misfeasance, breach of duty or breach of trust as the court thinks just. (Amended 14 of 2016 s. 95)
- (1A) The following persons are specified for subsection (1)—
- a person who is or has been an officer of the ~~company~~ open-ended fund company;
 - a person who is or has acted as a provisional liquidator or liquidator of the ~~company~~ open-ended fund company;

- (c) a person who is or has acted as a receiver or manager of the property of the companyopen-ended fund company;
- (d) a person, other than a person falling within paragraph (a), (b) or (c), who is or has been concerned, or is taking or has taken part, in the promotion, formation or management of the companyopen-ended fund company. (Added 14 of 2016 s. 95)
- (1B) If the person has acted as a liquidator of the companyopen-ended fund company and has been released under section 205, the right of the Official Receiver, or of the liquidator, or of any creditor or contributory to make an application under subsection
 - (1) in respect of the person is only exercisable with the leave of the court. (Added 14 of 2016 s. 95)
- (2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.
- (3) (Repealed 76 of 1996 s. 78)

(Amended 6 of 1984 s. 192)
[cf. 1929 c. 23 s. 276 U.K.]

Section:	277	Prosecution of delinquent officers and <u>membersshareholders</u> of <u>companyopen-ended fund company</u>	E.R. 2 of 2012	02/08/2012
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- (1) If it appears to the court in the course of a winding up by the court that any past or present officer or member of the company has been guilty of any offence in relation to the company for which he is criminally liable, the court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator to refer the matter to the Secretary for Justice. (Amended 6 of 1984 s. 193)
- (2) If it appears to the liquidator in the course of a voluntary winding up that any past or present officer or membersshareholder of the companyopen-ended fund company has been guilty of any offence in relation to the companyopen-ended fund company for which he is criminally liable, he shall forthwith report the matter to the Secretary for Justice, and shall furnish to the Secretary for Justice such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator and relating to the matter in question, as he may require. (Amended 6 of 1984 s. 193)
- (3) If it appears to the court in the course of a voluntary winding up that any past or present officer or membersshareholder of the companyopen-ended fund company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the Secretary for Justice under subsection (2), the court may, on the application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of subsection (2). (Amended 6 of 1984 s. 193)
- (4) If, where any matter is reported or referred to the Secretary for Justice under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall institute proceedings accordingly, and it shall be the duty of the liquidator and of every officer and agent of the companyopen-ended fund company past and present (other than the defendant in the proceedings) to give him all assistance in connexion with the prosecution which he is reasonably able to give.
For the purposes of this subsection, the expression **agent** (代理人) in relation to a companyan open-ended fund company shall be deemed to include any banker or solicitor of the companyopen-ended fund company and any person employed by the companyopen-ended fund company as auditor, whether that person is or is not an officer of the companyopen-ended fund company.
- (5) If any person fails or neglects to give assistance in manner required by subsection (4), the court may, on the application of the Secretary for Justice, direct that person to comply with the requirements of the said subsection, and where any such application is made with respect to a liquidator the court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the companyopen-ended fund company to enable him so to do, direct that costs of the application shall be borne by the liquidator personally.

(Replaced 78 of 1972 s. 17. Amended L.N. 362 of 1997)
[cf. 1948 c. 38 s. 334 U.K.]

Part:	V	Supplement Provisions as to Winding Up	L.N. 190 of 2016	13/02/2017
Division:	5			
Subdivision:	4			

(Added 14 of 2016 s. 96)

Section:	278	(Repealed 14 of 2016 s. 97)	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 96

Section:	278A	Inducement affecting appointment etc. as provisional liquidator or liquidator	L.N. 190 of 2016	13/02/2017
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- (1) A person who gives, or agrees or offers to give, to any other person valuable consideration with a view to—
 - (a) securing his or her own appointment or nomination as the provisional liquidator or liquidator of ~~a company~~an open-ended fund company; or
 - (b) securing or preventing the appointment or nomination of some person other than himself or herself as the provisional liquidator or liquidator of ~~a company~~an open-ended fund company, commits an offence and is liable on conviction to a fine.
- (2) Subsection (1) does not apply—
 - (a) if—
 - (i) the person who gives, or agrees or offers to give, the valuable consideration is a practice unit;
 - (ii) the person who is given, or agreed or offered to be given, the valuable consideration is an employee of the practice unit; and
 - (iii) under an arrangement between the practice unit and the employee, the employee's remuneration is based in whole or in part on introductions obtained for the practice unit through the employee's efforts; or
 - (b) if the appointment or nomination of a person as the provisional liquidator or liquidator of ~~a company~~an open-ended fund company is the result of—
 - (i) a transfer or sale of the business, or a part of the business, of a practice unit; or
 - (ii) a change in composition of a practice unit within the meaning of section 32I(1) of the Professional Accountants Ordinance (Cap 50).
- (3) In this section—

practice unit (執業單位) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap 50).

(Replaced 14 of 2016 s. 98)

Section:	279	Enforcement of duty of liquidator to make returns, &c.	E.R. 2 of 2012	02/08/2012
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- (1) If any liquidator, who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within 14 days after the service on him of a notice requiring him to do so, the court may, on an application made to the court by any contributory or creditor of the ~~company~~open-ended fund company or by the Registrar, make an order directing the liquidator to make good the default within such time as may be specified in the order.
- (2) Any such order may provide that all costs of and incidental to the application shall be borne by the liquidator.
- (3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a liquidator in respect of any such default as aforesaid.

[cf. 1929 c. 23 s. 279 U.K.]

Section:	280	Notification that a company<u>an open-ended fund company</u> is in liquidation	E.R. 2 of 2012	02/08/2012
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- (1) Where ~~a company~~an open-ended fund company is being wound up, whether by the court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the ~~company~~open-ended fund company or a liquidator of the ~~company~~open-ended fund company, or a receiver or manager of the property of

the company open-ended fund company, being a document on or in which the name of the company open-ended fund company appears, shall contain a statement that the company open-ended fund company is being wound up. (Amended 6 of 1984 s. 196)

- (2) If default is made in complying with this section, the company open-ended fund company and any of the following persons who knowingly and wilfully authorizes or permits the default, namely, any officer of the company open-ended fund company, any liquidator of the company open-ended fund company and any receiver or manager, shall be liable to a fine. (Replaced 6 of 1984 s. 196. Amended 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 280 U.K.]

Section:	281	Exemption of certain documents from stamp duty on winding up of <u>open-ended fund companies</u>	E.R. 2 of 2012	02/08/2012
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- (1) In the case of a winding up by the court or a creditors' voluntary winding up of a company an open-ended fund company, stamp duty shall not be payable in respect of- (Amended 6 of 1984 s. 197)
- (a) any assurance relating solely to immovable property or personal property which forms part of the assets of the company open-ended fund company and which, after the execution of the assurance, either at law or in equity, is or remains part of the assets of the company open-ended fund company; or
 - (b) any other instrument relating solely to the property of any company open-ended fund company which is being so wound up. (Replaced 31 of 1981 s. 65)
- (2) In this section, *assurance* (轉易書) includes deed, conveyance, assignment and surrender.

[cf. 1929 c. 23 s. 281 U.K.]

Section:	282	Books of <u>company open-ended fund company</u> to be evidence	E.R. 2 of 2012	02/08/2012
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Where a company an open-ended fund company is being wound up, all books and papers of the company open-ended fund company and of the liquidators shall, as between the contributories of the company open-ended fund company, be prima facie evidence of the truth of all matters purporting to be therein recorded.

[cf. 1929 c. 23 s. 282 U.K.]

Section:	283	Disposal of books and papers of <u>company open-ended fund company</u>	E.R. 2 of 2012	02/08/2012
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- (1) When a company an open-ended fund company has been wound up and is about to be dissolved, the books and papers of the company open-ended fund company and of the liquidators may be disposed of as follows, that is to say-
- (a) in the case of a winding up by the court in such way as the court directs;
 - (b) in the case of a members' voluntary winding up, in such way as the company open-ended fund company by special resolution directs, and, in the case of a creditors' voluntary winding up, in such way as the committee of inspection directs, or, if there is no such committee, as the creditors of the company open-ended fund company, may direct. (Amended 6 of 1984 s. 198)
- (2) After 5 years from the dissolution of the company open-ended fund company no responsibility shall rest on the company open-ended fund company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.
- (4) If any person acts in contravention of any general rules provisions of the Winding-up Rules applicable to a voluntary winding up of a company made for the purposes of this section or of any direction of the Official Receiver thereunder, he shall be liable to a fine. (Amended 22 of 1950 Schedule; 6 of 1984 s. 198; 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 283 U.K.]

Section:	284	Information as to pending liquidations	E.R. 2 of 2012	02/08/2012
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- (1) If where ~~a company~~ an open-ended fund company is being wound up the winding up is not concluded within 1 year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.
- (2) Any person stating himself in writing to be a creditor or contributory of the ~~company~~ open-ended fund company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the ~~prescribed fee~~ applicable fee, to inspect the statement, and to receive a copy thereof or extract therefrom.
- (3) If a liquidator fails to comply with this section, he shall be liable to a fine and, for continued default, to a daily default fine, and any person untruthfully stating himself as aforesaid to be a creditor or contributory shall be guilty of a contempt of court, and shall, on the application of the liquidator or of the Official Receiver, be punishable accordingly. (Amended 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 284 U.K.]

Section:	285	Unclaimed assets to be paid to companies liquidation account	E.R. 2 of 2012	02/08/2012
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- (1) If it appears either from any statement sent to the Registrar under section 284 or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the ~~company~~ open-ended fund company which have remained unclaimed or undistributed for 6 months after the date of their receipt, or any money held by the ~~company~~ open-ended fund company in trust in respect of dividends or other sums due to any person as a ~~member~~ shareholder of the ~~company~~ open-ended fund company, the liquidator shall forthwith pay the said money to the companies liquidation account, and shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.
- (2) (Repealed 6 of 1984 s. 199)
- (3) Any person claiming to be entitled to any money paid in pursuance of this section may, within 5 years of the date when the money was so paid, apply to the Official Receiver for payment thereof, and the Official Receiver may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due. (Amended 71 of 1971 s. 3)
- (4) Any person dissatisfied with the decision of the Official Receiver in respect of a claim made in pursuance of this section may appeal to the court.
- (5) Any money paid in pursuance of this section which remains unclaimed for a period of 5 years shall be transferred to the general revenue of Hong Kong. (Added 71 of 1971 s. 3. Amended 6 of 1984 s. 259)

(Amended 6 of 1984 s. 199)

[cf. 1929 c. 23 s. 285 U.K.]

Section:	285A	Representation of corporation at meetings of creditors	L.N. 190 of 2016	13/02/2017
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- (1) A corporation that is a creditor (including a holder of debentures) of ~~a company~~ an open-ended fund company may, by resolution of its directors or other governing body, authorize any person that the corporation thinks fit to act as its representative at any meeting of any creditors of the ~~company~~ open-ended fund company held under—
 - (a) this Ordinance; or
 - (b) any rules made under this Ordinance.
- (2) A person authorized under subsection (1) is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual creditor of the ~~company~~ open-ended fund company.

(Added 14 of 2016 s. 99)

Part:	V	Supplementary Powers of Court	L.N. 190 of 2016	13/02/2017
Division:	5			
Subdivision:	5			

(Added 14 of 2016 s. 100)

Section:	286	Resolutions passed at adjourned meetings of creditors and contributories	E.R. 2 of 2012	02/08/2012
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Where a resolution is passed at an adjourned meeting of any creditors or contributories of ~~a company~~ an open-ended fund company, the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

(Amended 6 of 1984 s. 200)
[cf. 1929 . 23 s. 287 U.K.]

Section:	286B	Powers to order examination of persons concerned with company <u>open-ended fund company</u>'s property, etc. and provision of information, etc.	L.N. 190 of 2016	13/02/2017
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- (1) At any time after the occurrence of an event specified in subsection (3) in respect of ~~a company~~ an open-ended fund company, the court may require by order any of the persons specified in subsection (4) to do one or more of the following—
 - (a) attend before the court;
 - (b) be examined under section 286C;
 - (c) submit to the court an affidavit containing either or both of the following—
 - (i) an account of the person's dealings with the ~~company~~ open-ended fund company;
 - (ii) information concerning the promotion, formation, trade, dealings, affairs or property of the ~~company~~ open-ended fund company;
 - (d) produce any books and papers in the person's custody or power relating to the ~~company~~ open-ended fund company or the promotion, formation, trade, dealings, affairs or property of the ~~company~~ open-ended fund company.
- (2) The court may make an order under subsection (1) of its own motion or on the application of—
 - (a) the provisional liquidator or liquidator of the ~~company~~ open-ended fund company; or
 - (b) in the case of a winding up by the court where a winding up order has been made, the Official Receiver as well.
- (3) An event specified for subsection (1) is—
 - (a) the appointment of a provisional liquidator;
 - (b) the making of a winding-up order; or
 - (c) the commencement of voluntary winding up.
- (4) The persons who may be subject to an order under subsection (1) are—
 - (a) an officer of the ~~company~~ open-ended fund company;
 - (b) a person known or suspected to have in the person's possession any property of the ~~company~~ open-ended fund company;
 - (c) a person supposed to be indebted to the ~~company~~ open-ended fund company; and
 - (d) a person whom the court thinks capable of giving information concerning the promotion, formation, trade, dealings, affairs or property of the ~~company~~ open-ended fund company.
- (5) If a person is required to attend before the court under subsection (1)(a), but, after a reasonable sum has been tendered to the person for the person's expenses for attending before the court—
 - (a) the person fails to attend before the court at the time appointed; and
 - (b) at the time of the court's sitting, no lawful impediment to the attendance is made known to the court and allowed by it,
 the court may, by warrant, cause the person to be apprehended and brought before the court.
- (6) If a person claims any lien on the books or papers produced by the person in accordance with subsection (1)(d) —

- (a) the production is without prejudice to that lien; and
- (b) the court has jurisdiction in the winding up to determine all questions relating to that lien.

(Added 14 of 2016 s. 101)

Section:	286C	Examination of persons concerned with companyopen-ended fund company's property, etc.	L.N. 190 of 2016	13/02/2017
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- (1) For an examination required under section 286B(1)(b), the court may examine the person on oath as to the promotion, formation, trade, dealings, affairs or property of the ~~company~~open-ended fund company by word of mouth or on written interrogatories.
- (2) The person must answer all questions that the court may put or allow to be put to the person.
- (3) The person may at the person's own cost employ a solicitor with or without counsel, who may—
 - (a) put to the person any questions that the court thinks just for the purpose of enabling the person to explain or qualify any answers given by the person; and
 - (b) make representations on the person's behalf.
- (4) The court may cause notes of the examination to be taken down in writing and require the person examined to sign the notes.
- (5) The court may, if it thinks fit, adjourn the examination from time to time.

(Added 14 of 2016 s. 101)

Section:	286D	Self-incrimination in relation to direction or requirement under section 286A, 286B or 286C	L.N. 190 of 2016	13/02/2017
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- (1) A person is not excused from complying with a direction or requirement imposed on the person under section 286A, 286B or 286C only on the ground that to do so might tend to incriminate the person.
- (2) Despite anything in this Ordinance, if—
 - (a) a person is required to—
 - (i) answer a question under section 286A or 286C; or
 - (ii) submit an affidavit under section 286B; and
 - (b) the answer or affidavit might tend to incriminate the person, the requirement and the question and answer, or affidavit, are not admissible in evidence against the person in criminal proceedings other than those specified in subsection (3).
- (3) The proceedings are those in which the person is charged with any of the following offences in respect of the answer or affidavit—
 - (a) an offence under ~~section 349~~rule 195;
 - (b) an offence under Part V of the Crimes Ordinance (Cap 200).
- (4) To avoid doubt, a question or answer not admissible under subsection (2) includes—
 - (a) a record of the question or answer contained in the notes of the examination taken down under section 286A(9) or 286C(4); and
 - (b) in the case of an examination under section 286C, a record of the question or answer contained in any notes of the examination taken under rule 62(1) of the Companies (Winding-up) Rules (Cap 32 sub. leg. H).

(Added 14 of 2016 s. 101)

Section:	286E	Jurisdiction of Registrar	L.N. 190 of 2016	13/02/2017
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- (1) Unless otherwise ordered by the court in a particular case, the Registrar may exercise and perform the powers and duties conferred or imposed on the court by sections 168IA, 286A, 286B and 286C.
- (2) In exercising the jurisdiction conferred by this section, the Registrar may—
 - (a) refer any examination for hearing by a judge; and
 - (b) at any time adjourn an examination for further hearing before a judge.
- (3) If an examination is referred to a judge under subsection (2)(a), the judge may hear the examination, or refer it back to the Registrar for hearing by the Registrar.

- (4) If an examination is adjourned under subsection (2)(b) for further hearing before a judge, the judge may—
 - (a) continue the examination;
 - (b) at any time direct that the examination be continued before the Registrar; and
 - (c) make any other order or give any directions that the judge considers proper.
- (5) In this Ordinance, a reference to the court includes the Registrar exercising the jurisdiction conferred by this section.
- (6) Despite subsection (5), the Registrar, in exercising the jurisdiction conferred by this section, does not have power to make an order for the committal of a person for contempt of court.
- (7) In this section—

Registrar (司法常務官) means any one of the following—

- (a) the Registrar of the High Court;
 - (b) a Senior Deputy Registrar of the High Court;
 - (c) a Deputy Registrar of the High Court;
 - (d) an Assistant Registrar of the High Court appointed by the Chief Justice for the purposes of this section.
- (Added 14 of 2016 s. 101)

Section:	287	Meetings to ascertain wishes of creditors or contributories	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 100

- (1) The court may, as to all matters relating to the winding up of ~~a company~~an open-ended fund company, have regard to the wishes of the creditors or contributories of the ~~company~~open-ended fund company, as proved to it by any sufficient evidence, and may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.
- (2) In the case of creditors, regard shall be had to the value of each creditor's debt.
- (3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by this Ordinance or the Companies Ordinance (Cap 622) or by the ~~articles~~instrument of incorporation. (Amended 28 of 2012 ss. 912 & 920)

[cf. 1929 c. 23 s. 288 U.K.]

Section:	288	(Repealed 6 of 1984 s. 201)		30/06/1997
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Section:	289	Affidavits, &c.	E.R. 2 of 2012	02/08/2012
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- (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in Hong Kong, or in any jurisdiction before any court, judge or person authorized under the law of that jurisdiction to take and receive affidavits in that jurisdiction. (Amended 1 of 1949 s. 18; 6 of 1984 ss. 202 & 259)
- (2) All courts, judges, commissioners, and persons acting judicially shall take judicial notice of the seal or stamp or signature, as the case may be, of any such court, judge or person attached, appended, or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part. (Amended 47 of 1997 s. 10)

(Amended 25 of 1998 s. 2)

[cf. 1929 c. 23 s. 293 U.K.]

Part:	V	Provisions as to Dissolution	L.N. 190 of 2016	13/02/2017
Division:	5			
Subdivision:	6			

(Added 14 of 2016 s. 102)

Section:	290	Power of court to declare dissolution of companyopen-ended fund company void	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 102

- (1) Subject to subsection (1A), in the case of ~~a company~~an open-ended fund company which has been dissolved under section 226A, 227, 239 or 248, the court may at any time within 2 years of the date of the dissolution, on an application being made for the purpose by the liquidator of the ~~company~~open-ended fund company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the ~~company~~open-ended fund company had not been dissolved. (Amended 75 of 1993 s. 17)
- (1A) The liquidator of the ~~company~~open-ended fund company or any other person who appears to the court to be interested may at any time apply to extend the period of 2 years referred to in subsection (1) and the court may so extend, on such terms and conditions as seem to it just and expedient, if it is satisfied that there are exceptional circumstances justifying the extension. (Added 75 of 1993 s. 17)
- (2) It shall be the duty of the person on whose application the order was made, within 7 days after the making of the order, or such further time as the court may allow, to deliver to the Registrar for registration an office copy of the order, and if that person fails so to do he shall be liable to a fine and, for continued default, to daily default fine. (Amended 7 of 1990 s. 2)

(Amended 6 of 1984 s. 203)
[cf. 1929 c. 23 s. 294 U.K.]

Section:	290A	(Repealed 30 of 1999 s. 18)	L.N. 239 of 1999	11/11/1999
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Note:

Section 290A was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed."

Section:	290B	(Repealed 30 of 1999 s. 18)	L.N. 239 of 1999	11/11/1999
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Note:

Section 290B was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed."

Section:	290C	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	290D	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	290E	(Repealed 30 of 1999 s. 21)	L.N. 239 of 1999	11/11/1999
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Note:

Section 290E was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed."

Section:	291	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	291A	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	291AA	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	291AB	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	291B	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	292	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	292A	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Part:	V	Central Accounts	L.N. 190 of 2016	13/02/2017
Division:	5			
Subdivision:	7			

(Added 14 of 2016 s. 103)

Section:	293	Companies liquidation account	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 103

- (1) An account, to be called the Companies Liquidation Account, shall be kept by the Official Receiver at such bank as the Chief Executive may from time to time direct, and all moneys received by the Official Receiver in respect of proceedings under this Ordinance in connexion with the winding up of open-ended fund companies shall be paid to that account. (Amended 1 of 1949 s. 20; 24 of 1950 Schedule; 23 of 1999 s. 3)
- (2) All payments out of money standing to the credit of the Official Receiver in the Companies Liquidation Account shall be made in the prescribed manner.

[cf. 1929 c. 23 s. 300 U.K.]

Section:	294	Investment of surplus funds on general account	E.R. 2 of 2012	02/08/2012
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- (1) Whenever the cash balance standing to the credit of the Companies Liquidation Account is in excess of the amount which in the opinion of the Official Receiver is required for the time being to answer demands in

respect of open-ended fund companies' estates, he may invest in his name the whole or any part of such excess on fixed deposit or deposit at call with such bank as he thinks fit or in Government securities. (Replaced 79 of 1988 s. 9. Amended 23 of 1999 s. 3)

- (2) When any part of the money placed on deposit or otherwise invested under subsection (1) is, in the opinion of the Official Receiver, required to answer any demands in respect of open-ended fund companies' estates, he shall raise such sum as may be required by the withdrawal of such part of any money placed on deposit or by sale of such part of the securities referred to in subsection (1), as may be necessary. (Replaced 79 of 1988 s. 9)
- (3) The interest on investments or deposits made under this section, any profits realized on the sale of such investments and any bank interest received shall be paid into the Companies Liquidation Account, and the Official Receiver shall on or before 31 March in each year transfer to the general revenue the accumulated balance of such income, profits and bank interest, after deducting therefrom any losses on the realization of such investments. (Replaced 15 of 1955 s. 9. Amended 6 of 1984 s. 206)

Section:	295	Separate accounts of particular estates	E.R. 2 of 2012	02/08/2012
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- (1) The Official Receiver shall keep an account of the receipts and payments in the winding up of each company open-ended fund company.
- (2) When the cash balance standing to the credit of the account of any company open-ended fund company exceeds by \$100000 or more the amount which, in the opinion of the committee of inspection or where there is no committee of inspection in the opinion of the liquidator, is required for the time being to answer demands in respect of the company open-ended fund company's estate, the Official Receiver shall, on the request of the committee of inspection or where there is no committee of inspection on the request of the liquidator, invest the amount of such excess on fixed deposit or on deposit at call with such bank as the Official Receiver thinks fit or in Government securities, to be placed to the credit of the account of the company open-ended fund company. (Amended 23 of 1999 s. 3)
- (3) When any part of the money so invested is, in the opinion of the committee of inspection or where there is no committee of inspection in the opinion of the liquidator, required to answer any demands in respect of the estate of the company open-ended fund company, the Official Receiver shall, on the request of the committee of inspection or where there is no committee of inspection on the request of the liquidator, raise such sum as may be required by the withdrawal of such part of any money placed on deposit or by the sale of such part of the securities referred to in subsection (2), as may be necessary.
- (4) Out of the interest paid on the investments made under this section, an amount equal to 1 1/2% per annum (or such other rate as may be fixed by the Financial Secretary for the purposes of this section by notice published in the Gazette) of the money invested shall be paid to the credit of the Official Receiver and the balance shall be paid to the credit of the company open-ended fund company.
- (5) The Official Receiver shall on or before 31 March in each year transfer to the general revenue the accumulated amount paid to his credit under subsection (4).

(Replaced 38 of 1987 s. 4)

Part:	V	Electronic Communications by Liquidators	L.N. 190 of 2016	13/02/2017
Division:	6			

(Division 6 added 14 of 2016 s. 105)

Section:	296A	Interpretation of Division 6	L.N. 190 of 2016	13/02/2017
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- (1) In this Division—

address (地址) includes an electronic address;

applicable provision (適用條文) means a provision of this Ordinance or the Winding-up Rules that authorizes or requires a document or information to be sent or supplied by a liquidator or provisional liquidator to another person, whether the document or information is authorized or required to be sent or supplied by post or otherwise, and whether or not in writing or printed form;

Winding-up Rules (《清盤規則》) means the Companies (Winding-up) Rules (Cap 32 sub. leg. H).

- (2) In this Division—

- (a) a reference to sending a document includes supplying, delivering, forwarding or producing the document and, in the case of a notice, giving the document;

- (b) a reference to supplying information includes sending, delivering, forwarding or producing the information; and
- (c) a document or information is sent or supplied in hard copy form if it is sent or supplied—
 - (i) in paper form; or
 - (ii) in a similar form capable of being read.

Section:	296B	Application of Division 6	L.N. 190 of 2016	13/02/2017
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- (1) Subject to subsection (2), this Division applies to every mode of winding up.
- (2) This Division does not apply to—
 - (a) the serving of any document;
 - (b) the sending or supplying of any document or information under an order or direction of the court;
 - (c) the sending or supplying of the following documents or information—
 - (i) the notes of an examination conducted under section 286C;
 - (ii) a notice of intention to use the notes of a public examination under rule 59 of the Winding-up Rules;
 - (iii) a notice to a creditor under section 227E(1), or rule 93 or 96 of the Winding-up Rules;
 - (iv) oaths, affidavits, declarations or documents that are required to be certified in writing, or verified on oath or by affidavit under this Ordinance;
 - (v) a sanction required or authorized to be given by the liquidator or provisional liquidator under this Ordinance;
 - (vi) Forms 10, 31, 38C, 39, 40, 41, 42, 45, 47, 65, 67, 70, 71, 73, 79 and 90 in the Appendix to the Winding-up Rules, including documents purporting to be such Forms;
 - (vii) the Cash Book under rule 159 of the Winding-up Rules;
 - (viii) any order, summons, petition, warrant or process of any kind (including any notice issued by the court) and their office copies that are required to be sealed under rule 11 of the Winding-up Rules; or
 - (d) the sending or supplying of a document or information to—
 - (i) the court (including the Registrar of the High Court, the bailiff of the court and any assistant bailiff);
 - (ii) the Financial Secretary;
 - (iii) the Secretary for Justice;
 - (iv) the Land Registry;
 - (v) the Official Receiver; ~~or~~
 - (vi) the Registrar of Companies; ~~and~~
 - (vii) the Commission.
- (3) Nothing in this Division affects the obligation of the liquidator or provisional liquidator to comply with a requirement under this Ordinance to give any notice by advertisement in the Gazette or a newspaper.

Section:	296C	Communication by liquidator by electronic means	L.N. 190 of 2016	13/02/2017
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- (1) Subject to subsection (2), this section applies if a document or information is sent or supplied by electronic means by a liquidator or provisional liquidator to another person.
- (2) This section does not apply if the document or information is sent or supplied by the liquidator or provisional liquidator to that other person by making it available on a website.
- (3) For the purposes of an applicable provision, a document or information is sent or supplied to another person if—
 - (a) that other person has agreed, generally or specifically, that the liquidator or provisional liquidator may send or supply the document or information to the person by electronic means;
 - (b) that other person has not revoked the agreement;
 - (c) that other person has specified, generally or specifically, an electronic address for receiving the document or information;
 - (d) the document or information is sent or supplied to that other person by electronic means to the electronic address mentioned in paragraph (c);
 - (e) the document or information is sent or supplied in a form, and by a means, that, in the reasonable opinion of the liquidator or provisional liquidator, will enable the recipient—
 - (i) to read the document or information, or, to the extent that it consists of images, to see the document or information, with the naked eye or with a suitable corrective lens; and
 - (ii) to retain a copy of the document or information;
 - (f) the document or information is authenticated in one of the following ways—

- (i) the identity of the liquidator or provisional liquidator is confirmed in a manner specified by that other person;
 - (ii) if the manner has not been specified, the communication contains, or is accompanied by, a statement of the identity of the liquidator or provisional liquidator, the truth of which the other person has no reason to doubt; and
- (g) the document or information contains, or is accompanied by, a statement that—
 - (i) the recipient may request the document or information in hard copy form; and
 - (ii) a postal address and an electronic address specified by the liquidator or provisional liquidator as provided in the statement may be used to request the document or information in hard copy form.
- (4) For the purposes of subsection (3)(b), the person is only to be regarded as having revoked the agreement if the person has given the liquidator or provisional liquidator a notice of revocation of at least—
 - (a) 7 days; or
 - (b) the period specified for the purpose in any agreement between the liquidator or provisional liquidator and the person, whichever is the longer.
- (5) If the document or information is sent or supplied to that other person in accordance with this section, unless the contrary is proved, the document or information is to be regarded as having been received by the person at the end of the following period after it is sent or supplied—
 - (a) the period specified for the purpose in any agreement between the liquidator or provisional liquidator and the person; or
 - (b) if no period has been specified, 48 hours.
- (6) In calculating the period mentioned in subsection (5)(b), any part of a day that is not a business day is to be disregarded.

Section:	296D	Communication by liquidator by means of website	L.N. 190 of 2016	13/02/2017
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- (1) This section applies if a document or information is sent or supplied by a liquidator or provisional liquidator to another person by making it available on a website.
- (2) For the purposes of an applicable provision, a document or information is sent or supplied to another person if—
 - (a) that other person has agreed, generally or specifically, that the liquidator or provisional liquidator may send or supply the document or information to the person by making it available on a website;
 - (b) that other person has not revoked the agreement;
 - (c) the document or information is sent or supplied in a form, and by a means, that, in the reasonable opinion of the liquidator or provisional liquidator, will enable the recipient—
 - (i) to read the document or information, or, to the extent that it consists of images, to see the document or information, with the naked eye or with a suitable corrective lens; and
 - (ii) to retain a copy of the document or information;
 - (d) that other person has provided an address for receiving the notification mentioned in paragraph (e);
 - (e) the liquidator or provisional liquidator has sent a notification to the address notifying that other person of—
 - (i) the matters specified in subsection (5);
 - (ii) the right of the recipient to request the document or information in hard copy form; and
 - (iii) the fact that a postal address and an electronic address specified by the liquidator or provisional liquidator as provided in the notification may be used to request the document or information in hard copy form; and
 - (f) subject to subsection (3), the liquidator or provisional liquidator has made the document or information available on a website throughout the 3 months beginning on the date on which the notification is sent to that other person in accordance with paragraph (e).
- (3) If the liquidator makes available on the website a copy of a proposed written resolution mentioned in section 207E(1), the copy must be available throughout the period—
 - (a) beginning on the circulation date; and
 - (b) ending on—
 - (i) the date on which the resolution lapses under section 207H(1); or
 - (ii) the date on which the resolution is passed under section 207G(1).
- (4) For the purposes of subsection (2)(b), the person is only to be regarded as having revoked the agreement if the person has given the liquidator or provisional liquidator a notice of revocation of at least—
 - (a) 7 days; or

- (b) the period specified for the purpose in any agreement between the liquidator or provisional liquidator and the person, whichever is the longer.
- (5) The matters specified for the purposes of subsection (2)(e)(i) are—
 - (a) the presence of the document or information on the website;
 - (b) if the document or information is not available on the website on the date of the notification, the date on which it will be so available;
 - (c) the address of the website;
 - (d) the place on the website where the document or information may be accessed; and
 - (e) how to access the document or information.
- (6) For the purposes of subsections (2)(f) and (3), a failure to make the document or information available on a website throughout the period mentioned in those subsections is to be disregarded if—
 - (a) the document or information is made available on the website for part of that period; and
 - (b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the liquidator or provisional liquidator to prevent or avoid.
- (7) If the document or information is sent or supplied by a liquidator or provisional liquidator to that other person in accordance with subsection (2)—
 - (a) the document or information is to be regarded as having been sent or supplied on whichever is the later of the following—
 - (i) the date on which the document or information is first made available on the website;
 - (ii) the date on which a notification under subsection (2)(e) is sent; and
 - (b) the document or information is to be regarded as having been received by that other person at the end of the period specified in subsection (8) after whichever is the later of the following—
 - (i) the time when the document or information is first made available on the website;
 - (ii) the time when that other person receives a notification under subsection (2)(e).
- (8) The period specified for the purpose of subsection (7)(b) is—
 - (a) the period specified for the purpose in any agreement between the liquidator or provisional liquidator and that other person; or
 - (b) if no period has been specified, 48 hours.
- (9) In calculating the period mentioned in subsection (8)(b), any part of a day that is not a business day is to be disregarded.

Section:	296E	Certain persons may require hard copy	L.N. 190 of 2016	13/02/2017
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- (1) A person who has received a document or information by electronic means under section 296C may request the liquidator or provisional liquidator to send or supply to the person the document or information in hard copy form. The request must be made within 28 days after the date of receiving the document or information.
- (2) A person who has received a notification under section 296D(2)(e) that a document or information is made available on a website, may request the liquidator or provisional liquidator to send or supply to the person the document or information in hard copy form. The request must be made within 28 days after the date of receiving the notification.
- (3) The request may be sent to the postal address or electronic address of the liquidator or provisional liquidator specified in the relevant statement or notification.
- (4) If a request is sent to the electronic address of the liquidator or provisional liquidator in accordance with subsection (3), the request is to be regarded as having been received by the liquidator or provisional liquidator at the end of 48 hours after it is sent, unless the contrary is proved.
- (5) In calculating the period mentioned in subsection (4), any part of a day that is not a business day is to be disregarded.
- (6) The liquidator or provisional liquidator must send or supply the document or information in hard copy form to the person making the request free of charge within 5 business days after the date of receiving the request.
- (7) A liquidator or provisional liquidator who contravenes subsection (6) commits an offence and is liable on conviction to a fine.

Part:	VI	Receivers and Managers	E.R. 1 of 2014	03/03/2014
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(*Format changes—E.R. 1 of 2014)

Note:

* The format of Part VI has been updated to the current legislative styles.

Section:	297	Disqualification for appointment as receiver	E.R. 1 of 2014	03/03/2014
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- (1) A body corporate shall not be qualified for appointment as receiver of the property of ~~a company~~ an open-ended fund company.
 - (2) Any body corporate which acts as receiver as aforesaid shall be liable to a fine. (Amended 22 of 1950 Schedule; 6 of 1984 s. 259; 7 of 1990 s. 2)
- [cf. 1929 c. 23 s. 306 U.K.]

Section:	297A	Disqualification of undischarged bankrupts	E.R. 1 of 2014	03/03/2014
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No person being an undischarged bankrupt shall be qualified for appointment as receiver or manager of the property of ~~a company~~ an open-ended fund company on behalf of debenture holders, and if such person acts as such receiver or manager, he shall be guilty of an offence and liable to imprisonment and a fine.

(Added 6 of 1984 s. 209. Amended 7 of 1990 s. 2)
[cf. 1948 c. 38 s. 367 U.K.]

Section:	297B	Inducement affecting appointment etc. as receiver or manager	L.N. 190 of 2016	13/02/2017
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- (1) A person who gives, or agrees or offers to give, to any other person valuable consideration with a view to—
 - (a) securing his or her own appointment or nomination as the receiver or manager of the property of ~~a company~~ an open-ended fund company; or
 - (b) securing or preventing the appointment or nomination of some person other than himself or herself as the receiver or manager of the property of ~~a company~~ an open-ended fund company, commits an offence and is liable on conviction to a fine.
- (2) Subsection (1) does not apply—
 - (a) if—
 - (i) the person who gives, or agrees or offers to give, the valuable consideration is a practice unit;
 - (ii) the person who is given, or agreed or offered to be given, the valuable consideration is an employee of the practice unit; and
 - (iii) under an arrangement between the practice unit and the employee, the employee's remuneration is based in whole or in part on introductions obtained for the practice unit through the employee's efforts; or
 - (b) if the appointment or nomination of a person as the receiver or manager of the property of ~~a company~~ an open-ended fund company is the result of—
 - (i) a transfer or sale of the business, or a part of the business, of a practice unit; or
 - (ii) a change in composition of a practice unit within the meaning of section 32I(1) of the Professional Accountants Ordinance (Cap 50).

(3) In this section—

practice unit (執業單位) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap 50).

(Added 14 of 2016 s. 106)

Section:	298A	Receivers and managers appointed out of court	E.R. 1 of 2014	03/03/2014
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- (1) A receiver or manager of the property of ~~a company~~ an open-ended fund company appointed under the powers contained in any instrument, or a holder of debentures of the ~~company~~ open-ended fund company, may apply

to the court for directions in relation to any particular matter arising in connexion with the performance of the functions of such receiver or manager, and on any such application the court may give such directions, or may make such order declaring the rights of persons before the court or otherwise, as the court thinks just.

- (2) A receiver or manager of the property of ~~a company~~ an open-ended fund company appointed as aforesaid shall, to the same extent as if he had been appointed by order of a court, be personally liable on any contract entered into by him in the performance of his functions, except in so far as the contract otherwise provides, and entitled in respect of that liability to indemnity out of the assets; but nothing in this subsection shall be taken as limiting any right to indemnity which he would have apart from this subsection, or as limiting his liability on contracts entered into without authority or as conferring any right to indemnity in respect of that liability.

(Added 6 of 1984 s. 210)
[cf. 1948 c. 38 s. 369 U.K.]

Note:

* **Commencement date: 31 August 1984.**

Section:	299	Notification that receiver or manager appointed	E.R. 1 of 2014	03/03/2014
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- (1) Where a receiver or manager of the property of ~~a company~~ an open-ended fund company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the ~~company~~ open-ended fund company or the receiver or manager or the liquidator of the ~~company~~ open-ended fund company, being a document on or in which the name of the ~~company~~ open-ended fund company appears, shall contain a statement that a receiver or manager has been appointed.
- (2) If default is made in complying with the requirements of this section, the ~~company~~ open-ended fund company and any of the following persons who knowingly and wilfully authorizes or permits the default, namely, any officer of the ~~company~~ open-ended fund company, any liquidator of the ~~company~~ open-ended fund company and any receiver or manager, shall be liable to a fine. (Replaced 6 of 1984 s. 211. Amended 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 308 U.K.]

Section:	300	Power of court to fix remuneration on application of liquidator	E.R. 1 of 2014	03/03/2014
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- (1) The court may, on an application made to the court by the liquidator of ~~a company~~ an open-ended fund company, by order fix the amount to be paid by way of remuneration to any person who, under the powers contained in any instrument, has been appointed as receiver or manager of the property of the ~~company~~ open-ended fund company, and may from time to time, on an application made either by the liquidator, or by the receiver or manager, vary or amend any order so made. (Amended 6 of 1984 s. 212)
- (2) The power of the court under subsection (1) shall, where no previous order has been made with respect thereto under that subsection,-
- extend to fixing the remuneration for any period before the making of the order or the application therefor; and
 - be exercisable notwithstanding that the receiver or manager has died or ceased to act before the making of the order or the application therefor; and
 - where the receiver or manager has been paid or has retained for his remuneration for any period before the making of the order any amount in excess of that so fixed for that period, extend to requiring him or his personal representatives to account for the excess or such part thereof as may be specified in the order:

Provided that the power conferred by paragraph (c) shall not be exercised as respects any period before the making of the application for the order unless in the opinion of the court there are special circumstances making it proper for the power to be so exercised. (Added 6 of 1984 s. 212)

[cf. 1929 c. 23 s. 309 U.K.]

Note:

* **Commencement date: 31 August 1984.**

Section:	300A	Provisions as to information where receiver or manager is appointed	L.N. 190 of 2016	13/02/2017
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- (1) Where a receiver or manager of the whole or substantially the whole of the property of the companyopen-ended fund company (in this section and in section 300B referred to as **the receiver**) is appointed on behalf of the holders of any debentures of the companyopen-ended fund company secured by a floating charge, then subject to the provisions of this section and section 300B-
 - (a) the receiver shall forthwith send to the companyopen-ended fund company notice of his appointment in the specified form; and (Amended 3 of 1997 s. 44)
 - (b) there shall, within 14 days after receipt of the notice, or such longer period as may be allowed by the court or by the receiver, be made and submitted to the receiver in accordance with section 300B a statement in the specified form as to the affairs of the companyopen-ended fund company (the **statement of affairs**); and (Amended 3 of 1997 s. 44; 28 of 2003 s. 92; 14 of 2016 s. 107)
 - (c) the receiver shall within 2 months after receipt of the statement of affairs send- (Amended 28 of 2003 s. 92)
 - (i) to the Registrar and to the court, a copy of the statement and of any comments he sees fit to make thereon and in the case of the Registrar also a summary of the statement and of his comments (if any) thereon; and
 - (ii) to the companyopen-ended fund company, a copy of any such comments as aforesaid or, if he does not see fit to make any comment, a notice to that effect; and
 - (iii) to any trustees for the debenture holders on whose behalf he was appointed and, so far as he is aware of their addresses, to all such debenture holders a copy of the said summary.
- (2) The receiver shall within 2 months, or such longer period as the court may allow after the expiration of the period of 12 months from the date of his appointment and of every subsequent period of 12 months, and within 2 months or such longer period as the court may allow after he ceases to act as receiver or manager of the property of the companyopen-ended fund company, send to the Registrar, to any trustees for the debenture holders of the companyopen-ended fund company on whose behalf he was appointed, to the companyopen-ended fund company and (so far as he is aware of their addresses) to all such debenture holders an abstract in the specified form showing his receipts and payments during that period of 12 months or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amounts of his receipts and of his payments during all preceding periods since his appointment. (Amended 3 of 1997 s. 44)
- (3) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect-
 - (a) with the omission of the references to the court in subsection (1); and
 - (b) with the substitution for the references to the court in subsection (2) of references to the Official Receiver.
- (4) Subsection (1) shall not apply in relation to the appointment of a receiver or manager to act with an existing receiver or manager or in place of a receiver or manager dying or ceasing to act, except that, where that subsection applies to a receiver or manager who dies or ceases to act before it has been fully complied with, the references in paragraphs (b) and (c) thereof to the receiver shall, subject to subsection (5), include references to his successor and to any continuing receiver or manager.
Nothing in this subsection shall be taken as limiting the meaning of the expression **the receiver** where used in, or in relation to, subsection (2).
- (5) This section and section 300B, where the companyopen-ended fund company is being wound up, shall apply notwithstanding that the receiver or manager and the liquidator are the same person, but with any necessary modifications arising from that fact.
- (6) Nothing in subsection (2) shall be taken to prejudice the duty of the receiver to render proper accounts of his receipts and payments to the persons to whom, and at the times at which, he may be required to do so apart from that subsection.
- (7) If the receiver makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)

(Added 6 of 1984 s. 213)
[cf. 1948 c. 38 s. 372 U.K.]

Note:

* Commencement date: 31 August 1984.

Section:	300B	Special provisions as to statement submitted to receiver	L.N. 190 of 2016	13/02/2017
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- (1) The statement of affairs required by section 300A to be submitted to the receiver (or his successor) shall show as at the date of the receiver's appointment the particulars of the companyopen-ended fund company's assets, debts and liabilities, the names, addresses and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be prescribed.
- (2) The statement of affairs required by section 300A shall be made and submitted by, and be verified by statement in writing signed by, one or more of the persons who are at the date of the receiver's appointment the directors and by the person who is at that date the company secretary of the companyopen-ended fund company, or by such of the persons hereafter in this subsection mentioned as the receiver (or his successor), subject to the direction of the court, may require to make, submit and verify the statement of affairs, that is to say, persons- (Amended 28 of 2003 s. 93; 28 of 2012 ss. 912 & 920; 14 of 2016 s. 108)
 - (a) who are or have been officers of the companyopen-ended fund company;
 - (b) who have taken part in the formation of the companyopen-ended fund company at any time within 1 year before the date of the receiver's appointment;
 - (c) who are in the employment of the companyopen-ended fund company, or have been in the employment of the companyopen-ended fund company within the said year, and are in the opinion of the receiver capable of giving the information required;
 - (d) who are or have been within the said year officers of or in the employment of a company which is, or within the said year was, an officer of the companyopen-ended fund company to which the statement of affairs relates.
- (3) Any person making the statement of affairs required by section 300A or the written statement required by subsection (2) shall be allowed, and shall be paid by the receiver (or his successor) out of his receipts, such costs and expenses incurred in and about the preparation and making of the statement of affairs or written statement as the receiver (or his successor) may consider reasonable, subject to an appeal to the court.
- (4) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect with the substitution for references to the court of references to the Official Receiver.
- (5) If any person without reasonable excuse makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)
- (6) References in this section to a receiver's successor shall include a continuing receiver or manager.

(Added 6 of 1984 s. 213. Amended 28 of 2003 s. 93)
[cf. 1948 c. 38 s. 373 U.K.]

Note:

* **Commencement date: 31 August 1984.**

Section:	301	Delivery to Registrar of accounts of receivers and managers	E.R. 1 of 2014	03/03/2014
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- (1) Except where section 300A(2) applies, every receiver or manager of the property of a companyan open-ended fund company who has been appointed under the powers contained in any instrument shall, within 1 month, or such longer period as the Registrar may allow, after the expiration of the period of 6 months from the date of his appointment and of every subsequent period of 6 months and within 1 month after he ceases to act as receiver or manager, deliver to the Registrar for registration an abstract in the specified form showing his receipts and his payments during that period of 6 months, or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amount of his receipts and of his payments during all preceding periods since his appointment. (Amended 3 of 1997 s. 45)
- (2) Any receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)

(Amended 6 of 1984 s. 214)
[cf. 1929 c. 23 s. 310 U.K.]

Section:	302	Enforcement of duty of receiver to make returns, &c.	E.R. 1 of 2014	03/03/2014
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- (1) If-
- (a) any receiver or manager of the property of ~~a company~~an open-ended fund company, who has made default in filing, delivering or making any return, account or other document or in giving any notice, which a receiver or manager is by law required to file, deliver, make or give, fails to make good the default within 14 days after the service on him of a notice requiring him to do so; or
 - (b) any receiver or manager of the property of ~~a company~~an open-ended fund company who has been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the ~~company~~open-ended fund company so to do, failed to render proper accounts of his receipts and payments and to vouch the same and to pay over to the liquidator the amount properly payable to him;
- the court may, on an application made for the purpose, make an order directing the receiver or manager, as the case may be, to make good the default within such time as may be specified in the order. (Amended 6 of 1984 s. 215)
- (2) In the case of any such default as is mentioned in subsection (1)(a), an application for the purposes of this section may be made by any ~~member~~shareholder or creditor of the ~~company~~open-ended fund company or by the Registrar, and in the case of any such default as is mentioned in subsection (1)(b), the application shall be made by the liquidator, and in either case the order may provide that all costs of and incidental to the application shall be borne by the receiver or manager, as the case may be. (Replaced 6 of 1984 s. 215)
- (3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on receivers or managers in respect of such default as is mentioned in subsection (1). (Replaced 6 of 1984 s. 215)

[cf. 1929 c. 23 s. 311 U.K.]

Section:	302A	Construction of references to receivers and managers	E.R. 1 of 2014	03/03/2014
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Except where the context otherwise requires-

- (a) any reference in this Ordinance to a receiver or manager of the property of ~~a company~~an open-ended fund company, or to a receiver thereof, includes a reference to a receiver or manager, or (as the case may be) to a receiver, of part only of that property and to a receiver only of the income arising from that property or from part thereof; and
- (b) any reference in this Ordinance to the appointment of a receiver or manager under powers contained in any instrument includes a reference to an appointment made under powers conferred by any enactment including powers which, by virtue of any enactment, are implied in and have effect as if contained in an instrument.

(Added 6 of 1984 s. 216)
[cf. 1948 c. 38 s. 376 U.K.]

Part:	XIII	Miscellaneous	E.R. 1 of 2014	03/03/2014
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(*Format changes—E.R. 1 of 2014)

Note:

* The format of Part XIII has been updated to the current legislative styles.

Part:	XIII	Miscellaneous Offences	L.N. 190 of 2016	13/02/2017
Division:	1			

(Added 14 of 2016 s. 110)

Section:	349A	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	350	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	350A	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Part:	XIII	Injunctions	L.N. 190 of 2016	13/02/2017
Division:	2			

(Added 14 of 2016 s. 111)

Section:	350B	Injunctions	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 111

- (1) Where a person (*the first-mentioned person*) has, in relation to a specified corporation, engaged, is engaging or is proposing to engage in conduct that constituted, constitutes or would constitute—
 - (a) a contravention of this Ordinance;
 - (b) an attempt to contravene this Ordinance;
 - (c) aiding, abetting, counselling or procuring another person to contravene this Ordinance;
 - (d) inducing or attempting to induce, whether by threats, promises or otherwise, another person to contravene this Ordinance;
 - (e) his being in any way, directly or indirectly, knowingly concerned in, or a party to, a contravention of this Ordinance by another person; or (Amended 28 of 2012 ss. 912 & 920)
 - (f) conspiring with others to contravene this Ordinance, (Amended 28 of 2012 ss. 912 & 920)
 - (g)-(h) (Repealed 28 of 2012 ss. 912 & 920)

the court may, on the application of the Financial Secretary, or of a [membershareholder](#) or creditor of the specified corporation whose interests have been, are or would be affected by the conduct, grant an injunction, on such terms as the court considers appropriate, restraining the first-mentioned person from engaging in the conduct and, if in the opinion of the court it is desirable to do so, requiring the first-mentioned person to do any act or thing.
- (2) The power of the court to grant an injunction restraining the first-mentioned person referred to in subsection (1) from engaging in the conduct mentioned in that subsection may be exercised—
 - (a) whether or not it appears to the court that he intends to engage again, or to continue to engage, in that conduct;
 - (b) whether or not he has previously engaged in that conduct; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if he engages in that conduct.
- (3) Where a person (*the first-mentioned person*) has, in relation to a specified corporation, refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing that the first-mentioned person is required by this Ordinance to do, the court may, on the application of the Financial Secretary, or of a [membershareholder](#) or creditor of the specified corporation whose interests have been, are or would be affected by the refusal or failure to do that act or thing, grant an injunction, on such terms as the court considers appropriate, requiring the first-mentioned person to do that act or thing.
- (4) The power of the court to grant an injunction requiring the first-mentioned person referred to in subsection (1) or (3) to do an act or thing may be exercised—
 - (a) whether or not it appears to the court that he intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing;
 - (b) whether or not he has previously refused or failed to do that act or thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if he refuses or fails to do that act or thing.
- (5) Where the court considers appropriate, it may grant an interim injunction on such terms and conditions as it thinks fit pending determination of an application under subsection (1) or (3).

- (6) The court may discharge or vary an injunction granted under subsection (1), (3) or (5).
- (7) The court may, either in addition to or in substitution for the grant of the injunction under subsection (1) or (3), order the first-mentioned person referred to in subsection (1) or (3) to pay damages to any other person.
- (8) For the avoidance of doubt, the damages that may be ordered by the court under subsection (7) does not entitle a person to recover by way of damages any loss that is solely reflective of the loss suffered by a specified corporation which only the specified corporation is entitled to recover under the common law.
- (Added 30 of 2004 s. 2)

Part:	XIII	General Provisions as to Offences	L.N. 190 of 2016	13/02/2017
Division:	3			

(Added 14 of 2016 s. 112)

Section:	351	Provision for punishment and offence	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 112

- (1) The Twelfth Schedule has effect with respect to the way in which offences under this Ordinance are punishable on conviction. (Replaced 7 of 1990 s. 3)
- (1A) As respects an offence under a provision of this Ordinance set out in column 1 of the Twelfth Schedule-
- (a) column 2 gives a description of the general nature of the offence only and shall not be used to interpret the provision;
 - (b) column 3 shows whether the offence is punishable on conviction on indictment or on summary conviction;
 - (c) column 4 shows, subject to paragraph (d), the maximum punishment by way of fine or imprisonment under this Ordinance which may be imposed on a person convicted of the offence;
 - (d) column 5 shows in the case of an offence for which there is an entry in that column that a person convicted of the offence after continued default, refusal or contravention is liable to a default fine: that is to say, he is liable, in addition to the punishment that may be imposed under paragraph (c), to the fine set out in that column for each day on which the default, refusal or contravention is continued. (Replaced 7 of 1990 s. 3)
- (1B) (Repealed 7 of 1990 s. 3)
- (2) For the purpose of any provision in this Ordinance which provides that an officer of ~~a company~~ an open-ended fund company who is in default shall be liable to a fine or penalty, ***officer who is in default*** (失責高級人員) means any officer of the ~~company~~ open-ended fund company, or any shadow director of the ~~company~~ open-ended fund company, who knowingly and wilfully authorizes or permits the default, refusal or contravention mentioned in such provision. (Amended 28 of 2003 s. 114)

(Amended 6 of 1984 s. 244)

Section:	351B	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	352	Application of fines	E.R. 1 of 2014	03/03/2014
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The court or magistrate imposing any fine under this Ordinance may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards rewarding the person on whose information or at whose suit the fine is recovered, and subject to any such direction all fines under this Ordinance shall, notwithstanding anything in any other Ordinance, be paid into the general revenue.

(Amended 6 of 1984 s. 246)
[cf. 1929 c. 23 s. 367 U.K.]

Section:	353	(Repealed 6 of 1984 s. 247)		30/06/1997
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Section:	354	Saving as to private prosecutors	E.R. 1 of 2014	03/03/2014
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Nothing in this Ordinance relating to the institution of criminal proceedings by the Secretary for Justice shall be taken to preclude any person from instituting or carrying on any such proceedings.

(Amended L.N. 362 of 1997)
[cf. 1929 c. 23 s. 368 U.K.]

Section:	355	Saving for privileged communications	E.R. 1 of 2014	03/03/2014
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Where proceedings are instituted under this Ordinance against any person by the Secretary for Justice nothing in this Ordinance shall be taken to require any person who has acted as solicitor for the defendant to disclose any privileged communication made to him in that capacity.

(Amended L.N. 362 of 1997)
[cf. 1929 c. 23 s. 369 U.K.]

Part:	XIII	Legal Proceedings	L.N. 190 of 2016	13/02/2017
Division:	4			

(Added 14 of 2016 s. 113)

Section:	356	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 190 of 2016	13/02/2017
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Cross-heading repealed 14 of 2016 s. 113

Section:	357	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	358	(Repealed 28 of 2012 ss. 912 & 920)	L.N. 163 of 2013	03/03/2014
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Section:	359	Power to enforce orders	E.R. 1 of 2014	03/03/2014
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Orders made by the court under this Ordinance may be enforced in the same manner as orders made in an action pending therein.

(Amended 6 of 1984 s. 249)
[cf. 1929 c. 23 s. 373 U.K.]

Schedule:	12	Punishment of Offences under this Ordinance	L.N. 190 of 2016	13/02/2017
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Expanded Cross Reference:
342, 342A, 342B, 342C

[section 351 & Schedule 26]
(Amended 14 of 2016 s. 116)

Section creating offence	General nature of offence	Mode of prosecution	Punishment	Daily default Fine (if applicable)
228A(4)	Director signing a winding-up statement without having reasonable grounds for the opinion that the <u>company open-ended fund company</u> cannot by reason of its liabilities continue its business, or to consider that the winding up should be commenced under section 228A because it is not reasonably practicable for it to be commenced under another section of the Ordinance, or for certifying that a resolution has been passed, a meeting of the <u>company open-ended fund company</u> has been summoned and a provisional liquidator has been appointed (Added 28 of 2003 s. 119. Amended 14 of 2016 s. 116)	Summary	level 5 and 6 months	-
228A(6)	Director failing to cause meeting of the creditors to be summoned for a date not later than 28 days after delivery of winding-up statement (Added 28 of 2003 s. 119. Amended 14 of 2016 s. 116)	Summary	level 5	-
228A(8B)	Person acting as provisional liquidator without having consented to the appointment, or not being a solicitor or certified public accountant (Added 14 of 2016 s. 116)	Summary	\$150000	-
228A(9A)	Director failing to give notice in the Gazette of the commencement of winding up and appointment of a provisional liquidator (Added 14 of 2016 s. 116)	Summary	level 3	\$300
228A(13) (relating to subsection (10))	Provisional liquidator failing to deliver to the Registrar the notice of appointment required under section 228A(10) (Added 28 of 2003 s. 119)	Summary	level 3	\$200
228A(13) (relating to subsection (11)(a))	Person ceasing to act as provisional liquidator failing to publish in the Gazette the notice required under section 228A(11)(a) (Added 28 of 2003 s. 119)	Summary	level 3	\$200

228A(13) (relating to subsection (11)(b))	Person ceasing to act as provisional liquidator failing to deliver to the Registrar the notice required under section 228A(11)(b) (Added 28 of 2003 s. 119)	Summary	level 3	\$200
228A(13) (relating to subsection (12))	Provisional liquidator failing to deliver to the Registrar thenotice of change of particulars required under section 228A(12) (Added 28 of 2003 s. 119)	Summary	level 3	\$200
228B(5)	Provisional liquidator exercising a power without the sanction of the court (Added 14 of 2016 s. 116)	Summary	level 5	-
228B(7)	Provisional liquidator failing to attend a meeting of the creditors or report on the exercise of powers (Added 14 of 2016 s. 116)	Summary	level 5	-
229(2)	Company <u>Open-ended fund company</u> failing to advertise in the Gazette notice of resolution to wind up voluntarily	Summary	level 3	\$300
233(3)	Director signing a certificate that company <u>open-ended fund company</u> being wound up voluntarily can meet its debts within the time set out in the certificate without having reasonable grounds to do so (Amended 28 of 2003 s. 119)	Summary	level 5 and 6 months	-
237A(3) (relating to subsection (1A))	Liquidator, on forming the opinion that a company <u>an open- ended fund company</u> in voluntary winding up will not be able to pay its debts in full within the period stated in the certificate of solvency, failing to summon meeting of creditors, or send notice of the meeting to the creditors, or cause notice of the meeting to be advertised (Amended 28 of 2003 s. 119; 14 of 2016 s. 116)	Summary	level 3	-
237A(3) (relating to subsection (1B))	Liquidator failing to make a disclosure statement if not disqualified under section 262B(3) (Added 14 of 2016 s. 116)	Summary	level 3	-
237A(3) (relating to subsection (1C))	Liquidator failing to inform creditors that he or she would be disqualified under section 262B(3), etc. (Added 14 of 2016 s. 116)	Summary	level 3	-

237A(3) (relating to subsection (1D))	Liquidator failing to provide creditors with information concerning the company <u>open- ended fund company</u> 's affairs (Added 14 of 2016 s. 116)	Summary	level 3	-
237A(3) (relating to subsection (1E))	Liquidator failing to inform creditors of the liquidator's duty to provide information in notice of meeting of creditors (Added 14 of 2016 s. 116)	Summary	level 3	-
237A(3) (relating to subsection (1F))	Liquidator failing to prepare full statement of the position of the company <u>open-ended fund company</u> 's affairs or lay that statement before the meeting of creditors (Added 14 of 2016 s. 116)	Summary	level 3	-
237A(3) (relating to subsection (1H))	Liquidator failing to attend or preside at meeting of creditors (Added 14 of 2016 s. 116)	Summary	level 3	-
238(2)	Liquidator failing to call a general meeting at the end of any year	Summary	level 3	-
239(3)	Liquidator failing to send the Registrar a copy of accounts, etc., on completion of the winding up	Summary	level 3	\$300
239(5)	Person failing to deliver an office copy of an order under section 239 to the Registrar for registration	Summary	level 3	\$300
239(6)	Liquidator failing to call a final general meeting under section 239	Summary	level 3	-
241(6)	Company <u>Open-ended fund company</u> , etc., failing to comply with the requirements to call creditors' meeting, etc., after a meeting which proposes to wind up the company <u>open- ended fund company</u> voluntarily	Summary	level 5	-
243A(6)	Liquidator exercising a power without the sanction of the court (Added 14 of 2016 s. 116)	Summary	level 5	-
243A(7) (relating to subsection (3))	Liquidator failing to attend meeting of creditors or report on the exercise of powers (Added 14 of 2016 s. 116)	Summary	level 5	-
243A(7) (relating to subsection (4))	Liquidator failing to apply for court's directions when the company	Summary	level 5	-

	<u>open-ended fund company</u> fails to cause meeting of creditors to be summoned or notices of the meeting to be sent to creditors (Added 14 of 2016 s. 116)			
247(2)	Liquidator failing to call annual meeting of creditors	Summary	level 3	-
248(3)	Liquidator failing to send copy account or return of holding of final meeting to the Registrar	Summary	level 3	\$300
248(5)	Person failing to deliver an office copy of an order under section 248 to the Registrar for registration	Summary	level 3	\$300
248(6)	Liquidator failing to call a general meeting of the <u>company</u> <u>open-ended fund company</u> or of creditors as required by section 248	Summary	level 3	-
250A(4)	Director exercising a power without the sanction of the court (Added 14 of 2016 s. 116)	Summary	level 5	-
253(4) (relating to subsection (1)(a))	Liquidator failing to publish in the Gazette the notice of appointment required under section 253(1)(a) (Added 28 of 2003 s. 119)	Summary	level 3	\$300
253(4) (relating to subsection (1)(b))	Liquidator failing to deliver to the Registrar the notice of appointment required under section 253(1)(b) (Added 28 of 2003 s. 119)	Summary	level 3	\$300
253(4) (relating to subsection (2)(a))	Person ceasing to act as liquidator failing to publish in the Gazette the notice required under section 253(2)(a) (Added 28 of 2003 s. 119)	Summary	level 3	\$300
253(4) (relating to subsection (2)(b))	Person ceasing to act as liquidator failing to deliver to the Registrar the notice required under section 253(2)(b) (Added 28 of 2003 s. 119)	Summary	level 3	\$300
253(4) (relating to subsection (3))	Liquidator failing to deliver to the Registrar the notice of change of particulars required under section 253(3) (Added 28 of 2003 s. 119)	Summary	level 3	\$300
262A(4)	Person acting as provisional liquidator or liquidator without meeting the conditions specified in section 262A(2) (Added 14 of 2016 s. 116)	Summary	\$150000	-
262D(4)	Person omitting to disclose a relationship that is required to	Summary	level 3	-

	be disclosed (Added 14 of 2016 s. 116)				
262E(5)	Convenor failing to ensure that notices of meeting comply with certain requirements or disclosure statements are tabled (Added 14 of 2016 s. 116)	Summary	level 3	-	
262F(7)	Provisional liquidator or liquidator failing to update disclosure statement or give notice, etc. of the update (Added 14 of 2016 s. 116)	Summary	level 3	-	
271(1) (relating to paragraph (o))	Officer, etc., failing to comply with section 271 (offences by officers of <u>open-ended fund</u> companies in liquidation)	On indictment Summary	5 years 2 years	- -	
271(1) (relating to any other paragraph)	Officer, etc., failing to comply with section 271 (offences by officers of <u>open-ended fund</u> companies in liquidation)	On indictment Summary	\$150000 and 2 years level 5 and 6 months	- -	
272	Officer, etc., falsifying, etc., books, etc.	On indictment	\$150000 and 2 year level 5 and 6 months	- -	
273	Officer acting with intent to defraud creditors by giving, etc., or concealing, etc., property of company <u>open-ended fund company</u> in liquidation	Summary On indictment Summary	\$150000 and 2 years level 5 and 6 months	- -	
274(1)	Officer failing to keep proper record for a specific period prior to winding up of company <u>open-ended fund company</u> (Amended 14 of 2016 s. 116)	On indictment Summary	\$150000 and 2 years level 5 and 6 months	- -	
278A(1)	Person including appointment etc. of provisional liquidator or liquidator (Amended 14 of 2016 s. 116)	Summary	\$150000	-	
280(2)	<u>Open-ended fund company</u> Company , etc., failing to notify on invoice, etc., that it is in liquidation	Summary	level 3	-	
283(4)	Person contravening general rules <u>provisions of the Winding-up Rules applicable to a voluntary winding up of a company</u> made for the destruction, etc., of books, etc., of liquidated company <u>open-ended fund company</u>	Summary	level 3	-	
284(3)	Liquidator failing to send prescribed particulars with respect to the proceedings in and position of the liquidation	Summary	level 3		\$700

	during the liquidation to the Registrar				
290(2)	Person failing to deliver an office copy of an order under section 290 to the Registrar for registration	Summary	level 3		\$300
296E(7)	Liquidator or provisional liquidator failing to send or supply a free copy of document or information given by electronic means within 5 business days after receipt of the request (Added 14 of 2016 s. 116)	Summary	level 3		-
297(2)	Body corporate acting as a receiver	Summary	level 5		-
297A	Undischarged bankrupt acting as a receiver	On indictment	\$150000 and 2 years		-
		Summary	level 5 and 6 months		-
297B(1)	Person inducing appointment etc. of receiver or manager of the property of a company <u>an open-ended fund company</u> (Added 14 of 2016 s. 116)	Summary	\$150000		-
299(2)	Company <u>Open-ended fund company</u> , etc., authorizing, etc., the issue of invoices, etc., without reference to its being in receivership, etc.	Summary	level 3		-
300A(7)	Receiver failing to give notices, etc., as required under section 300A	Summary	level 3		\$300
300B(5)	Persons defaulting in complying with requirements of section 300B (special provisions as to statement submitted to receiver)	Summary	level 3		\$300
301(2)	Receiver, etc., failing to deliver accounts to the Registrar	Summary	level 3		\$300

(Twelfth Schedule added 7 of 1990 s. 4. Amended 77 of 1991 s. 8; 30 of 1994 s. 12; 84 of 1995 s. 8; L.N. 306 of 1996; 3 of 1997 s. 62; 28 of 2003 s. 119; 18 of 2006 s. 66; 28 of 2012 ss. 912 & 920; 14 of 2016 s. 116)

(Format changes—E.R. 1 of 2014)

Schedule:	25	Powers of liquidator in winding up	L.N. 190 of 2016	13/02/2017
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[sections 199, 199A, 199B
& 251 & Schedule 26]

Part 1

1. Pay a class of creditors in full.
2. Make a compromise or arrangement with—
 - (a) creditors or persons claiming to be creditors; or

- (b) persons having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against the companyopen-ended fund company, or for which the companyopen-ended fund company may be rendered liable.
3. To—
- (a) compromise, on such terms as are agreed—
 - (i) calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the companyopen-ended fund company and—
 - (A) a contributory;
 - (B) an alleged contributory; or
 - (C) any other debtor or person apprehending liability to the companyopen-ended fund company; and
 - (ii) questions in any way relating to or affecting the assets or the winding up of the companyopen-ended fund company; and
 - (b) take any security for the discharge of any call, debt, liability or claim, and give a complete discharge in respect of it.

Part 2

1. Bring or defend any action or other legal proceedings in the name and on behalf of the companyopen-ended fund company.
2. Carry on the business of the companyopen-ended fund company, so far as may be necessary for its beneficial winding up.

Part 3

1. Sell the real and personal property and things in action of the companyopen-ended fund company by public auction or private contract, with power to transfer the whole of the property and things in action to any person or companyopen-ended fund company, or to sell them in parcels.
2. Do all acts and execute, in the name and on behalf of the companyopen-ended fund company, all deeds, receipts and other documents, and for that purpose use, when necessary, the companyopen-ended fund company' s seal.
3. Prove, rank, and claim in the bankruptcy, insolvency, or sequestration of any contributory, for any balance against the contributory' s estate, and receive dividends in the bankruptcy, insolvency, or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors.
4. Draw, accept, make, and endorse any bill of exchange or promissory note in the name and on behalf of the companyopen-ended fund company, with the same effect with respect to the liability of the companyopen-ended fund company as if the bill or note had been drawn, accepted, made, or endorsed by or on behalf of the companyopen-ended fund company in the course of its business.
5. Raise on the security of the assets of the companyopen-ended fund company any money requisite.
6. Take out in the official name of the liquidator letters of administration to any deceased contributory, and do in the official name of the liquidator any other act necessary for obtaining payment of any money due from a contributory or the estate of the contributory that cannot be conveniently done in the name of the companyopen-ended fund company. In all such cases the money due is deemed, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, to be due to the liquidator.
7. Appoint an agent to do any business that the liquidator is unable to do in person.
8. Employ a solicitor to assist the liquidator in performing the liquidator' s duties.

- | 9. Do all other things as may be necessary for winding up the affairs of the ~~company~~open-ended fund company and distributing its assets.

(Schedule 25 added 14 of 2016 s. 118)

Note: While the majority of the provisions of Cap 32H are only applicable to proceedings in a court winding up, the entire set of rules is reproduced in view of Rule 1 of Cap 32H which provides for the application of the rules. Rule 1 provides that the rules apply to the proceedings in every winding up under the Ordinance subject to the limitation that rules which from their nature and subject matter are, or which by the head lines above the group in which they are contained or by their terms are made applicable only to the proceedings in a winding up by the court, or only to such proceedings and proceedings in a creditors voluntary winding up shall not apply to the proceedings in a voluntary winding up, or as the case may be in a members' voluntary winding up.

Chapter:	32H	COMPANIES (WINDING-UP) RULES	Gazette Number	Version Date
		Empowering section		30/06/1997

(Cap 32, section 296)

[1 January 1937]

(Originally G.N. 1018 of 1936)

Rule:	1	Application of rules	L.N. 163 of 2013	03/03/2014
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PRELIMINARY

(1) Subject to the limitation hereinafter mentioned these rules shall apply to the proceedings in every winding up under the Ordinance of a company, which shall commence on and after the date on which these rules come into operation, and they shall also, so far as practicable, and subject to any general or special order of the court, apply to all proceedings which shall be taken or instituted after the said date, in the winding up of a company which commenced on or after 1 July 1933. Rules which from their nature and subject matter are, or which by the head lines above the group in which they are contained or by their terms are made applicable only to the proceedings in a winding up by the court, or only to such proceedings and proceedings in a creditors voluntary winding up shall not apply to the proceedings in a voluntary winding up, or as the case may be in a members' voluntary winding up. (28 of 2012 ss. 912 & 920)

(2) (Repealed 28 of 2012 ss. 912 & 920)

[cf. R. 1]*

Note:

* The references to "R1", etc., are to the English Companies (Winding-up) Rules 1929.

Rule:	2	Interpretation of terms	L.N. 190 of 2016	13/02/2017
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(1) In these rules, unless the context or subject-matter otherwise requires- (14 of 2016 s. 120)

"bailiff" (執達主任) means the bailiff of the court and includes an assistant bailiff;

"company" (公司) means a company which is being wound up, or against which proceedings to have it wound up have been commenced; (L.N. 178 of 1978; 28 of 2012 ss. 912 & 920)

"court" (法院)、(法庭) means the Court of First Instance and references in these rules, or in the forms in the Appendix, to the High Court of Hong Kong shall be construed accordingly; (L.N. 201 of 1984; 25 of 1998 s. 2)

"creditor" (債權人) includes a corporation, and a firm of creditors in partnership;

"gazetted" (在憲報刊登) means published in the Gazette;

"Official Receiver" (破產管理署署長) includes any officer appointed by the Chief Executive to discharge the duties of Official Receiver under the Ordinance and includes a deputy official receiver so appointed; (23 of 1999 s. 3)

"proceedings" (法律程序) means the proceedings in the winding up of a company under the Ordinance; (L.N. 178 of 1978; 28 of 2012 ss. 912 & 920)

"proof" (債權證明表) means a document by which a creditor seeks to establish his claim against a company; (L.N. 225 of 1992)

"Registrar" (司法常務官) means the Registrar of the High Court and includes a senior deputy registrar, deputy

registrar or assistant registrar of the High Court; (L.N. 372 of 1981; 10 of 2005 s. 173)

relevant provision (有關條文) means a provision of-

~~(a) the Ordinance;~~

~~(b) the pre-amended Ordinance having a continuing effect under Schedule 11 to the Companies Ordinance (Cap 622) or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap 1); or~~

~~(c) the Companies Ordinance (Cap 622); (28 of 2012 ss. 912 & 920) the subject provisions;~~

"rules" (規則) means these rules, and includes the prescribed forms;

"sealed" (蓋章) means sealed with the seal of the court;

statement of affairs (資產負債狀況說明書)-

(a) means a statement as to the affairs of a company required to be made under section 190(1) of the Ordinance; and

(b) includes the affidavit verifying the statement as required by that section; (14 of 2016 s. 120)

supplementary affidavit (補充誓章) means a supplementary affidavit required to be made under section 190(2A) of the Ordinance; (14 of 2016 s. 120)

"taxing officer" (訟費評定官) means the officer of the court whose duty it is to tax costs in the proceedings of the court under its ordinary jurisdiction.

(46 of 2000 s. 40)

(2) In these rules, where there is a reference to a Form followed by a number or a combination of a number and a letter, and not in conjunction with the title or short title of any Ordinance, it is to be construed as the Form that is-

(a) followed by that number or that combination of the number and letter; and

(b) in the Appendix. (14 of 2016 s. 120)

[cf. R. 2]

Rule:	3	Use of forms in Appendix	L.N. 190 of 2016	13/02/2017
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(1) Subject to paragraph (2), the forms in the Appendix, where applicable, and where they are not applicable forms of the like character, with such variations as circumstances may require, shall be used. Where such forms are applicable any costs occasioned by the use of any other or more prolix forms shall be borne by or disallowed to the party using the same, unless the court shall otherwise direct. (14 of 2016 s. 121)

(2) If any notice, document or information referred to in rule 20A is required to be given, sent or supplied in a form in the Appendix, the form may be used with any necessary variations so that it complies with that rule. (14 of 2016 s. 121)

[cf. R. 3]

Rule:	3A	Interpretation of rules 3B and 3C	L.N. 190 of 2016	13/02/2017
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STATUTORY DEMAND

In rules 3B and 3C—

statutory demand (法定要求償債書) means the written demand referred to in section 178(1)(a) or 327(4)(a) of the Ordinance.

(14 of 2016 s. 122)

Rule:	3B	Form and content of statutory demand	L.N. 190 of 2016	13/02/2017
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(1) A statutory demand—

(a) must be in Form 1A;

(b) must state—

(i) the amount of the debt; and

(ii) the consideration for the debt, or if there is no such consideration, the way in which the debt arises;

(c) must be dated; and

(d) must be signed by—

(i) the creditor; or

- (ii) a person authorized by the creditor.
 - (2) If a statutory demand is signed by a person authorized by the creditor, the signature must be accompanied by a statement that the person is authorized to make the demand on the creditor's behalf.
 - (3) Subject to paragraph (4), if the amount of the debt claimed in a statutory demand includes—
 - (a) any charge by way of interest not previously notified to the company as a liability of the company; or
 - (b) any other charge accruing from time to time,
 the charge (whether expressed in an amount or by reference to a rate) must be separately identified, and the grounds on which the charge is claimed must be stated, in the demand.
 - (4) The amount of the debt claimed must be limited to that which has accrued due as at the date of the demand.
- (14 of 2016 s. 122)

Rule:	3C	Information to be given in statutory demand	L.N. 190 of 2016	13/02/2017
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A statutory demand must include the following content—

- (a) the purpose of the demand;
- (b) the methods of compliance with the demand;
- (c) a statement to the effect that—
 - (i) if the company does not comply with the demand within 3 weeks after the service of the demand on the company, a petition for the winding up of the company may be presented to the court; and
 - (ii) if the company disputes the demand in whole or in part, it may institute any legal proceedings that it thinks fit to respond to the demand, including applying to the court for an injunction to restrain the creditor from presenting or advertising a petition for the winding up of the company;
- (d) the name of at least one individual whom the company may, if it wishes, contact with a view to securing or compounding for the debt to the satisfaction of the creditor; and
- (e) the address and telephone number (if any) of any such individual.

(14 of 2016 s. 122)

Rule:	4	Office of Registrar in the court		30/06/1997
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COURT AND CHAMBERS

(1) All proceedings in the winding up of companies in the court shall be attached to the Registrar, who shall, together with the necessary clerks and officers, and subject to the Ordinance and rules, act under the general or special directions of a judge.

(2) (Repealed L.N. 372 of 1981)

[cf. R. 4]

Rule:	5	Matters in court to be heard in court and chambers	L.N. 190 of 2016	13/02/2017
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(1) Except as provided in section 180A of the Ordinance, the following matters and applications in the court shall be heard before a judge in open court- (L.N. 304 of 1988; 14 of 2016 s. 123)

- (a) petitions;
- (b) appeals to the court from the Official Receiver when acting as Official Receiver and not as liquidator;
- (c) applications under section 290 of the Ordinance;
- (d) applications by the Official Receiver or liquidator under section 284(3) of the Ordinance, or an appeal thereunder;
- (e) applications for the committal of any person to prison for contempt;
- (f) public examinations;
- (g) applications under section 277(1) of the Ordinance;
- (h) applications to rectify the Register;
- (i) such matters and applications as a judge may from time to time by any general or special orders direct to be heard before him in open court.

(2) Where a person is required under section 286B of the Ordinance to attend before the court and be examined under section 286C of the Ordinance, the examination is to be held in court or in chambers as the court directs.

(14 of 2016 s. 123)

(3) Every other matter or application in the court under a relevant provision to which the rules apply may be heard and determined in chambers. (28 of 2012 ss. 912 & 920)

Rule:	6	Applications in chambers		30/06/1997
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Subject to the provisions of the Ordinance and rules-

- (a) the Registrar may under the general or special directions of a judge hear and determine any application or matter which under the Ordinance and rules may be heard and determined in chambers;
- (b) any matter or application before the Registrar may at any time be adjourned by him to be heard before a judge;
- (c) any matter or application may, at any time, if a judge thinks fit, be adjourned from chambers to court or from court to chambers, and if all the contending parties require any matter or application to be adjourned from chambers to court it shall be so adjourned. (L.N. 108 of 1987)

[cf. R. 7]

Rule:	7	Motions and summonses		30/06/1997
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(1) Every application in court other than a petition, shall be made by motion, notice of which shall be served on every person against whom an order is sought, not less than 2 clear days before the day named in the notice for hearing the motion. (See Form 1)

(2) Every application in chambers shall be made by summons, which, unless otherwise ordered, shall be served on every person against whom an order is sought, and shall require the person or persons to whom the summons is addressed to attend at the time and place named in the summons.

(3) Every application by the liquidator to the court for directions in relation to any particular matter arising under the winding up shall be made in chambers.

[cf. R. 8]

Rule:	8	Times for holding court	L.N. 163 of 2013	03/03/2014
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Subject to the provisions of the Ordinance, the times of the sitting of the court in matters relating to the winding up of companies shall be those which are appointed for the transaction of the general business of the court, unless a judge shall otherwise order.

(L.N. 178 of 1978; 28 of 2012 ss. 912 & 920)

[cf. R. 10]

Rule:	9	Title of proceedings	L.N. 163 of 2013	03/03/2014
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PROCEEDINGS

(1) Every proceeding in a winding-up matter shall be dated, and shall, with any necessary additions, be intituled as follows-

IN THE HIGH COURT OF HONG KONG
COMPANIES (WINDING-UP). No.

OF

20 .

In the Matter of the Companies (Winding Up and Miscellaneous Provisions) Ordinance.

and in the matter of the company to which it relates. Numbers and dates may be denoted by figures. (25 of 1998 s. 2; 28 of 2012 ss. 912 & 920)

(2) The first proceeding in every winding-up matter shall have a distinctive number assigned to it in the office of the Registrar, and all proceedings in any matter subsequent to the first proceeding shall bear the same number as the first proceeding.

[cf. R. 11]

Rule:	10	Written or printed proceedings		30/06/1997
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All proceedings shall be written or printed, or partly written or partly printed, on paper of the size 210 x 297 mm, or thereabouts, and must have a stitching margin; but no objection shall be allowed to any proof or affidavit on account only of its being written or printed on paper of other size.

(L.N. 397 of 1984)

[cf. R. 12]

Rule:	11	Process to be sealed		30/06/1997
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All orders, summonses, petitions, warrants, process of any kind (including notices when issued by the court) and office copies in any winding-up matter shall be sealed.

[cf. R. 13]

Rule:	12	Issue of summonses		30/06/1997
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Every summons in a winding-up matter in the court shall be prepared by the applicant or his solicitor, and issued from the office of the Registrar. A summons, when sealed, shall be deemed to be issued.

[cf. R. 14]

Rule:	13	Orders		30/06/1997
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Every order, whether made in court or in chambers, in the winding up of a company shall be drawn up by the applicant or his solicitor and signed by the Registrar, unless in any proceeding, or classes of proceedings, the judge or Registrar who makes the order shall direct that no order need be drawn up. Where a direction is given that no order need be drawn up, the note or memorandum of the order, signed or initialled by the judge or the Registrar making the order, shall be sufficient evidence of the order having been made.

[cf. R. 15]

Rule:	14	File of proceedings in office of Registrar		30/06/1997
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All petitions, affidavits, summonses, orders, proofs, notices, depositions, bills of costs and other proceedings in the court in a winding-up matter shall be kept and remain of record in the office of the Registrar and, subject to the directions of the court, shall be placed in one continuous file.

[cf. R. 16]

Rule:	15	Office copies		30/06/1997
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All office copies of petitions, affidavits, depositions, papers and writings, or any parts thereof, required by the Official Receiver or any liquidator, contributory, creditor, officer of a company, or other person entitled thereto, shall be provided by the Registrar, and shall, except as to figures, be fairly written out at length, and be sealed and delivered out without any unnecessary delay, and in the order in which they shall have been bespoken.

[cf. R. 18]

Rule:	16	Inspection of file		30/06/1997
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Every person who has been a director or officer of a company which is being wound up, shall be entitled, free of charge, and every contributory and every creditor whose claim or proof has been admitted shall be entitled on payment of a fee of \$1 for each inspection per diem, at all reasonable times, to inspect the file of proceedings and to take copies or extracts from any document therein, or to be furnished with such copies or extracts upon payment of 75 cents per folio of 72 words, each figure being counted as a word.

(L.N. 50 of 1964)

[cf. R. 19]

Rule:	17	Use of file by Official Receiver		30/06/1997
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Where, in the exercise of his functions under the Ordinance or rules, the Official Receiver requires to inspect or use the file of proceedings the Registrar shall (unless the file is at the time required for use in court or by him) on request, transmit the file of proceedings to the Official Receiver, and the Registrar may, in his discretion, permit the Official Receiver to retain in his custody for such time as the Registrar may think fit any file or files of proceedings.

[cf. R. 20]

Rule:	18	Defacement of stamps		30/06/1997
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Every officer of the court who shall receive any document to which an adhesive stamp shall be affixed, shall immediately upon receipt of the document deface the stamp thereon and no such document shall be filed or delivered until the stamp thereon shall have been so defaced.

[cf. R. 21]

Rule:	19	Duties of bailiff		30/06/1997
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SERVICE AND EXECUTION OF PROCESS AND ENFORCEMENT OF ORDERS

(1) It shall be the duty of the bailiff to serve such orders, summonses, petitions and notices as the court may require him to serve; to execute warrants and other process; to attend any sittings of the court if so required by the court (but not sittings in chambers); and to do and perform all such things as may be required of him by the court.

(2) Nothing in this rule shall require any order, summons, petition, or notice to be served by a bailiff or officer of the court which is not specially by the Ordinance or rules required to be so served, unless the court in any particular proceeding by order specially so directs.

[cf. R. 22]

Rule:	20	Service		30/06/1997
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(1) All notices, summonses, and other documents other than those of which personal service is required, may be sent by prepaid post letter to the last known address of the person to be served therewith; and the notice, summons, or document shall be considered as served at the time that the same ought to be delivered in the due course of post by the post office, and notwithstanding the same may be returned by the post office.

(2) No service shall be deemed invalid by reason that the name, or any of the names other than the surname of the person to be served, has been omitted from the document containing the person's name, provided that the court is satisfied that in other respects the service of the document has been sufficient.

[cf. R. 23]

Rule:	20A	Person giving notice, etc. to provide contact details	L.N. 190 of 2016	13/02/2017
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- (1) If a person gives a notice or sends a document in accordance with a provision of Part V or X of the Ordinance or of these rules, the notice or document must, as far as practicable—
 - (a) clearly state the name and address of the person; or
 - (b) if the person is represented by a solicitor or agent, clearly state the name of the person and the name and address of the solicitor or agent.
- (2) If a person supplies any information in accordance with a provision of Part V or X of the Ordinance or of these rules—
 - (a) the name and address of the person must, as far as practicable, be provided together with the information; or
 - (b) if the person is represented by a solicitor or agent, the name of the person and the name and address of the solicitor or agent must, as far as practicable, be provided together with the information.
- (3) The notice, document or information may, as far as practicable, contain—
 - (a) other contact information relating to the person that the person considers appropriate; or
 - (b) other contact information relating to the solicitor or agent that the solicitor or agent respectively considers appropriate.

- (4) Paragraphs (1), (2) and (3) do not apply if it is provided otherwise—
- (a) in any other provision of this Ordinance or a provision under any other Ordinance; or
 - (b) in a form specified or prescribed under this Ordinance or any other Ordinance.

(14 of 2016 s. 124)

Rule:	21	Enforcement of orders	L.N. 163 of 2013	03/03/2014
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Every order of the court made in the exercise of the powers conferred by a relevant provision or by the rules may be enforced by the court as if it was a judgment or order of the court made in the exercise of its ordinary jurisdiction.
(28 of 2012 ss. 912 & 920)
[cf. R. 24]

Rule:	22	Form of petition	L.N. 190 of 2016	13/02/2017
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PETITION

Every petition shall be in the Form 2 or 3 with such variations as circumstances may require. (*See Forms 2 & 3*)
(L.N. 178 of 1978; 28 of 2012 ss. 912 & 920; 14 of 2016 s. 125)

Rule:	22A	Deposit by petitioner	L.N. 175 of 2013	01/11/2013
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(1) Before presenting a petition the petitioner shall deposit with the Official Receiver the sum of \$11250 for the purpose of covering the fees and expenses to be incurred by the Official Receiver; and no petition shall be received unless the receipt of the Official Receiver for the deposit is produced to the Registrar. (L.N. 245 of 1977; L.N. 139 of 1985; L.N. 95 of 1996; L.N. 170 of 1997; L.N. 175 of 2013)

(2) After presenting a petition the petitioner shall deposit with the Official Receiver, for the purpose set out in paragraph (1), such further sum as the court may, on the application of the Official Receiver, from time to time direct.

(3) The Official Receiver shall account for the money so deposited to the petitioner, or, if the company itself is the petitioner, to the liquidator of the company, and any money so deposited by a petitioner other than the company shall, except and so far as such money may be required by reason of insufficiency of assets for the payment of the fees of and expenses incurred by the Official Receiver, be repaid to the petitioner out of the proceeds of the assets of the company in the order of priority set out in rule 179(1).

(L.N. 50 of 1964)

Rule:	23	Presentation of petition		30/06/1997
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A petition shall be presented at the office of the Registrar, who shall appoint the time and place at which the petition is to be heard. Notice of the time and place appointed for hearing the petition shall be written on the petition and sealed copies thereof, and the Registrar may at any time before the petition has been advertised, alter the time appointed, and fix another time.

[cf. R. 26]

Rule:	23A	Copies of documents filed in proceedings to be served on Official Receiver and Chief Bailiff	46 of 2000	01/07/2000
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Where a petitioner presents or files at court any document in connexion with any proceedings, he or his solicitor shall, within 24 hours of such presentation or filing, serve a copy of the document presented or filed on the Official Receiver and the Chief Bailiff.

(L.N. 245 of 1977; 46 of 2000 s. 40)

Rule:	24	Advertisement of petition		30/06/1997
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Every petition shall be advertised 7 clear days or such longer time as the court may direct before the hearing, as follows- (See Form 4)

- (a) in the case of a company whose registered office or if there shall be no such office, then whose principal or last known principal place of business is or was situate within Hong Kong once in the Gazette, and once at least in 2 Hong Kong daily newspapers, or in such other newspaper as the court directs; (L.N. 201 of 1984)
- (b) in the case of any other company, once in the Gazette, and twice at least in one local newspaper circulating in the district where the local register is kept, or the principal or last known principal place of business, as the case may be, of such company is or was situate, or in such other newspaper as shall be directed by the court;
- (c) the advertisement shall state the day on which the petition was presented, and the name and address of the petitioner, and of his solicitor and shall contain a note at the foot thereof, stating that any person who intends to appear on the hearing of the petition, either to oppose or support, must send notice of his intention to the petitioner, or to his solicitor within the time and in the manner prescribed by rule 30, and an advertisement of a petition for the winding up of a company by the court which does not contain such a note shall be deemed irregular.

And if the petitioner or his solicitor does not within the time hereby prescribed or within such extended time as the Registrar may allow duly advertise the petition in the manner prescribed by this rule the appointment of the time and place at which the petition is to be heard shall be cancelled by the Registrar and the petition shall be removed from the file unless a judge or the Registrar shall otherwise direct.

[cf. R. 27]

Rule:	25	Service of petition		30/06/1997
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Every petition shall, unless presented by the company, be served upon the company at the registered office, if any, of the company, and if there is no registered office, then at the principal or last known principal place of business of the company, if any such can be found, by leaving a copy with any member, officer, or servant of the company there, or in case no such member, officer, or servant can be found there, then by leaving a copy at such registered office or principal place of business, or by serving it on such member, officer, or servant of the company as the court may direct; and where the company is being wound up voluntarily, the petition shall also be served upon the liquidator (if any), appointed for the purpose of winding up the affairs of the company. (See Forms 5 & 6)

[cf. R. 28]

Rule:	26	Verification of petition	L.N. 163 of 2013	03/03/2014
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Every petition for the winding up of a company by the court shall be verified by an affidavit referring thereto. Such affidavit shall be made by the petitioner, or by one of the petitioners, if more than one, or, in case the petition is presented by a corporation, by some director, company secretary, or other principal officer thereof, and shall be sworn after and filed within 4 days after the petition is presented, and such affidavit shall be sufficient prima facie evidence of the statements in the petition. (See Forms 7 & 8)

(L.N. 201 of 1984; 28 of 2012 ss. 912 & 920)

[cf. R. 29]

Rule:	27	Copy of petition to be furnished to creditor or contributory		30/06/1997
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Every contributory or creditor of the company shall be entitled to be furnished by the solicitor of the petitioner with a copy of the petition, within 24 hours after requiring same, upon payment of 75 cents per folio of 72 words for such copy, each figure being counted as a word.

(L.N. 50 of 1964)

[cf. R. 30]

Rule:	27A	Administration of small liquidations	46 of 2000	01/07/2000
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(1) Where after the presentation of a petition the court orders that winding up of a company shall be by way of summary procedure under section 227F of the Ordinance, the provisions of the Ordinance and these rules shall, subject to any special direction of the court, be modified in accordance with paragraphs (2) to (5). (46 of 2000 s. 40)

(2) On the making of the order the liquidator shall forthwith cause notice thereof to be published in the Gazette, but there shall be no advertisement of any subsequent proceedings unless the court otherwise directs. (46 of 2000 s.

40)

(3) The title of every document in the proceedings subsequent to the making of the order shall contain the words "Summary Case".

(4) (Repealed L.N. 139 of 1985)

(5) Notices of meetings other than first meetings shall not be sent to creditors whose debts do not exceed \$1000, or to contributories. (L.N. 139 of 1985)

(6) (Repealed 46 of 2000 s. 40)

(L.N. 245 of 1977)

Rule:	28	Appointment of provisional liquidator	L.N. 190 of 2016	13/02/2017
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PROVISIONAL LIQUIDATOR

(1) After the presentation of a petition, upon the application of a creditor, or of a contributory or of a petitioner, or of the company, and upon proof by affidavit of sufficient grounds for the appointment of a provisional liquidator, the court, if it thinks fit, and upon such terms as in the opinion of the court shall be just and necessary, may make the appointment. (L.N. 376 of 1989)

(1A) Before an order appointing a provisional liquidator is made, the applicant for the order shall deposit with the Official Receiver the sum of \$3500 towards the fees and expenses of the Official Receiver in connection with such appointment. (L.N. 433 of 1993; L.N. 286 of 1997)

(2) The order appointing the provisional liquidator shall bear the number of the petition, and shall state the nature and a short description of the property of which the provisional liquidator is ordered to take possession, and the duties to be performed by the provisional liquidator. (See Form 9)

(3) Subject to any order of the court, if no order for the winding up of the company is made upon the petition, or if an order for the winding up of the company on the petition is rescinded, or if all proceedings on the petition are stayed the provisional liquidator shall be entitled to be paid, out of the property of the company, all the costs, charges, and expenses properly incurred by him as provisional liquidator, including such sum as is or would be payable under the scale of fees in force for the time being where the Official Receiver is appointed provisional liquidator, and may retain out of such property the amounts of such costs, charges, expenses, and fees. (L.N. 201 of 1984)

(4) Where any person other than the Official Receiver has been appointed provisional liquidator and the Official Receiver has taken any steps for the purpose of obtaining a statement of affairs or supplementary affidavit or has performed any other duty prescribed by these rules the provisional liquidator shall pay the Official Receiver such sum, if any, as the court directs. (14 of 2016 s. 126)

[cf. R. 31]

Rule:	29	Attendance before hearing to show compliance with rules		30/06/1997
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HEARING OF PETITIONS AND ORDERS MADE THEREON

After a petition has been presented, the petitioner or his solicitor, shall, on a day to be appointed by the Registrar, attend before the Registrar and satisfy him that the petition has been duly advertised, that the prescribed affidavit verifying the statements therein and the affidavit of service (if any) have been duly filed, and that the provisions of the rules as to petitions for winding-up companies have been duly complied with by the petitioner. No order for the winding up of a company shall be made on the petition of any petitioner who has not, prior to the hearing of the petition, attended before the Registrar at the time appointed, and satisfied him in manner required by this rule.

[cf. R. 32]

Rule:	30	Notice by persons who intend to appear		30/06/1997
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Every person who intends to appear on the hearing of a petition shall serve on, or send by post to, the petitioner, or his solicitor, at the address stated in the advertisement of the petition, notice of his intention. The notice shall contain the address of such person, and shall be signed by him or his solicitor, and shall be served, or if sent by post shall be posted in such time as in ordinary course of post to reach the address not later than 6 o'clock in the afternoon of the day previous to the day appointed for the hearing of the petition, or if such day be a Monday, not later than one o'clock in the afternoon of the Saturday previous to such day. The notice shall be in Form 10 with such variations as circumstances may require. A person who has failed to comply with this rule shall not, without the special leave of the court, be allowed to appear on the hearing of the petition. (See Form 10)

[cf. R. 33]

Rule:	31	List of names and addresses of persons who appear on the petition		30/06/1997
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The petitioner, or his solicitor, shall prepare a list of the names and addresses of the persons who have given notice of their intention to appear on the hearing of the petition, and of their respective solicitors, which shall be in Form 11. On the day appointed for hearing the petition a fair copy of the list (or if no notice of intention to appear has been given a statement in writing to that effect) shall be handed by the petitioner, or his solicitor, to the court prior to the hearing of the petition. (See Form 11)

[cf. R. 34]

Rule:	32	Affidavits in opposition and reply		30/06/1997
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(1) Affidavits in opposition to a petition that a company may be wound up by the court shall be filed within 7 days, or such longer time as the court may direct, of the date on which the affidavit verifying the petition is filed and notice of the filing of every affidavit in opposition to such a petition shall be given to the petitioner or his solicitor on the day on which the affidavit is filed. (L.N. 201 of 1984)

(2) An affidavit in reply to an affidavit filed in opposition to a petition shall be filed within 3 days of the date on which notice of such affidavit is received by the petitioner or his solicitor.

[cf. R. 35]

Rule:	33	Substitution of creditor or contributory for withdrawing petitioner		30/06/1997
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When a petitioner is not entitled to present a petition or whether so entitled or not, where he (a) fails to advertise his petition within the time by these rules prescribed or such extended time as the Registrar may allow or (b) consents to withdraw his petition, or to allow it to be dismissed, or the hearing adjourned, or fails to appear in support of his petition when it is called on in court on the day originally fixed for the hearing thereof, or on any day to which the hearing has been adjourned, or (c) if appearing, does not apply for an order in the terms of the prayer of his petition, the court may, upon such terms as it may think just, substitute as petitioner any creditor or contributory who in the opinion of the court would have a right to present a petition, and who is desirous of prosecuting the petition. An order to substitute a petitioner may, where a petitioner fails to advertise his petition within the time prescribed by these rules or consents to withdraw his petition, be made in chambers at any time.

[cf. R. 36]

Rule:	34	Notice that winding-up order has been pronounced to be given to Official Receiver	L.N. 163 of 2013	03/03/2014
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ORDER TO WIND UP A COMPANY

(L.N. 178 of 1978; 28 of 2012 ss. 912 & 920)

When an order for the winding up of a company, or for the appointment of a provisional liquidator prior to the making of an order for the winding up of the company, has been pronounced in court, the Registrar shall, on the same day, send to the Official Receiver a notice informing him that the order has been pronounced.

The notice may be in Forms 12 and 13 respectively, with such variations as circumstances may require. (See Forms 12 & 13)

[cf. R. 37]

Rule:	35	Drawing up and contents of winding-up order	L.N. 190 of 2016	13/02/2017
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(1) It shall be the duty of the petitioner, or his solicitor, and of all other persons who have appeared on the hearing of the petition, at latest on the day following the day on which an order for the winding up of a company is pronounced in court, to leave with the Registrar a draft of the order and all other documents required for the purpose of enabling the Registrar to complete the order forthwith. It is not necessary for the Registrar to make an appointment to settle the order unless in any particular case the special circumstances make an appointment necessary. (See Form 14) (L.N. 178 of 1978)

(2) An order to wind up a company, or for the appointment of a provisional liquidator before the making of a winding-up order, must contain at its foot a notice stating that, as the Official Receiver, provisional liquidator or liquidator (*interviewer*) may require, it is the duty of a person who is or may be liable to make the statement of affairs of the company, or a supplementary affidavit in relation to that statement, to attend on the interviewer according to the day, time and place the interviewer appoints and to give the interviewer all information that the interviewer requires. (14 of 2016 s. 127)

(28 of 2012 ss. 912 & 920)
[cf. R. 40]

Rule:	36	Transmission and advertisement of winding-up order	L.N. 163 of 2013	03/03/2014
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(1) When an order that a company be wound up, or for the appointment of a provisional liquidator has been made-

- (a) 3 copies of the order sealed with the seal of the court shall forthwith be sent by the Registrar to the Official Receiver;
- (b) the Official Receiver shall cause a sealed copy of the order to be served upon the company by prepaid letter addressed to it at the registered office of the company (if any), or if there is no registered office at its principal or last known principal place of business, or upon such other person or persons, and in such other manner as the court may direct, and if the order is that the company be wound up by the court, shall forward to the Registrar of Companies the copy of the order which by section 185 of the Ordinance is directed to be so forwarded by the company, or otherwise as may be prescribed;
- (c) the Official Receiver shall forthwith cause notice of the order to be gazetted; (*See Form 103(1)*)
- (d) the Official Receiver shall forthwith send notice of the order to such local paper as the court may from time to time direct, or, in default of such direction, as he may select. (See Form 16)

(2) (Repealed L.N. 201 of 1984)

(3) (Repealed 28 of 2012 ss. 912 & 920)

[cf. R. 41]

Rule:	37	Appointment of special manager		30/06/1997
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SPECIAL MANAGER

An application by the Official Receiver for the appointment of a special manager shall be supported by a report of the Official Receiver, which shall be placed on the file of proceedings. No affidavit by the Official Receiver in support of the application shall be required.

[cf. R. 48]

Rule:	38	Accounting by special manager		30/06/1997
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(1) Every special manager shall lodge with the Official Receiver an account in relation to the total of his receipts and payments as special manager, and such account shall be certified to be correct by the special manager.

(2) The Official Receiver may require any account referred to in paragraph (1) to be audited.

(L.N. 286 of 1997)

Rule:	39	Preparation of statement of affairs and supplementary affidavit	L.N. 190 of 2016	13/02/2017
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STATEMENT OF AFFAIRS AND SUPPLEMENTARY AFFIDAVIT

(14 of 2016 s. 128)

- (1) A statement of affairs must be in Form 23.
- (2) A statement of affairs must be made and submitted in duplicate, one copy of which must be verified by affidavit.
- (3) If the provisional liquidator or liquidator has, under section 190(2) of the Ordinance, required a person to make, submit and verify a statement of affairs, the provisional liquidator or liquidator must furnish the person with forms and instructions for the preparation of the statement.
- (4) A supplementary affidavit must be submitted together with a copy of that affidavit.
- (5) The provisional liquidator or liquidator must cause to be filed with the Registrar the following documents submitted to the provisional liquidator or liquidator—
 - (a) the verified copy of a statement of affairs; and
 - (b) the original of a supplementary affidavit.
- (6) The Official Receiver, provisional liquidator or liquidator may, for the purpose of investigating the company's affairs, hold interviews from time to time with a person who is or may be liable to make the statement of affairs of the company or a supplementary affidavit in relation to that statement.
- (7) If a person is required by the Official Receiver, provisional liquidator or liquidator (*interviewer*) to attend interviews under paragraph (6), the person must attend on the interviewer according to the day, time and place the interviewer appoints and give the interviewer all information that the interviewer requires.

(14 of 2016 s. 129)

Rule:	40	Extension of time for submitting statement of affairs or supplementary affidavit	L.N. 190 of 2016	13/02/2017
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If a person requires an extension of time for submitting a statement of affairs or supplementary affidavit, the person may apply to the provisional liquidator or liquidator, who may, if thought fit, extend the time by written notice.

(14 of 2016 s. 130)

Rule:	41	Information subsequent to statement of affairs or supplementary affidavit*	L.N. 190 of 2016	13/02/2017
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After a statement of affairs or supplementary affidavit has been submitted to the provisional liquidator or liquidator, it is the duty of each person who has made the statement or affidavit, if and when required, to attend on the Official Receiver, provisional liquidator or liquidator and answer all questions put to the person, and give all further information required of the person, by the Official Receiver, provisional liquidator or liquidator in relation to the statement or affidavit.

(46 of 2000 s. 40; 14 of 2016 s. 131)

[cf. R. 52]

Note:

* (14 of 2016 s. 131)

Rule:	42	Default	L.N. 190 of 2016	13/02/2017
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Any default in complying with the requirements of section 190 of the Ordinance may be reported by the provisional liquidator or liquidator to the court.

(46 of 2000 s. 40; 14 of 2016 s. 132)

[cf. R. 53]

Rule:	43	(Repealed 14 of 2016 s. 133)	L.N. 190 of 2016	13/02/2017
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Rule:	44	Dispensing with statement of affairs or supplementary affidavit*	L.N. 190 of 2016	13/02/2017
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(1) Any application to dispense with the requirements of section 190 of the Ordinance shall be supported by a report of the provisional liquidator or liquidator showing the special circumstances which in his opinion render such a course desirable. (46 of 2000 s. 40)

(2) When the court has made an order dispensing with the requirements of the said section, it may give such consequential directions as it may see fit and in particular it may give directions as to the sending of any notices which are by these rules required to be sent to any person mentioned in the statement of affairs or a supplementary affidavit in relation to that statement. (14 of 2016 s. 134)

[cf. R. 55]

Note:

* (14 of 2016 s. 134)

Rule:	45	Appointment of liquidator and committee of inspection on report of meetings of creditors and contributories*	L.N. 190 of 2016	13/02/2017
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**APPOINTMENT OF LIQUIDATOR AND COMMITTEE OF INSPECTION IN A WINDING UP
BY THE COURT**

(14 of 2016 s. 135)

(1) As soon as possible after the first meetings of creditors and contributories have been held the Official Receiver, or the chairman of the meeting, as the case may be, shall report the result of each meeting to the court. (See Form 24)

(2) Subject to section 206 of the Ordinance, upon the result of the meetings of creditors and contributories being reported to the court, the court may, if the meeting of creditors and the meeting of contributories have each passed the same resolutions, or if the resolutions passed at the 2 meetings are identical in effect, upon the application of the provisional liquidator, forthwith make the appointments necessary for giving effect to such resolutions. In any other case the court shall, on the application of the provisional liquidator, fix a time and place for considering the resolutions and determinations (if any) of the meetings, deciding differences (if any), and making such order as shall be necessary. (46 of 2000 s. 40; 14 of 2016 s. 136)

(3) When a time and place have been fixed for the consideration of the resolutions and determinations of the meetings, such time and place shall be advertised by the provisional liquidator in such manner as the court shall direct, but so that the first or only advertisement shall be published not less than 7 days before the time so fixed. (46 of 2000 s. 40)

(4) Upon the consideration of the resolutions and determinations of the meetings the court shall hear the provisional liquidator and any creditor or contributory. (46 of 2000 s. 40)

(4A) For the purposes of appointing a person to be a liquidator, the Official Receiver may, if he considers desirable, require an affidavit as to the fitness of such person to be so appointed. (L.N. 286 of 1997)

(5) If a liquidator is appointed, a copy of the order appointing him shall be transmitted by him to the Official Receiver and the Official Receiver shall, as soon as the liquidator has given security, cause notice of the appointment to be gazetted. The expense of gazetting the notice of the appointment shall be paid by the liquidator, but may be charged by him on the assets of the company. (See Forms 25 & 103(7))

(6) Every appointment of a liquidator or committee of inspection shall be advertised by the liquidator, in such manner as the court directs, immediately after the appointment has been made and the liquidator has given the required security. (See Form 27)

(7) If a liquidator in a winding up by the court shall die, or resign, or be removed, another liquidator may be appointed in his place in the same manner as in the case of a first appointment, and the Official Receiver shall, on the request of not less than one-tenth in value of the creditors or contributories summon meetings for the purpose of determining whether or not the vacancy shall be filled; but none of the provisions of this rule shall apply where the liquidator is released under section 205 of the Ordinance in which case the Official Receiver shall remain liquidator.

(See Forms 103(8) & (9))

(8) In paragraphs (4A), (5), (6) and (7)—

liquidator (清盤人) does not include a provisional liquidator holding office by virtue of section 194(1)(a) or (aa) or (1A). (14 of 2016 s. 136)

[cf. R. 56]

Note:

* (14 of 2016 s. 136)

Rule:	46	(Repealed 28 of 2003 s. 124)	L.N. 267 of 2003	13/02/2004
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Rule:	47	Security to satisfaction of Official Receiver		30/06/1997
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**SECURITY BY LIQUIDATOR OR SPECIAL MANAGER IN A
WINDING UP BY THE COURT**

In the case of a special manager or a liquidator other than the Official Receiver, the following provisions as to security shall have effect, namely- (See Form 26)

- (a) the security shall be given to such officers or persons, and in such manner as the Official Receiver may from time to time direct;
- (b) it shall not be necessary that security shall be given in each separate winding up; but security may be given either specially in a particular winding up, or generally, to be available for any winding up in which the person giving security may be appointed, either as liquidator or special manager;
- (c) the Official Receiver shall fix the amount and nature of such security, and may from time to time, as he thinks fit, either increase or diminish the amount of special or general security which any person has given;
- (d) the certificate of the Official Receiver that a liquidator or special manager has given security to his satisfaction shall be filed with the Registrar; (See Form 26)
- (e) the cost of furnishing the required security by a liquidator or special manager, including any premiums which he may pay to a guarantee society, 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.

[cf. R. 57]

Rule:	48	Failure to give or keep up security		30/06/1997
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(1) If a liquidator or special manager fails to give the required security within the time stated for that purpose in the order appointing him, or any extension thereof, the Official Receiver shall report such failure to the court, who may thereupon rescind the order appointing the liquidator or special manager.

(2) If a liquidator or special manager fails to keep up his security, the Official Receiver shall report such failure to the court, who may thereupon remove the liquidator or special manager, and make such order as to costs as the court shall think fit.

(3) Where an order is made under this rule rescinding an order for the appointment of or removing a liquidator, the court may direct that another liquidator is to be appointed and thereupon the same meetings shall be summoned and the same proceedings may be taken as in the case of a first appointment of a liquidator.

[cf. R. 58]

Rule:	49	Report of liquidator to be filed	46 of 2000	01/07/2000
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PUBLIC EXAMINATION

A report made by the Official Receiver or liquidator pursuant to section 191(2) of the Ordinance shall state, in a narrative form, the facts and matters which the Official Receiver or liquidator desires to bring to the notice of the court, and his opinion as required by the said section.

(46 of 2000 s. 40)

Rule:	50	Appointment of time for consideration of report	46 of 2000	01/07/2000
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The Official Receiver or liquidator may apply to the court to fix a day for the consideration of the report, and on such application the court shall appoint a day on which the report shall be considered.

(46 of 2000 s. 40)

Rule:	51	Consideration of report	46 of 2000	01/07/2000
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The consideration of the report shall be before a judge personally in chambers, and the party who made the further report shall, and the Official Receiver or the liquidator when he is not the party who made the further report may, personally, or by counsel or solicitor, attend the consideration of the report, and give the court any further information or explanation with reference to the matter stated in the report which the court may require.

(46 of 2000 s. 40)

[cf. R. 59]

Rule:	51A	Further report confidential if public examination ordered	L.N. 190 of 2016	13/02/2017
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- (1) If the court, after consideration of a further report made under section 191(2) of the Ordinance, makes an order under section 286A(1) of the Ordinance pursuant to paragraph (a) of that section, the further report is not open to inspection.
- (2) Despite paragraph (1)—
 - (a) a person in respect of whom the order is made may apply to the court to see all or part of the further report; and
 - (b) the court may allow the person, subject to any condition that it thinks fit, to see all or part of the further report if the person satisfies the court that it would be unfair to the person not to be allowed to see it.

(14 of 2016 s. 137)

Rule:	51B	Evidence in support of application for public examination	L.N. 190 of 2016	13/02/2017
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- (1) If an application for an order of the court under section 286A(1) of the Ordinance (*public examination order*) is made pursuant to paragraph (b) of that section—
 - (a) evidence in support of the application may be in the form of a report to the court setting out the reasons why a public examination order is needed; and
 - (b) a report under subparagraph (a) is not open to inspection.
- (2) Despite paragraph (1)(b)—
 - (a) a person in respect of whom the application is made may (whether or not the application has been disposed of) apply to the court to see all or part of the report; and
 - (b) the court may allow the person, subject to any condition that it thinks fit, to see all or part of the report if the person satisfies the court that it would be unfair to the person not to be allowed to see it.

(14 of 2016 s. 137)

Rule:	52	Order for public examination	L.N. 190 of 2016	13/02/2017
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An order under section 286A(1) of the Ordinance directing any person or persons to attend for public examination must be in Form 29.

(14 of 2016 s. 138)

Rule:	53	Application for day for holding examination	46 of 2000	01/07/2000
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Upon an order directing a person to attend for public examination being made, the Official Receiver or liquidator, as the case may be, shall apply for the appointment of a day on which the public examination is to be held.

(46 of 2000 s. 40)

[cf. R. 61]

Rule:	54	Appointment of day, time and place for public examination*	L.N. 190 of 2016	13/02/2017
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A day, time and place shall be appointed for holding the public examination, and notice of the day, time and place so appointed shall be given by the Official Receiver or liquidator, as the case may be, to the person who is to be examined by sending such notice in a registered letter addressed to his usual or last known address. (See Forms 30 & 31)

(46 of 2000 s. 40; 14 of 2016 s. 139)

[cf. R. 62]

Note:

* (14 of 2016 s. 139)

Rule:	55	Notice of public examination to creditors and contributories	L.N. 190 of 2016	13/02/2017
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(1) The Official Receiver or liquidator, as the case may be, shall give notice of the day, time and place appointed for holding a public examination to the creditors and contributories by advertisement in such newspapers as the court from time to time may direct, or in default of any such direction as the Official Receiver or liquidator, as the case may be, thinks fit, and shall also cause notice of the appointment to be gazetted. (See Form 103(3)) (46 of 2000 s. 40; 14 of 2016 s. 140)

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

[cf. R. 63]

Rule:	56	Default in attending	L.N. 190 of 2016	13/02/2017
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(1) If any person who has been directed by the court to attend for public examination fails to attend at the day, time and place appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the day appointed for the examination the Official Receiver or liquidator satisfies the court that such person has absconded, or that there is reason for believing that he is about to abscond with the view of avoiding examination, it shall be lawful for the court, upon its being proved to the satisfaction of the court that notice of the order and of the day, time and place appointed for attendance at the public examination was duly served, without any further notice, to issue a warrant for the arrest of the person required to attend, or to make such other order as the court shall think just. (See Form 38) (46 of 2000 s. 40; 14 of 2016 s. 141)

(2) A warrant of arrest issued by the court under this rule shall be issued in the Registry of the High Court pursuant to an order of the court directing such issue. (25 of 1998 s. 2) (See Form 38A)

[cf. R. 64]

Rule:	57	Notes of examination to be filed	L.N. 190 of 2016	13/02/2017
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The notes of every public examination shall, after being signed as required by section 286A(9) of the Ordinance, be filed with the Registrar. (See Forms 34 & 35)

(14 of 2016 s. 142)

[cf. R. 65]

Rule:	57A	Application of certain rules where report is made under section 168IA of Ordinance	L.N. 190 of 2016	13/02/2017
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Where a report under section 168IA of the Ordinance is made to the court by the Official Receiver, rules 49, 50, 51, 51B, 52, 53, 54, 56 and 57 apply, with the necessary modifications, to and in relation to the proceedings arising from the report.

(46 of 2000 s. 40; 14 of 2016 s. 143)

Rule:	58	Application by or against delinquent directors, officers and promoters	L.N. 163 of 2013; E.R. 1 of 2014	03/03/2014
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PROCEEDINGS BY OR AGAINST DIRECTORS,
PROMOTERS, AND OFFICERS

- (1) An application under any of the following provisions- (28 of 2012 ss. 912 & 920)
 - (a) section 276 of the Ordinance;
 - (b) section 275(1), (2) or (4) of the Ordinance;
 - (c) section 168I of the Ordinance, where such application relates to a company in course of being wound up by the court; (L.N. 201 of 1984; 46 of 2000 s. 40)
 - (d) ~~section 904(1) of the Companies Ordinance (Cap 622)~~section 112ZE of the Securities and Futures Ordinance (Cap 571), (28 of 2012 ss. 912 & 920)

shall be made by a summons returnable in the first instance in chambers, in which summons shall be stated the nature of the declaration or order for which application is made, and the grounds of the application, and which summons, unless otherwise ordered by the court, shall be served, in the manner in which an originating summons is required by the Rules of the High Court (Cap 4 sub. leg. A) to be served, on every person against whom an order is sought, not less than 8 days before the day named in the summons for hearing the application. Where the application is made by the Official Receiver or liquidator he may make a report to the court stating any facts and information on which he proceeds which are verified by affidavit, or derived from sworn evidence in the proceedings. Where the application is made by any other person it shall be supported by affidavit to be filed by him. (25 of 1998 s. 2)

A copy of every report and affidavit intended to be used in support of the summons shall be served on every person against whom an order is sought not less than 4 days before the hearing of the summons.

(2) On the return of the summons the court may give such directions as it shall think fit as to the taking of evidence wholly or in part by affidavit or orally, and the cross-examination either before a judge on the hearing in court or in chambers of any deponents to affidavits in support of or in opposition to the application and as to any report it may require the Official Receiver or liquidator to make and generally as to the procedure on the summons and for the hearing thereof.

(E.R. 1 of 2014)
[cf. R. 66]

Rule:	58A	Application for order under section 286B of Ordinance	L.N. 190 of 2016	13/02/2017
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- (1) An application for an order of the court under section 286B of the Ordinance (*section 286B order*) in respect of a person must—
 - (a) be in writing;
 - (b) sufficiently identify the person; and
 - (c) state as the purpose of the application what the person is to be ordered to do.
- (2) For paragraph (1)(c), the purpose of the application must be stated as one or more of the following—
 - (a) that the person is to attend before the court;
 - (b) that the person is to be examined under section 286C of the Ordinance;
 - (c) that the person is to submit an affidavit;
 - (d) that the person is to produce books and papers.
- (3) If the purpose of the application includes a purpose specified in paragraph (2)(b), (c) or (d), the application must also specify—
 - (a) for a purpose specified in paragraph (2)(b)—
 - (i) the particulars of the matters in respect of which the person is required to be examined; and
 - (ii) whether the person is to be examined by word of mouth or on written interrogatories;
 - (b) for a purpose specified in paragraph (2)(c), the particulars of the matters to which the person is required to swear; and
 - (c) for a purpose specified in paragraph (2)(d), the items of books and papers required to be produced.
- (4) If an application for a section 286B order is made—
 - (a) evidence in support of the application may be in the form of a report to the court setting out the reasons why a section 286B order is needed; and

- (b) a report under subparagraph (a) is not open to inspection.
- (5) Despite paragraph (4)(b)—
- a person in respect of whom the application is made may (whether or not the application has been disposed of) apply to the court to see all or part of the report; and
 - the court may allow the person, subject to any condition that it thinks fit, to see all or part of the report if the person satisfies the court that it would be unfair to the person not to be allowed to see it.
- (14 of 2016 s. 144)

Rule:	58B	Order under section 286B of Ordinance and notice for attendance	L.N. 190 of 2016	13/02/2017
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- An order made under section 286B(1) of the Ordinance must be in Form 38B.
 - If an order is made under section 286B(1) of the Ordinance to require a person to attend before the court and be examined under section 286C of the Ordinance, the Official Receiver, provisional liquidator or liquidator who applied for the order must give notice of the day, time and place appointed for the person to attend before the court.
 - A notice under paragraph (2) must be—
 - in Form 38C; and
 - sent in a registered letter addressed to the usual or last known address of the person.
- (14 of 2016 s. 144)

Rule:	59	Use of depositions taken at public examinations	L.N. 190 of 2016	13/02/2017
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Where in the course of the proceedings in a winding up by the court an order has been made for the public examination of persons named in the order pursuant to section 286A of the Ordinance, then in any proceedings subsequently instituted under any of the provisions of the Ordinance or the Companies Ordinance (Cap 622) mentioned in rule 58(1), the signed notes of the examination of each person who was examined under the order shall, subject as hereinafter mentioned, and to any order or directions of the court as to the manner and extent in and to which the notes shall be used, and subject to all just exceptions to the admissibility in evidence against any particular person or persons of any of the statements contained in the notes of the examinations, be admissible in evidence against any of the persons against whom the application is made, who, under section 286A of the Ordinance, and the order for the public examination, was or had the opportunity of being present at and taking part in the examination: (28 of 2012 ss. 912 & 920; 14 of 2016 s. 145)

Provided that before any such notes of a public examination shall be used on any such application, the person intending to use the same shall, not less than 15 days before the day appointed for hearing the application, give notice of such intention to each person against whom it is intended to use such notes, or any of them, specifying the notes or parts of the notes which it is intended to read against him, and furnish him with copies of such notes, or parts of notes (except notes of the person's own depositions), and provided also that every person against whom the application is made shall be at liberty to cross-examine or re-examine (as the case may be) any person the notes of whose examination are read, in all respects as if such person had made an affidavit on the application.

[cf. R. 69]

Rule:	60	Appointment and remuneration of shorthand writers		30/06/1997
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WITNESSES AND DEPOSITIONS

- The court may at any time in any proceedings, if it considers that it would be desirable so to do, appoint a person (in these rules called a "shorthand writer") to take down, in shorthand or otherwise, the evidence of any witness examined at any public or private sitting, examination or meeting under the Ordinance.
- A shorthand writer (if any) attached to the Official Receiver's office shall be deemed to be duly appointed under paragraph (1), and it shall not be necessary to make any application to make such an appointment, and a general declaration by such shorthand writer adapted from Form 33 shall be deemed to apply to all proceedings in which notes are taken by him of any such evidence. (See Form 33)
- Any document purporting-

- (a) to be a transcript of the notes taken by a shorthand writer appointed under paragraph (1) or by a shorthand writer attached to the Official Receiver's office; and
- (b) to be signed by such shorthand writer,

shall until the contrary is proved be sufficient evidence that the questions and answers therein set forth were so put and answered respectively.

(4) Every person appointed to be a shorthand writer under this rule shall be paid a sum not exceeding \$150 or otherwise as the court directs for each hour or part thereof during which he is engaged in such appointment or in the preparation of any transcript of the evidence that may be required. (L.N. 139 of 1985)

(5) The fees of a shorthand writer shall be paid by the party at whose instance the appointment was made, or out of the assets of the company, as may be directed by the court.

(6) If the person appointed to be the shorthand writer under this rule is a public servant the fees payable under paragraph (4) shall be paid forthwith by the person responsible for such fees to the Official Receiver for payment into the Treasury.

(L.N. 245 of 1977)

[cf. S.I. 1952/2113 rr. 69 & 70 U.K.]

Rule:	61	Committal of contumacious witness		30/06/1997
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(1) If a person examined before a Registrar or other officer of the court who has no power to commit for contempt of court, refuses to answer to the satisfaction of the Registrar or officer any question which he may allow to be put, the Registrar or officer shall report such refusal to a judge, and upon report being made the person in default shall be in the same position, and be dealt with in the same manner as if he had made default in answering before the judge. (See Form 36)

(2) The report shall be in writing, but without affidavit and shall set forth the question put, and the answer (if any) given by the person examined.

(3) The Registrar or other officer shall, before the conclusion of the examination at which the default in answering is made, name the time when and the place where the default will be reported to a judge, and upon receiving the report a judge may take such action thereon as he shall think fit. If a judge is sitting at the time when the default in answering is made, such default may be reported immediately.

[cf. R. 71]

Rule:	62	Depositions at private examinations	L.N. 190 of 2016	13/02/2017
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(1) The Official Receiver, provisional liquidator or liquidator may attend in person, or by counsel or by solicitors employed for the purpose, any examination of a witness under section 286C of the Ordinance, whether or not the examination was ordered on the application of the Official Receiver, provisional liquidator or liquidator, and may take notes of the examination for his own use, and put such question to the persons examined as the court may allow. (46 of 2000 s. 40)

(2) The notes of the depositions of a person examined under section 286C of the Ordinance, or under any order of the court before the court, or before any officer of the court, or person appointed to take such an examination (other than the notes of the depositions of a person examined at a public examination under section 286A of the Ordinance) shall not be filed, or be open to the inspection of any creditor, contributory, or other person, except the Official Receiver or liquidator, or any provisional liquidator other than the Official Receiver, while he is acting as provisional liquidator, unless and until the court shall so direct, and the court may from time to time give such general or special directions as it shall think expedient as to the custody and inspection of such notes and the furnishing of copies of or extracts therefrom.

(14 of 2016 s. 146)

[cf. R. 72]

Rule:	63	Disclaimer	L.N. 190 of 2016	13/02/2017
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DISCLAIMER

(1) Any application for leave to disclaim any part of the property of a company pursuant to section 268(1) of the Ordinance shall be by ex parte summons. Such summons shall be supported by an affidavit showing who are the

parties interested and what their interests are. On the hearing of the summons the court shall give such directions as it sees fit and in particular directions as to the notices to be given to the parties interested or any of them and the court may adjourn the application to enable any such party to attend. (See Forms 39 & 40)

(2) Where a liquidator disclaims a leasehold interest he shall forthwith file the disclaimer at the office of the Registrar and, when the property is situate in Hong Kong, register a notice thereof in the Land Registry. The disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. Until the disclaimer is filed by the liquidator and, when the property is situate in Hong Kong, a notice thereof is registered in the Land Registry the disclaimer shall be inoperative. A disclaimer shall be in the Form 39 and a notice of disclaimer in the Form 40 with such variations as circumstances may require. (L.N. 201 of 1984; 8 of 1993 s. 30; 14 of 2016 s. 147)

(3) Where any person claims to be interested in any part of the property of a company which the liquidator wishes to disclaim he shall at the request of the liquidator furnish a statement of the interest so claimed by him.

[cf. R. 73]

Rule:	64	Vesting of disclaimed property		30/06/1997
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VESTING OF DISCLAIMED PROPERTY

(1) Any application under subsection (6) of section 268 of the Ordinance for an order for the vesting of any disclaimed property in or the delivery of any such property to any persons shall be supported by the affidavit filed on the application for leave to disclaim such property.

(2) Where such an application as aforesaid relates to disclaimed property of a leasehold nature and it appears that there is any under-lessee of such property or person entitled to a mortgage or charge in respect thereof, the court may direct that notice shall be given to such under-lessee or person so entitled that, if he does not elect to accept and apply for such a vesting order as aforesaid upon the terms required by the above-mentioned subsection and imposed by the court within a time to be fixed by the court and stated in the notice, he will be excluded from all interest in and security upon the property and the court may adjourn the application for such notice to be given and for such under-lessee or person so entitled to be added as a party to and served with the application and, if he sees fit, to make such election and application as is mentioned in the notice. If at the expiration of the time so fixed by the court such under-lessee or person so entitled fails to make such election and application, the court may make an order vesting the property in the applicant and excluding such under-lessee or person so entitled from all interest in or security upon the property. (L.N. 201 of 1984)

[cf. R. 74]

Rule:	65	Report by Official Receiver on arrangements and compromises		30/06/1997
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ARRANGEMENTS WITH CREDITORS AND CONTRIBUTORIES IN A WINDING UP BY THE COURT

In a winding up by the court, if application is made to the court to sanction any compromises or arrangement, the court may, before giving its sanction thereto, hear a report by the Official Receiver as to the terms of the scheme, and as to the conduct of the directors and other officers of the company, and as to any other matters which, in the opinion of the Official Receiver, ought to be brought to the attention of the court. The report shall not be placed upon the file, unless and until the court shall direct it to be filed.

[cf. R. 75]

Rule:	66	Collection and distribution of company's assets by liquidator		30/06/1997
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COLLECTION AND DISTRIBUTION OF ASSETS IN A WINDING UP BY THE COURT

(1) The duties imposed on the court by section 210(1) of the Ordinance, in a winding up by the court with regard to the collection of the assets of the company and the application of the assets in discharge of the company's

liabilities, shall be discharged by the liquidator as an officer of the court subject to the control of the court.

(2) For the purpose of the discharge by the liquidator of the duties imposed by section 210(1) of the Ordinance, and paragraph (1) of this rule, the liquidator in a winding up by the court shall for the purpose of acquiring or retaining possession of the property of the company, be in the same position as if he were a receiver of the property appointed by the court, and the court may, on his application, enforce such acquisition or retention accordingly.

[cf. R. 76]

Rule:	67	Power of liquidator to require delivery of property		30/06/1997
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The powers conferred on the court by section 211 of the Ordinance shall be exercised by the liquidator. Any contributory for the time being on the list of contributories, trustee, receiver, banker or agent or officer of a company which is being wound up under order of the court shall, on notice from the liquidator and within such time as he shall by notice in writing require, pay, deliver, convey, surrender or transfer to or into the hands of the liquidator any sum of money or balance, books, papers, estate or effects which happen to be in his hands for the time being and to which the company is prima facie entitled. (See Form 41)

[cf. R. 77]

Rule:	67A	Interpretation of rules 67A to 73	L.N. 190 of 2016	13/02/2017
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In this rule and rules 68, 69, 70, 71, 72 and 73—

notice of provisional list of contributories (分擔人臨時列表通知) means a notice required by rule 69(1)(b) to be served on a person included in a provisional list of contributories made under rule 69(1)(a);

notice to contributory (致分擔人通知) means a notice required by rule 71(1) to be served on a person included in a list of contributories finally settled under rule 70;

notice to objector (致反對人通知) means a notice of the liquidator's determination of an objection as required by rule 69(7)(b);

objection (反對), in relation to a notice of provisional list of contributories served on a person, means an objection by the person under rule 69(6);

objection period (反對期), in relation to a notice of provisional list of contributories served on a person, means the period of 21 days from the date of service of the notice on the person, as referred to in rule 69(6).

(14 of 2016 s. 148)

Rule:	68	Liquidator to settle list of contributories	L.N. 190 of 2016	13/02/2017
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(1) The duties imposed on the court by section 210(1) of the Ordinance with regard to the settlement of the list of contributories of a company are to be performed by the liquidator as an officer of the court subject to the control of the court.

(2) Unless the court dispenses with the settlement of a list of contributories, the liquidator must, with all convenient speed after the liquidator's appointment, settle the list of contributories of the company.

(3) The list of contributories must—

(a) contain a statement of—

(i) the address of each contributory;

(ii) the number of shares, or extent of interest, to be attributed to each contributory; and

(iii) the amount called up, and the amount paid up, in respect of such shares or interest; and

(b) distinguish the different classes of contributories.

(4) In the list of contributories, the liquidator must, as far as practicable, distinguish between—

(a) persons who are contributories in their own right; and

(b) persons who are contributories as being representatives of, or liable for the debts of, others.

(14 of 2016 s. 149)

Rule:	69	Provisional list of contributories and objection by person included in the list	L.N. 190 of 2016	13/02/2017
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- (1) For the purposes of settling the list of contributories of a company as required by rule 68, the liquidator must—
 - (a) make a provisional list of contributories; and
 - (b) as soon as reasonably practicable after making the provisional list, serve a notice on each person included in the provisional list.
- (2) The provisional list of contributories must be in Form 42.
- (3) A notice of provisional list of contributories must—
 - (a) notify the person on whom the notice is served that the person is included in the provisional list of contributories of the company;
 - (b) state—
 - (i) in what character, and for what number of shares or extent of interest, the person is included in the provisional list; and
 - (ii) what amount has been called up, and what amount has been paid up, in respect of such shares or interest;
 - (c) inform the person that—
 - (i) the liquidator will settle the list of contributories of the company based on the provisional list;
 - (ii) the person will be included in the settled list unless, on considering an objection or otherwise, the liquidator decides to exclude the person from the list when settling it; and
 - (iii) in relation to any shares or interest not fully paid up, the inclusion of the person in the settled list may result in the unpaid capital being called; and
 - (d) inform the person of the effect of paragraph (6).
- (4) In addition, a notice of provisional list of contributories must be in Form 43.
- (5) An affidavit in Form 44 is, unless the contrary is proved, sufficient evidence that a notice of provisional list of contributories has been served on each of the persons included in the provisional list of contributories.
- (6) If a person on whom a notice of provisional list of contributories is served objects to the inclusion of the person in the settled list of contributories, the person may inform the liquidator of the objection in writing within 21 days from the date of service of the notice on the person.
- (7) On receiving an objection from a person, the liquidator must—
 - (a) determine the objection; and
 - (b) give notice of the determination to the person—
 - (i) within 14 days from the date of receipt of the objection; or
 - (ii) within any further period allowed by the court.

(14 of 2016 s. 149)

Rule:	70	Settlement of list of contributories	L.N. 190 of 2016	13/02/2017
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- (1) Subject to paragraph (2), after a provisional list of contributories of a company has been made under rule 69, the liquidator must finally settle the list of contributories of the company.
- (2) The liquidator may finally settle the list of contributories only if—
 - (a) all notices of provisional list of contributories have been served; and
 - (b) for each of the notices—
 - (i) no objection to the notice has been received by the liquidator within the objection period; or
 - (ii) if an objection to the notice has been received by the liquidator within the objection period—the liquidator has determined the objection and given the notice to objector.
- (3) The list of contributories must be finally settled by a certificate in Form 45, and the list, when so settled, is the list of contributories of the company.

(14 of 2016 s. 149)

Rule:	71	Notice to contributory	L.N. 190 of 2016	13/02/2017
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- (1) After the list of contributories of a company has been finally settled under rule 70, the liquidator must immediately serve a notice on each person included in the list.
- (2) A notice to contributory must—
 - (a) notify the person on whom the notice is served that—

- (i) the liquidator has finally settled the list of contributories of the company; and
- (ii) the person is included in the list;
- (b) state—
 - (i) in what character, and for what number of shares or extent of interest, the person is included in the list; and
 - (ii) what amount has been called up, and what amount has been paid up, in respect of such shares or interest; and
- (c) inform the person that any application for excluding the person from the list, or for a variation of the list, must be made to the court by summons—
 - (i) within 21 days from the date of service of the notice on the person; or
 - (ii) within any further period as the court may extend or allow under rule 72(1).
- (3) In addition, a notice to contributory must be in Form 46.
- (4) An affidavit in Form 48 is, unless the contrary is proved, sufficient evidence that a notice to contributory has been served on each of the persons included in the list of contributories.

(14 of 2016 s. 149)

Rule:	72	Application to the court to vary the list	L.N. 190 of 2016	13/02/2017
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(1) Subject to the power of the court to extend the time or to allow an application to be made notwithstanding the expiration of the time limited for that purpose, no application to the court by any person included in the list of contributories as finally settled by the liquidator for excluding the person from the list, or for a variation of the list, is to be entertained after the expiry of 21 days from the date of service of a notice to contributory on the person. (See Form 49) (14 of 2016 s. 150)

(2) The Official Receiver shall not in any case be personally liable to pay any costs of or in relation to an application to set aside or vary his act or decision settling the name of a person on the list of contributories of a company.

[cf. R. 82]

Rule:	73	Variation of or addition to list of contributories		30/06/1997
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The liquidator may from time to time vary or add to the list of contributories, but any such variation or addition shall be made in the same manner in all respects as the settlement of the original list. (See Form 47)

[cf. R. 83]

Rule:	74	Calls by liquidator	L.N. 190 of 2016	13/02/2017
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CALLS

The powers and duties of the court in relation to making calls upon contributories conferred by section 213 of the Ordinance, shall and may be exercised, in a winding up by the court, by the liquidator as an officer of the court subject to the proviso to section 226 of the Ordinance, and to the following regulations- (14 of 2016 s. 151)

- (a) where the liquidator desires to make any call on the contributories, or any of them for any purpose authorized by the Ordinance, if there is a committee of inspection he may summon a meeting of such committee for the purpose of obtaining their sanction to the intended call; (See Form 50)
- (b) the notice of the meeting shall be sent to each member of the committee of inspection in sufficient time to reach him not less than 7 days before the day appointed for holding the meeting, or such longer time as the court may appoint, and shall contain a statement of the proposed amount of the call, and the purpose for which it is intended. Notice of the intended call and the intended meeting of the committee of inspection shall also be advertised once at least in a Hong Kong daily newspaper. The advertisement shall state the time and place of the intended meeting of the committee of inspection, and that each contributory may either attend the said meeting and be heard, or make any communication in writing

to the liquidator or members of the committee of inspection to be laid before the meeting, in reference to the said intended call; (See Form 51)

- (c) at the meeting of the committee of inspection any statements or representations made either to the meeting personally or addressed in writing to the liquidator or members of the committee by any contributory shall be considered before the intended call is sanctioned;
- (d) the sanction of the committee shall be given by resolution, which shall be passed by a majority of the members present; (See Form 52)
- (e) where there is no committee of inspection, the liquidator shall not make a call without obtaining the leave of the court.

[cf. R. 84]

Rule:	75	Application to the court for leave to make a call	30/06/1997
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In a winding up by the court an application to the court for leave to make any call on the contributories of a company, or any of them, for any purpose authorized by the Ordinance, shall be made by summons stating the proposed amount of such call, which summons shall be served 4 clear days at the least before the day appointed for making the call on every contributory proposed to be included in such call or such longer time as the court may appoint; or if the court so directs, notice of such intended call may be given by advertisement, without a separate notice to each contributory. (See Forms 54 to 57)

[cf. R. 85]

Rule:	76	Document making the call	30/06/1997
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When the liquidator is authorized by resolution or order to make a call on the contributories he shall file with the Registrar a document in the Form 58 with such variations as circumstances may require making the call. (See Form 58)

[cf. R. 86]

Rule:	77	Service of notice of a call	30/06/1997
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When a call has been made by the liquidator in a winding up by the court, a copy of the resolution of the committee of inspection or order of the court (if any), as the case may be, shall forthwith after the call has been made be served upon each of the contributories included in such call, together with a notice from the liquidator specifying the amount or balance due from such contributory in respect of such call, but such resolution or order need not be advertised unless for any special reason the court so directs. (See Forms 52, 53, 57 & 59)

[cf. R. 87]

Rule:	78	Enforcement of call	30/06/1997
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The payment of the amount due from each contributory on a call may be enforced by order of the court, to be made in chambers on summons by the liquidator. (See Forms 60, 61 & 62)

[cf. R. 88]

Rule:	79	Proof of debt	30/06/1997
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PROOFS

In a winding up by the court every creditor shall prove his debt, unless a judge in any particular winding up shall give directions that any creditors or class of creditors shall be admitted without proof.

[cf. R. 89]

Rule:	80	Mode of proof	30/06/1997
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A debt may be proved in any winding up by delivering or sending through the post a proof of debt in the

prescribed form and accompanied by the prescribed fee as the case may require-

- (a) in a winding up by the court, to the Official Receiver or, if a liquidator has been appointed, to the liquidator; or
- (b) in any other winding up, to the liquidator. (See Form 63A)

(L.N. 225 of 1992)

Rule:	81	Verification of proof	30/06/1997
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A proof of debt may be made by the creditor himself or by a person authorized by or on behalf of the creditor and having knowledge of the facts.

(L.N. 225 of 1992)

Rule:	82	Contents of proof	30/06/1997
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- (1) The creditor or the person authorized by or on behalf of the creditor shall declare in the proof of debt-
 - (a) the creditor's name and address;
 - (b) the total amount of his claim as at the date of the winding up order;
 - (c) whether or not that amount includes outstanding uncapitalised interest;
 - (d) particulars of how and when the debt was incurred by the debtor;
 - (e) particulars of any security held, the date when it was given and the value which the creditor puts upon it; and
 - (f) the name and the authority of the person signing the proof (if other than the creditor himself) and means of knowledge of the facts.

(2) There shall be specified in the proof any documents by reference to which the debt can be substantiated and such documents or a copy of such documents shall be submitted together with the proof.

(3) The Official Receiver or the liquidator to whom the proof is sent may call for any document, which has not already been submitted, or other evidence to be produced to him, where he thinks it necessary for the purpose of substantiating the whole or any part of the claim made in the proof.

(L.N. 225 of 1992)

Rule:	83	Claim established by affidavit	30/06/1997
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(1) The Official Receiver or the liquidator, as the case may be, may, if he thinks it necessary, require a claim of debt to be verified by affidavit in the prescribed form notwithstanding that a proof of debt has already been lodged. (See Form 63B)

(2) The affidavit may, in a winding up by the court, be sworn before the Official Receiver, an assistant official receiver or any person authorized to administer oaths or take statutory declarations.

(L.N. 225 of 1992)

Rule:	84	Surrender of security	30/06/1997
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If it is found at any time that the proof made by or on behalf of a secured creditor has omitted to state that he is a secured creditor, the secured creditor shall surrender his security to the Official Receiver or, where a liquidator has been appointed, to the liquidator, for the general benefit of the creditors unless the court on application is satisfied that the omission has arisen from inadvertence in which case the court may allow the proof to be amended upon such terms as to the repayment of any dividends or otherwise as the court may consider just.

(L.N. 225 of 1992)

Rule:	85	Costs of proof	30/06/1997
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A creditor shall bear the cost of proving his debt unless the court otherwise orders.

[cf. R. 95]

Rule:	86	Discount		30/06/1997
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A creditor proving his debt shall deduct therefrom (a) all trade discounts, and (b) any discount, which he may have agreed to allow for payment in cash, in excess of 5 per cent on the net amount of his claim.

[cf. R. 96]

Rule:	87	Periodical payments		30/06/1997
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When any rent or other payment falls due at stated periods, and the order or resolution to wind-up is made at any time other than one of those periods, the persons entitled to the rent or payment may prove for a proportionate part thereof up to the date of the winding-up order or resolution as if the rent or payment grew due from day to day:

Provided that where the liquidator remains in occupation of premises demised to a company which is being wound up, nothing herein contained shall prejudice or affect the right of the landlord of such premises to claim payment by the company, or the liquidator, of rent during the period of the company's or the liquidator's occupation.

[cf. R. 97]

Rule:	88	Interest	25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the appropriate date, the creditor may prove for interest at a rate not exceeding the rate specified in section 49 of the High Court Ordinance (Cap 4) to that date from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made, giving notice that interest will be claimed from the date of the demand until the time of payment. (L.N. 286 of 1997; 25 of 1998 s. 2)

(2) The appropriate date referred to in paragraph (1) is-

- (a) in the case of a voluntary winding up, the date of the commencement of the winding up;
- (b) in the case of a winding up by the court-
 - (i) where the company has by special resolution resolved that the company be wound up by the court, the date of the resolution; and
 - (ii) in any other case, the date of the winding-up order. (L.N. 286 of 1997)

[cf. R. 98]

Rule:	89	Proof for debt payable at a future time		30/06/1997
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A creditor may prove for a debt not payable at the date of the winding-up order or resolution, as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of 8 per cent per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

[cf. R. 99]

Rule:	90	Workmen's wages		30/06/1997
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In any case in which it appears that there are numerous claims for wages by workmen and others employed by the company, it shall be sufficient if one proof for all such claims is made either by a foreman or by some other person on behalf of all such creditors. Such proof shall have annexed thereto as forming part thereof, a schedule setting forth the names of the workmen and others, and the amounts severally due to them. Any proof made in compliance with this rule shall have the same effect as if separate proofs had been made by each of the said workmen and others. (See Form 64)

[cf. R. 101]

Rule:	91	Production of bills of exchange and promissory notes		30/06/1997
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Where a creditor seeks to prove in respect of a bill of exchange, promissory note, or other negotiable instrument or security on which the company is liable, such bill of exchange, note, instrument, or security must, subject to any special order of the court made to the contrary, be produced to the Official Receiver, chairman of a meeting or liquidator, as the case may be, and be marked by him before the proof can be admitted either for voting or for any purpose.

[cf. R. 102]

Rule:	92	Transmission of proofs to liquidator		30/06/1997
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Where a liquidator is appointed in a winding up by the court, all proofs of debts that have been received by the Official Receiver shall be handed over to the liquidator, but the Official Receiver shall first make a list of such proofs, and take a receipt thereon from the liquidator for such proofs.

[cf. R. 103]

Rule:	93	Notice to creditors to prove	L.N. 190 of 2016	13/02/2017
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ADMISSION AND REJECTION OF PROOFS AND PREFERENTIAL CLAIMS, AND APPEAL TO THE COURT

(1) Subject to the provisions of the Ordinance, and unless otherwise ordered by the court, the liquidator in any winding up may from time to time fix a certain day, which shall be not less than 14 days from the date of the notice, on or before which the creditors of the company are to prove their debts or claims, and to establish any title they may have to priority under section 265 of the Ordinance or to be excluded from the benefit of the distribution made next after that date and from the benefit of any previous distribution or as the case may be from objecting to such distribution, and the liquidator shall give notice in writing of the day so fixed by advertisement in such newspaper as he shall consider convenient, and in a winding up by the court to every person mentioned in the statement of affairs or a supplementary affidavit in relation to that statement as a creditor, and who has not proved his debt, and to every person mentioned in the statement of affairs or a supplementary affidavit in relation to that statement as a preferential creditor whose claim to be a preferential creditor has not been established and is not admitted, and in any other winding up to the last known address or place of abode of each person who, to the knowledge of the liquidator, claims to be a creditor or preferential creditor of the company and whose claim has not been admitted. (L.N. 376 of 1989; 14 of 2016 s. 152)

(2) All the rules hereinafter set out as to admission and rejection of proofs shall apply with the necessary variation to any such claim to priority as aforesaid.

[cf. R. 104]

Rule:	94	Examination of proof		30/06/1997
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The liquidator shall examine every proof of debt lodged with him, and the grounds of the debt, and in writing admit or reject it, in whole or in part, or require further evidence in support of it. If he rejects a proof he shall state in writing to the creditor the grounds of the rejection. (See Form 65)

[cf. R. 105]

Rule:	95	Appeal by creditor		30/06/1997
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If a creditor or contributory is dissatisfied with the decision of the liquidator in respect of a proof, the court may, on the application of the creditor or contributory, reverse or vary the decision; but, subject to the power of the court to extend the time, no application to reverse or vary the decision of the liquidator in a winding up by the court rejecting a proof sent to him by a creditor, or person claiming to be a creditor, shall be entertained, unless notice of the application is given before the expiration of 21 days from the date of the service of the notice of rejection.

[cf. R. 106]

Rule:	96	Expunging at instance of liquidator		30/06/1997
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If the liquidator thinks that a proof has been improperly admitted, the court may, on the application of the liquidator, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

[cf. R. 107]

Rule:	97	Expunging at instance of creditor		30/06/1997
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The court may also expunge or reduce a proof upon the application of a creditor or contributory if the liquidator declines to interfere in the matter.

[cf. R. 108]

Rule:	98	Oaths		30/06/1997
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For the purpose of any of his duties in relation to proofs, the liquidator, in a winding up by the court, may administer oaths and take affidavits.

[cf. R. 109]

Rule:	99	Provisional liquidator's powers	46 of 2000	01/07/2000
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In a winding up by the court the provisional liquidator, before the appointment of a liquidator, shall have all the powers of a liquidator with respect to the examination, admission, and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

(46 of 2000 s. 40)
[cf. R. 110]

Rule:	100	Filing proofs by Official Receiver		30/06/1997
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In a winding up by the court the Official Receiver, where no other liquidator is appointed, shall, before payment of a dividend, file all proofs tendered in the winding-up, with a list thereof, distinguishing in such list the proofs which were wholly or partly admitted, and the proofs which were wholly or partly rejected.

[cf. R. 111]

Rule:	101	Proofs to be filed		30/06/1997
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Every liquidator in a winding up by the court other than the Official Receiver shall on the first day of every month, forward to the Registrar for filing a certified list of all proofs, if any, received by him during the month next preceding, distinguishing in such lists the proofs admitted, those rejected, and such as stand over for further consideration; and, in the case of proofs admitted or rejected, he shall cause the proofs to be filed with the Registrar. (See Form 66)

[cf. R. 112]

Rule:	102	Procedure where creditor appeals		30/06/1997
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The liquidator in a winding up by the court, including the Official Receiver when he is liquidator, shall, within 3 days after receiving notice from a creditor of his intention to appeal against a decision rejecting a proof, file such proof with the Registrar, with a memorandum thereon of his disallowance thereof.

[cf. R. 113]

Rule:	103	Time for dealing with proofs by Official Receiver		30/06/1997
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Subject to the power of the court to extend the time in a winding up by the court, the Official Receiver as liquidator, not later than 14 days from the latest date specified in the notice of his intention to declare a dividend as the time within which such proofs must be lodged, shall in writing either admit or reject wholly, or in part, every proof

lodged with him, or require further evidence in support of it.

[cf. R. 114]

Rule:	104	Time for dealing with proofs by liquidator		30/06/1997
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Subject to the power of the court to extend the time, the liquidator in a winding up by the court, other than the Official Receiver, within 28 days after receiving a proof, which has not previously been dealt with, shall in writing either admit or reject it wholly or in part, or require further evidence in support of it:

Provided that where the liquidator has given notice of his intention to declare a dividend, he shall within 14 days after the date mentioned in the notice as the latest date up to which proofs must be lodged, examine, and in writing admit or reject, or require further evidence in support of, every proof which has not been already dealt with, and shall give notice of his decision, rejecting a proof wholly or in part, to the creditors affected thereby. Where a creditor's proof has been admitted the notice of dividend shall be a sufficient notification of the admission.

[cf. R. 115]

Rule:	105	Cost of appeals from decisions as to proofs		30/06/1997
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The Official Receiver shall in no case be personally liable for costs in relation to an appeal from his decision rejecting any proof wholly or in part.

[cf. R. 116]

Rule:	106	First meetings of creditors and contributories	46 of 2000	01/07/2000
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GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN RELATION TO A WINDING UP BY THE COURT

Unless the court otherwise directs, the meetings of creditors and contributories under section 194 of the Ordinance (hereinafter referred to as the first meetings of creditors and contributories) shall be held within 3 months after the date of the winding-up order. The dates of such meetings shall be fixed and they shall be summoned by the provisional liquidator. (L.N. 139 of 1985)

(46 of 2000 s. 40)

[cf. R. 119]

Rule:	107	Notice of first meetings	46 of 2000	01/07/2000
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The provisional liquidator shall forthwith give notice of the dates fixed by him for the first meetings of creditors and contributories by advertisement in the Gazette. (See Form 103(2))

(46 of 2000 s. 40)

[cf. R. 120]

Rule:	108	Summoning of first meetings		30/06/1997
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The first meetings of creditors and contributories shall be summoned as hereinafter provided.

[cf. R. 121]

Rule:	109	Form of notices of first meetings		30/06/1997
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The notices of first meetings of creditors and contributories may be in Forms 18 and 19 appended hereto, and the notices to creditors shall state a time within which the creditors must lodge their proofs in order to entitle them to vote at the first meeting. (See Forms 18 & 19)

[cf. R. 122]

Rule:	110	Notice of first meetings to officers of company	46 of 2000	01/07/2000
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The provisional liquidator shall also give to each of the directors and other officers of the company who in his opinion ought to attend the first meetings of creditors and contributories 7 days' notice of the time and place appointed for each meeting. The notice may either be delivered personally or sent by prepaid post letter, as may be convenient. It shall be the duty of every director or officer who receives notice of such meeting to attend, if so required by the provisional liquidator, and if any such director or officer fails to attend the provisional liquidator shall report such failure to the court. (See Form 20)

(46 of 2000 s. 40)
[cf. R. 123]

Rule:	111	Summary of statement of affairs, etc.*	L.N. 190 of 2016	13/02/2017
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(1) The provisional liquidator or liquidator shall also, as soon as practicable, send to each creditor mentioned in the company's statement of affairs or a supplementary affidavit in relation to that statement, and to each person appearing from the company's books or otherwise to be a contributory of the company a summary of the company's statement of affairs and any supplementary affidavit in relation to that statement, including the causes of its failure, and any observations thereon which the provisional liquidator or liquidator may think fit to make. The proceedings at a meeting shall not be invalidated by reason of any summary or notice required by these rules not having been sent or received before the meeting. (46 of 2000 s. 40; 14 of 2016 s. 153)

(2) Where prior to the winding-up order the company has commenced to be wound up voluntarily the Official Receiver may, if in his absolute discretion he sees fit so to do, send to the persons aforesaid or any of them an account of such voluntary winding up showing how such winding up has been conducted and how the property of the company has been disposed of and any observations which the Official Receiver may think fit to make on such account or on the voluntary winding up.

[cf. R. 124]

Note:

* (14 of 2016 s. 153)

Rule:	112	Liquidator's meetings of creditors and contributories		30/06/1997
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GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN
RELATION TO A WINDING UP BY THE COURT AND
OF CREDITORS IN RELATION TO A CREDITORS
VOLUNTARY WINDING UP, INCLUDING A
WINDING UP UNDER SECTION 228A

(L.N. 201 of 1984)

(1) In addition to the first meetings of creditors and contributories and in addition also to meetings of creditors and contributories directed to be held by the court under section 287 of the Ordinance (hereinafter referred to as court meetings of creditors and contributories), the liquidator in any winding up by the court may himself from time to time subject to the provisions of the Ordinance and the control of the court summon, hold and conduct meetings of the creditors or contributories (hereinafter referred to as liquidator's meetings of creditors and contributories) for the purpose of ascertaining their wishes in all matters relating to the winding up.

(2) In any creditors voluntary winding up the liquidator may himself from time to time summon, hold and conduct meetings of creditors for the purpose of ascertaining their wishes in all matters relating to the winding up (such meetings and all meetings of creditors which a liquidator or a company is by the Ordinance required to convene in or immediately before such a voluntary winding up and all meetings convened by a creditor in a voluntary winding up under these rules are hereinafter called voluntary liquidation meetings).

[cf. R. 125]

Rule:	113	Application of rules as to meetings		30/06/1997
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Except where and so far as the nature of the subject-matter or the context may otherwise require the rules as to

meetings hereinafter set out shall apply to first meetings, court meetings, liquidator's meetings of creditors and contributories, and voluntary liquidation meetings, but so nevertheless that the said rules shall take effect as to first meetings subject and without prejudice to any express provisions of the Ordinance and as to court meetings subject and without prejudice to any express directions of the court.

[cf. R. 126]

Rule:	114	Summoning of meetings	L.N. 190 of 2016	13/02/2017
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(1) The Official Receiver or liquidator shall summon all meetings of creditors and contributories by giving not less than 7 days' notice of the time and place thereof in the Gazette and in one or more local papers; and shall not less than 7 days before the day appointed for the meeting send by post to every person appearing by the company's books to be a creditor of the company notice of the meeting of creditors, and to every person appearing by the company's books or otherwise to be a contributory of the company notice of the meeting of contributories. (See Form 75)

(2) The notice to each creditor shall be sent to the address given in his proof, or if he has not proved to the address given in the statement of affairs of the company or a supplementary affidavit in relation to that statement, if any, or to such other address as may be known to the person summoning the meeting. The notice to each contributory shall be sent to the address mentioned in the company's books as the address of such contributory, or to such other address as may be known to the person summoning the meeting. (14 of 2016 s. 154)

(3) In the case of meetings summoned under section 241 or summoned for the purposes of section 245(b) of the Ordinance the continuing liquidator or if there is no continuing liquidator any creditor may summon the meeting. (14 of 2016 s. 154)

(4) This rule shall not apply to meetings under section 241 or 248 of the Ordinance.

[cf. R. 127]

Rule:	115	Proof of notice		30/06/1997
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A certificate by the Official Receiver or other officer of the court, or by the clerk of any such person, or an affidavit by the liquidator, or creditor, or his solicitor, or the clerk of either of such persons, or as the case may be by some officer of the company or its solicitor or the clerk of such company or solicitor that the notice of any meeting has been duly posted, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed. (See Forms 76 & 77)

[cf. R. 128]

Rule:	116	Place of meetings		30/06/1997
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Every meeting shall be held at such place as is in the opinion of the person convening the same most convenient for the majority of the creditors or contributories, or both. Different times or places or both may if thought expedient be named for the meetings of creditors and for the meetings of contributories.

[cf. R. 129]

Rule:	118	Chairman of meeting		30/06/1997
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Where a meeting is summoned by the Official Receiver or the liquidator, he or someone nominated by him shall be chairman of the meeting. At every other meeting of creditors or contributories the chairman shall be such person as the meeting by resolution shall appoint. This rule shall not apply to meetings under section 241 of the Ordinance. (See Form 79)

[cf. R. 131]

Rule:	119	Resolution of creditors and contributories*	L.N. 190 of 2016	13/02/2017
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At a meeting of creditors a resolution shall be deemed to be passed when a majority in value of the creditors present personally or by proxy and voting on the resolution have voted in favour of the resolution, and at a meeting of the contributories a resolution shall be deemed to be passed when a majority in value of the contributories present personally or by proxy, and voting on the resolution, have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulations of the company.

(L.N. 245 of 1977)

[cf. R. 132]

Note:

* (14 of 2016 s. 156)

Rule:	120	Copy of resolution to be filed		30/06/1997
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The Official Receiver or as the case may be the liquidator shall file with the Registrar a copy certified by him of every resolution of a meeting of creditors or contributories in a winding up by the court.

[cf. R. 133]

Rule:	121	Non-reception of notice by a creditor		30/06/1997
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Where a meeting of creditors or contributories is summoned by notice the proceedings and resolutions at the meeting shall unless the court otherwise orders be valid notwithstanding that some creditors or contributories may not have received the notice sent to them.

[cf. R. 134]

Rule:	122	Adjournment		30/06/1997
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The chairman may with the consent of the meeting adjourn it from time to time and from place to place, but the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified or unless the court otherwise orders. (See Form 78)

[cf. R. 135]

Rule:	123	Quorum		30/06/1997
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(1) A meeting may not act for any purpose except the election of a chairman, the proving of debts and the adjournment of the meeting unless there are present or represented thereat at least 3 creditors entitled to vote or three contributories or all the creditors entitled to vote or all the contributories, if the number of the creditors entitled to vote or the contributories as the case may be shall not exceed 3.

(2) If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented the meeting shall be adjourned to the same day in the following week at the same time and place or to such other day as the chairman may appoint not being less than 7 or more than 21 days, from the day from which the meeting was adjourned. (See Form 21)

[cf. R. 136]

Rule:	124	Creditors entitled to vote	46 of 2000	01/07/2000
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Expanded Cross Reference:

125, 126, 127, 128

(1) In the case of a first meeting of creditors or of an adjournment thereof a person shall not be entitled to vote as a creditor unless he has duly lodged with the liquidator not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting a proof of the debt which he claims to be due to him from the company. In the case of a court meeting or liquidator's meeting of creditors a person shall not be entitled to vote as a creditor unless he has lodged with the liquidator a proof of the debt which he claims to be due to him from the company and such proof has been admitted wholly or in part before the date on which the meeting is held: (46 of 2000 s. 40)

Provided that this and rules 125 to 128 shall not apply to a court meeting of creditors held prior to the first meeting of creditors. <* Note - Exp. X-Ref.: Rules 125, 126, 127, 128 *>

(2) This rule shall not apply to any creditors or class of creditors who by virtue of any direction given under these rules are not required to prove their debts or to any voluntary liquidation meeting.

[cf. R. 137]

Rule:	125	Cases in which creditors may not vote	L.N. 163 of 2013	03/03/2014
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A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained, nor shall a creditor vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a bankruptcy order has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

(28 of 2012 ss. 912 & 920)

[cf. R. 138]

Rule:	126	Votes of secured creditors		30/06/1997
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For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof or in a voluntary liquidation in such a statement as is hereinafter mentioned the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security, unless the court on application is satisfied that the omission to value the security has arisen from inadvertence.

[cf. R. 139]

Rule:	127	Creditor required to give up security		30/06/1997
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The Official Receiver or liquidator may within 28 days after a proof or in a voluntary liquidation a statement estimating the value of a security as aforesaid has been used in voting at a meeting require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated with an addition thereto of 20 per cent:

Provided that where a creditor has valued his security he may at any time before being required to give it up correct the valuation by a new proof and deduct the new value from his debt, but in that case the said addition of 20 per cent shall not be made if the security is required to be given up.

[cf. R. 140]

Rule:	128	Admission and rejection of proofs for purpose of voting		30/06/1997
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The chairman shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court. If he is in doubt whether a proof should be admitted or rejected he shall mark it as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

[cf. R. 141]

Rule:	129	Statement of security		30/06/1997
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For the purpose of voting at any voluntary liquidation meetings a secured creditor shall unless he surrender his security lodge with the liquidator or where there is no liquidator at the registered office of the company before the meeting a statement giving the particulars of his security, the date when it was given and the value at which he assesses it.

[cf. R. 142]

Rule:	130	Minutes of meeting		30/06/1997
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(1) The chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose or in the file of proceedings and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

(2) A list of creditors and contributories present at every meeting shall be made and kept as in Form 22. (See Form 22)

[cf. R. 143]

Rule:	131	Proxies	L.N. 190 of 2016	13/02/2017
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PROXIES IN RELATION TO A WINDING UP BY THE COURT,
AND TO MEETINGS OF CREDITORS IN A CREDITORS
VOLUNTARY WINDING UP, INCLUDING A
WINDING UP UNDER SECTION 228A

(L.N. 201 of 1984)

A creditor or a contributory may vote either in person or by proxy. Where a person is authorized in manner provided by section 285A of the Ordinance, or ~~section 606 or 607 of the Companies Ordinance (Cap 622)~~[rule 85 or 86¹](#), to represent a corporation at any meeting of creditors or contributories such person shall produce to the Official Receiver or liquidator or other the chairman of the meeting a copy of the resolution so authorizing him. Such copy must either be under the seal of the corporation or must be certified to be a true copy by the company secretary or a director of the corporation. The succeeding rules as to proxies shall not (unless otherwise directed by the court) apply to a court meeting of creditors or contributories prior to the first meeting.

(28 of 2012 ss. 912 & 920; 14 of 2016 s. 157)

[cf. R. 144]

Rule:	132	Form of proxies		30/06/1997
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Every instrument of proxy shall be in accordance with the form in the Appendix and shall be signed by-

- (a) the person giving the proxy;
- (b) any manager or clerk or any other person in the regular employment of the person referred to in paragraph (a); or
- (c) a solicitor employed by the person referred to in paragraph (a) in connection with the matter.

(L.N. 286 of 1997)

Rule:	133	Forms of proxy to be sent with notices		30/06/1997
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General and special forms of proxy shall be sent to the creditors and contributories with the notice summoning the meeting, and neither the name nor description of the Official Receiver or liquidator or any other person shall be printed or inserted in the body of any instrument of proxy before it is so sent.

[cf. R. 146]

Rule:	134	General proxies		30/06/1997
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A creditor or a contributory may give a general proxy to any person.

[cf. R. 147]

Rule:	135	Special proxies		30/06/1997
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A creditor or a contributory may give a special proxy to any person to vote at any specified meeting or adjournment thereof-

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

[cf. R. 148]

Rule:	136	Solicitation by liquidator to obtain proxies		30/06/1997
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Where it appears to the satisfaction of the court that any solicitation has been used by or on behalf of a liquidator in obtaining proxies or in procuring his appointment as liquidator except by the direction of a meeting of creditors or contributories, the court if it thinks fit may order that no remuneration be allowed to the person by whom or on whose

¹ This refers to rule 85 or 86 of the Securities and Futures (Open-ended Fund Companies) Rules.

behalf the solicitation was exercised notwithstanding any resolution of the committee of inspection or of the creditors or contributories to the contrary.

[cf. R. 149]

Rule:	137	Proxies to Official Receiver or liquidator		30/06/1997
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A creditor or a contributory in a winding up by the court may appoint the Official Receiver or liquidator and in a voluntary winding up the liquidator or if there be no liquidator the chairman of a meeting to act as his general or special proxy.

[cf. R. 150]

Rule:	138	Holder of proxy not to vote on matter in which he is financially interested		30/06/1997
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No person acting either under a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the assets of the company otherwise than as creditor rateably with the other creditors of the company:

Provided that where any person holds special proxies to vote for an application to the court in favour of the appointment of himself as liquidator he may use the said proxies and vote accordingly.

[cf. R. 151]

Rule:	139	Lodgment of proxies	46 of 2000	01/07/2000
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(1) A proxy intended to be used at the first meeting of creditors or contributories, or an adjournment thereof, shall be lodged with the liquidator not later than the time mentioned for that purpose in the notice convening the meeting or the adjourned meeting, which time shall be not earlier than 12 o'clock at noon of the day but one before, nor later than 12 o'clock at noon of the day before the day appointed for such meeting, unless the court otherwise directs. (46 of 2000 s. 40)

(2) In every other case a proxy shall be lodged with the liquidator in a winding up by the court, with the company at its registered office for a meeting under section 241 of the Ordinance and with the liquidator or if there is no liquidator with the person named in the notice convening the meeting to receive the same in a voluntary winding up not later than 4 o'clock in the afternoon of the day before the meeting or adjourned meeting at which it is to be used. (46 of 2000 s. 40)

(2A) A proxy required to be lodged in accordance with paragraph (1) or (2) shall be deemed to have been so lodged if such proxy is sent by facsimile transmission to and received by the person specified in paragraph (1) or (2), as the case may be, within the time provided. (L.N. 286 of 1997)

(3) No person shall be appointed a general or special proxy who is a minor.

[cf. R. 152]

Rule:	140	Use of proxies by deputy		30/06/1997
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Where the Official Receiver holds any proxies and cannot attend the meeting for which they are given, he may, in writing, depute some person under his official control to use the proxies on his behalf, and in such manner as he may direct.

[cf. R. 153]

Rule:	141	Filling in where creditor blind or incapable		30/06/1997
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The proxy of a creditor blind or incapable of writing may be accepted, if such creditor has attached his signature or mark thereto in the presence of a witness, who shall add to his signature his description and residence:

Provided that all insertions in the proxy are in the handwriting of the witness and such witness shall have certified at the foot of the proxy that all such insertions have been made by him at the request of the creditor and in his presence before he attached his signature or mark.

[cf. R. 154]

Rule:	142	Dividends to creditors	L.N. 190 of 2016	13/02/2017
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DIVIDENDS IN A WINDING UP BY THE COURT

(1) Not more than 4 months before declaring a dividend the liquidator in a winding up by the court shall, by publication in the Gazette, give notice of his intention to do so, and shall at the same time give notice to such of the creditors mentioned in the statement of affairs or a supplementary affidavit in relation to that statement as have not proved their debts. Such notice shall specify the latest date up to which proofs must be lodged, which shall not be less than 14 days from the date of such notice. (See Forms 67, 70 & 103(4)) (L.N. 286 of 1997; 14 of 2016 s. 158)

(2) Where any creditor, after the date mentioned in the notice of intention to declare a dividend as the latest date up to which proofs may be lodged, appeals against the decision of the liquidator rejecting a proof, notice of appeal shall, subject to the power of the court to extend the time in special cases, be given within 7 days from the date of the notice of the decision against which the appeal is made, and the liquidator may in such case make provision for the dividend upon such proof, and the probable costs of such appeal in the event of the proof being admitted. Where no notice of appeal has been given within the time specified in this rule, the liquidator shall exclude all proofs which have been rejected from participation in the dividend.

(3) Immediately after the expiration of the time fixed by this rule for appealing against the decision of the liquidator he shall proceed to declare a dividend, and shall, by publication in the Gazette, give notice of such dividend, and shall also send a notice of dividend to each creditor whose proof has been admitted. (See Forms 71 & 103(5)) (L.N. 286 of 1997)

(4) If it becomes necessary, in the opinion of the liquidator and the committee of inspection, to postpone the declaration of the dividend beyond the limit of 4 months, the liquidator shall, by publication in the Gazette, give a fresh notice of his intention to declare a dividend; but it shall not be necessary for the liquidator to give a fresh notice to such of the creditors mentioned in the statement of affairs or a supplementary affidavit in relation to that statement as have not proved their debts. In all other respects the same procedure shall follow the fresh notice as would have followed the original notice. (L.N. 286 of 1997; 14 of 2016 s. 158)

(5) Upon the declaration of a dividend the liquidator shall forthwith transmit to the Official Receiver a list of the proofs filed with the Registrar under rule 101, which list shall be in the Form 68 or 69, as the case may be, and the liquidator shall, if so required by the Official Receiver, transmit to him, office copies of all lists of proofs filed by him up to the date of the declaration of the dividend. (See Forms 68 & 69)

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

(7) If a person to whom dividends are payable desires that they shall be paid to some other person he may lodge with the liquidator a document in the Form 72 which shall be a sufficient authority for payment of the dividend to the person therein named. (See Form 72)

(8) The Official Receiver when he is liquidator shall cause to be gazetted notice of his intention to declare a dividend and notice of his declaration thereof, and shall also at the same time give to creditors notice of such intention or of such declaration in like manner as notice thereof is required to be given by a liquidator other than the Official Receiver.

[cf. R. 117]

Rule:	143	Return of capital to contributories		30/06/1997
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Every order by which the liquidator in a winding up by the court is authorized to make a return to contributories of the company shall, unless the court shall otherwise direct, contain or have appended thereto a schedule or list (which the liquidator shall prepare) setting out in a tabular form the full names and addresses of the persons to whom the return is to be paid, and the amount of money payable to each person, and particulars of the transfers of shares (if any) which have been made or the variations in the list of contributories which have arisen since the date of the settlement of the list of contributories and such other information as may be requisite to enable the return to be made. The schedule or list shall be in the Form 74 with such variations as circumstances shall require, and the liquidator shall send a notice of return to each contributory. (See Forms 73, 74 & 103(6))

[cf. R. 118]

Rule:	144	Attendance at proceedings		30/06/1997
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ATTENDANCE AND APPEARANCE OF PARTIES

(1) Every person for the time being on the list of contributories of the company, and every person whose proof has been admitted shall be at liberty, at his own expense, to attend proceedings, and shall be entitled, upon payment of the costs occasioned thereby, to have notice of all such proceedings as he shall by written request desire to have notice of:

Provided that if the court shall be of opinion that the attendance of any such person upon any proceedings has occasioned any additional costs which ought not to be borne by the funds of the company, it may direct such costs, or a gross sum in lieu thereof, to be paid by such person; and such person shall not be entitled to attend any further proceedings until he has paid the same.

(2) The court may from time to time appoint any one or more of the creditors or contributories to represent before the court, at the expense of the company, all or any class of the creditors or contributories, upon any question or in relation to any proceedings before the court, and may remove the person so appointed. If more than one person is appointed under this rule to represent one class, the persons appointed shall employ the same solicitor to represent them.

(3) No creditor or contributory shall be entitled to attend any proceedings in chambers unless and until he has entered in a book, to be kept by the Registrar for that purpose, his name and address, and the name and address of his solicitor (if any) and upon any change of his address or of his solicitor, his new address, and the name and address of his new solicitor.

[cf. R. 155]

Rule:	145	Attendance of liquidator's solicitor		30/06/1997
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Where the attendance of the liquidator's solicitor is required on any proceeding in court or chambers, the liquidator need not attend in person, except in cases where his presence is necessary in addition to that of his solicitor, or the court directs him to attend.

[cf. R. 156]

Rule:	146	Remuneration of liquidator	46 of 2000	01/07/2000
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LIQUIDATOR AND COMMITTEE OF INSPECTION

(1) Where the remuneration of a liquidator is determined by the committee of inspection, it may be in the nature of a commission or percentage of which one part shall be payable on the amount realized, after deducting the sums (if any) paid to secured creditors (other than debenture holders) out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If there is no committee of inspection, the remuneration of the liquidator shall, unless otherwise provided for under the Ordinance or ordered by the court, be fixed by the scale of fees and percentages for the time being payable on realizations and distributions by the Official Receiver as liquidator. (46 of 2000 s. 40)

(3) This rule shall only apply to a liquidator appointed in a winding up by the court.

(25 of 1985 s. 7)

[cf. R. 157]

Rule:	147	Limit of remuneration		30/06/1997
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Except as provided by the Ordinance or the rules, a liquidator shall not under any circumstances whatever, make any arrangement for, or accept from any solicitor, auctioneer, or any other person connected with the company of which he is liquidator, or who is employed in or in connexion with the winding up of the company, any gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration to which under the Ordinance and the rules he is entitled as liquidator, nor shall he make any arrangement for giving up, or give up any part of such remuneration to any such solicitor, auctioneer, or other person.

[cf. R. 158]

Rule:	148	Dealings with assets	L.N. 190 of 2016	13/02/2017
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Neither the liquidator nor any member (or the representative of a member) of the committee of inspection of a

company shall, while acting as liquidator or member (or the representative of a member) of such committee, except by leave of the court, either directly or indirectly, by himself or any employer, partner, clerk, agent, or servant, become purchaser of any part of the company's assets. Any such purchase made contrary to the provisions of this rule may be set aside by the court on the application of the Official Receiver in a winding up by the court of any creditor or contributory in any winding up and the court may make such order as to costs as the court shall think fit.

(14 of 2016 s. 159)
[cf. R. 159]

Rule:	149	Restriction on purchase of goods by liquidator		30/06/1997
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Where the liquidator carries on the business of the company, he shall not, without the express sanction of the court, purchase goods for the carrying on of such business from any person whose connexion with the liquidator is of such a nature as would result in the liquidator obtaining any portion of the profit (if any) arising out of the transaction.

[cf. R. 160]

Rule:	150	Committee of inspection not to make profit	L.N. 190 of 2016	13/02/2017
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No member (or the representative of a member) of a committee of inspection shall, except under and with the sanction of the court, directly or indirectly, by himself or any employer, partner, clerk, agent, or servant, be entitled to derive any profit from any transaction arising out of the winding up, or to receive out of the assets any payment for services rendered by him in connexion with the administration of the assets, or for any goods supplied by him to the liquidator for or on account of the company. In a winding up by the court, if it appears to the Official Receiver or in a voluntary winding up if it appears to the committee of inspection or to any meeting of creditors or contributories that any profit or payment has been made contrary to the provisions of this rule, they may disallow such payment or recover such profit, as the case may be, on the audit of the liquidator's accounts, or otherwise.

(14 of 2016 s. 160)
[cf. R. 161]

Rule:	151	Costs of obtaining sanction of court		30/06/1997
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In any case in which the sanction of the court is obtained under rule 149 or 150, the cost of obtaining such sanction shall be borne by the person in whose interest such sanction is obtained, and shall not be payable out of the company's assets.

[cf. R. 162]

Rule:	152	Sanction of payments to committee	L.N. 190 of 2016	13/02/2017
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Where the sanction of the court to a payment to a member (or the representative of a member) of a committee of inspection for services rendered by the member (or the representative) in connexion with the administration of the company's assets is obtained, the order of the court shall specify the nature of the services, and such sanction shall only be given where the service performed is of a special nature. Except by the express sanction of the court no remuneration shall, under any circumstances, be paid to a member (or the representative of a member) of a committee for services rendered by the member (or the representative) in the discharge of the duties attaching to his office as a member of such committee.

(14 of 2016 s. 161)
[cf. R. 163]

Rule:	153	Discharge of costs before assets handed to liquidator	46 of 2000	01/07/2000
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(1) Where a liquidator is appointed by the court or under the Ordinance, and has notified his appointment to the registrar of companies, and given security to the satisfaction of the Official Receiver, the provisional liquidator shall forthwith put the liquidator into possession of all property of the company of which the provisional liquidator may have custody:

Provided that such liquidator shall have, before the assets are handed over to him by the provisional liquidator, discharged any balance due to the Official Receiver and provisional liquidator on account of fees, costs, and charges properly incurred by him, and on account of any advances properly made by him in respect of the company, together with interest on such advances at the rate of 8 per cent per annum; and the liquidator shall pay all fees, costs, and

charges of the Official Receiver and provisional liquidator which may not have been discharged by the liquidator before being put into possession of the property of the company, and whether incurred before or after he has been put into such possession. (L.N. 587 of 1995)

(2) The Official Receiver and provisional liquidator shall be deemed to have a lien upon the company's assets until such balance shall have been paid and the other liabilities shall have been discharged.

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

(4) This rule and rule 154 shall apply only in a winding up by the court.

(46 of 2000 s. 40)
[cf. R. 164]

Rule:	154	Resignation of liquidator in winding up by court	L.N. 190 of 2016	13/02/2017
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- (1) If a liquidator in a winding up by the court wishes to resign from the office of liquidator, the liquidator must summon separate meetings of the creditors and contributories of the company to decide whether or not the resignation is to be accepted.
- (2) If the creditors and contributories both by resolutions agree to accept the resignation, the liquidator must—
 - (a) file with the Registrar a memorandum of the resignation; and
 - (b) send notice of the filing to the Official Receiver.
- (3) The resignation takes effect upon the liquidator complying with paragraph (2).
- (4) If paragraph (2) does not apply, the liquidator must—
 - (a) report to the court the result of the meetings; and
 - (b) send a report on the result of the meetings to the Official Receiver.
- (5) If paragraph (4) is complied with, the court may, on application by the liquidator or the Official Receiver—
 - (a) determine whether or not to accept the resignation; and
 - (b) give any directions and make any orders that the court thinks necessary.

(14 of 2016 s. 162)

Rule:	154A	Resignation of liquidator in creditors' voluntary winding up	L.N. 190 of 2016	13/02/2017
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- (1) If a liquidator in a creditors' voluntary winding up wishes to resign from the office of liquidator, the liquidator must summon a meeting of the creditors of the company to decide whether or not the resignation is to be accepted.
- (2) The creditors may by resolution agree to accept the resignation.
- (3) The resignation takes effect on the passing of the resolution.
- (4) If the creditors do not accept the resignation, the liquidator must report to the court the result of the meeting.
- (5) If paragraph (4) is complied with, the court may, on application by the liquidator—
 - (a) determine whether or not to accept the resignation; and
 - (b) give any directions and make any orders that the court thinks necessary.

(14 of 2016 s. 163)

Rule:	154B	Resignation of liquidator in members' voluntary winding up	L.N. 190 of 2016	13/02/2017
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- (1) If a liquidator in a members' voluntary winding up wishes to resign from the office of liquidator, the liquidator must summon a general meeting of the company to decide whether or not the resignation is to be accepted.
- (2) The members of the company may by an ordinary resolution agree to accept the resignation.
- (3) The resignation takes effect on the passing of the resolution.
- (4) If the members do not accept the resignation, the liquidator must report to the court the result of the meeting.
- (5) If paragraph (4) is complied with, the court may, on application by the liquidator—
 - (a) determine whether or not to accept the resignation; and
 - (b) give any directions and make any orders that the court thinks necessary.

(14 of 2016 s. 163)

Rule:	155	Cessation of office of liquidator	L.N. 190 of 2016	13/02/2017
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If a person appointed as a provisional liquidator or liquidator of a company is disqualified under section 262B of the Ordinance, then as soon as the person is disqualified—

- (a) the person immediately ceases to be the provisional liquidator or liquidator of the company; and
- (b) for the purposes of the Ordinance, these rules and the Companies Ordinance (Cap 622), the person is taken to have been removed from that office.

(14 of 2016 s. 164)

Rule:	156	Payments out of bank		30/06/1997
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PAYMENTS INTO AND OUT OF A BANK

All payments out of the companies liquidation account shall be made in such manner as the Director of Accounting Services may from time to time direct.

(L.N. 16 of 1977)

[cf. R. 167]

Rule:	157	Special bank account	L.N. 239 of 1999	11/11/1999
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(1) Where the liquidator in a winding up by the court is authorized to have a special bank account, he shall forthwith pay all moneys received by him into that account to the credit of the liquidator of the company. All payments out shall be made by cheque payable to order, and every cheque shall have marked or written on the face of it the name of the company, and shall be signed by the liquidator, and shall be countersigned by such other person, if any, as the committee of inspection may appoint. (30 of 1999 s. 44)

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

[cf. R. 168]

Rule:	158	Record of proceedings	46 of 2000	01/07/2000
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BOOKS

In a winding up by the court the provisional liquidator, until a liquidator is appointed under the Ordinance or by the court, and thereafter the liquidator, shall keep a record in which he shall record all minutes, all proceedings had and resolutions passed at any meeting of creditors or contributories, or of the committee of inspection, and all such matters as may be necessary to give a correct view of his administration of the company's affairs, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors or contributories), nor need he exhibit such document to any person other than a member of the committee of inspection, or the Official Receiver.

(46 of 2000 s. 40)

[cf. R. 169]

Rule:	159	Cash Book	46 of 2000	01/07/2000
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(1) In a winding up by the court, the provisional liquidator, until a liquidator is appointed under the Ordinance or by the court, and thereafter the liquidator, shall keep a book to be called the "Cash Book" (which shall be in such form as the Official Receiver may from time to time direct) in which he shall (subject to the provisions of the rules as to trading accounts) enter from day to day the receipts and payments made by him. (46 of 2000 s. 40)

(2) In a winding up by the court, a liquidator other than the Official Receiver, shall submit the record and Cash Book, together with any other requisite books and vouchers, to the committee of inspection (if any) when required, and not less than once every 3 months.

(3) In a creditors voluntary winding up the liquidator shall keep such books as the committee of inspection or if there is no such committee as the creditors direct and all books kept by the liquidator shall be submitted to the committee of inspection or if there is no such committee to the creditors with any other books documents papers and

accounts in his possession relating to his office as liquidator or to the company as and when the committee of inspection or if there is no such committee the creditors direct.

[cf. R. 170]

Rule:	160	Investment of assets in securities, and realization of securities		30/06/1997
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INVESTMENT OF FUNDS

(1) Where in a winding up by the court or in a creditors voluntary winding up, the committee of inspection are of opinion that any part of the cash balance standing to the credit of the account of the company should be invested, they shall so advise the liquidator and the liquidator shall inform the Official Receiver in writing accordingly.

(2) Where the committee of inspection in any such winding up are of opinion that it is advisable to sell any of the securities in which the moneys of the company's assets are invested or to withdraw any money of the company's assets held on deposit, they shall so advise the liquidator and the liquidator shall inform the Official Receiver in writing accordingly. (L.N. 197 of 1987)

(3) Where there is no committee of inspection in any such winding up as is mentioned in paragraphs (1) and (2) and members' voluntary winding up a case has in the opinion of the liquidator arisen under section 295 of the Ordinance for an investment of funds of the company, a withdrawal of funds of the company held on deposit in a bank or a sale of securities in which the company's funds have been invested, the liquidator shall inform the Official Receiver in writing accordingly, stating the facts on which his opinion is founded and requesting the Official Receiver to make the investment, withdrawal or sale. (L.N. 197 of 1987)

(L.N. 247 of 1994)

[cf. R. 171]

Rule:	161	Audit of Cash Book		30/06/1997
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ACCOUNTS AND AUDIT IN A WINDING UP BY THE COURT

The committee of inspection shall not less than once every 3 months audit the liquidator's Cash Book and certify therein under their hands the day on which the said book was audited. (See Form 86)

[cf. R. 172]

Rule:	162	Official Receiver's audit of liquidator's accounts	L.N. 190 of 2016	13/02/2017
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(1) The liquidator shall, at the expiration of 6 months from the date of the winding up order, and at the expiration of every succeeding 6 months thereafter until his release, transmit to the Official Receiver a copy of the Cash Book for such period in duplicate, together with the necessary vouchers and copies of the certificates of audit by the committee of inspection. He shall also forward with the first accounts, a summary of the company's statement of affairs and any supplementary affidavit in relation to that statement, showing thereon in red ink the amounts realized, and explaining the cause of the non-realization of such assets as may be unrealized. The liquidator shall also at the end of every 6 months forward to the Official Receiver, with his accounts, a report upon the position of the liquidation of the company in such form as the Official Receiver may direct. (14 of 2016 s. 165)

(2) When the assets of the company have been fully realized and distributed, the liquidator shall forthwith send in his accounts to the Official Receiver, although the 6 months may not have expired.

(3) The accounts sent in by the liquidator shall be certified to be correct by him in writing. (L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 173]

Rule:	163	Liquidator carrying on business		30/06/1997
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(1) Where the liquidator carries on the business of the company, he shall keep a distinct account of the trading, and shall incorporate in the Cash Book the total weekly amounts of the receipts and payments on such trading account.

(2) The trading account shall from time to time, and not less than once in every month, be certified to be correct by the liquidator in writing, and the liquidator shall thereupon submit such account to the committee of inspection (if any) or such member thereof as may be appointed by the committee for that purpose, who shall examine and certify the same. (See Forms 88 & 89) (L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 174]

Rule:	164	Copy of accounts to be filed		30/06/1997
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When the liquidator's account has been audited, the Official Receiver shall certify the fact upon the account, and thereupon the duplicate copy, bearing a like certificate, shall be filed with the Registrar.

[cf. R. 175]

Rule:	165	Summary of accounts		30/06/1997
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(1) Subject to the proviso to section 203(5) of the Ordinance, the liquidator shall transmit to the Official Receiver with his accounts a summary of such accounts in such form as the Official Receiver may from time to time direct, and, on the approval of such summary by the Official Receiver, shall forthwith obtain, prepare, and transmit to the Official Receiver so many printed copies thereof, duly stamped for transmission by post, and addressed to the creditors and contributories, as may be required for transmitting such summary to such creditor and contributory. (L.N. 201 of 1984)

(1A) Where under the said proviso the Official Receiver dispenses with compliance with section 203(5) of the Ordinance, he may, if he thinks fit, give a written certificate to that effect which shall be filed with the proceedings in the winding up and shall render an application to the court unnecessary. (L.N. 201 of 1984)

(2) The cost of printing and posting such copies shall be a charge upon the assets of the company.

[cf. R. 176]

Rule:	166	Statement of no receipts		30/06/1997
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Where a liquidator has not since the date of his appointment or since the last audit of his accounts, as the case may be, received or paid any sum of money on account of the assets of the company, he shall, at the time when he is required to transmit his accounts to the Official Receiver, forward to the Official Receiver a statement of no receipts or payments certified to be correct by him.

(L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 177]

Rule:	167	Proceedings on resignation, &c., of liquidator	L.N. 190 of 2016	13/02/2017
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(1) Upon a liquidator resigning, or being released or removed from his office, he shall deliver over to the Official Receiver, or as the case may be, to the new liquidator, all books kept by him, and all other books, documents, papers, and accounts in his possession relating to the office of liquidator. The release of a liquidator shall not take effect unless and until he has delivered over to the Official Receiver, or as the case may be to the new liquidator, all the books, papers, documents, and accounts which he is by this rule required to deliver on his release.

(1A) Paragraphs (1B) and (1C) apply if a liquidator has passed away and the personal representative of the deceased liquidator has applied to the court for the release of the deceased liquidator. (14 of 2016 s. 166)

(1B) On the grant of the release, the personal representative must deliver over to the Official Receiver, or (if a new liquidator has been appointed) to the new liquidator—

(a) all books kept by the deceased liquidator immediately before his or her death; and

(b) all other books, documents, papers, and accounts relating to the office of the deceased liquidator in the possession of the deceased liquidator immediately before his or her death. (14 of 2016 s. 166)

(1C) The release does not take effect unless and until paragraph (1B) has been complied with. (14 of 2016 s. 166)

(2) The court may, at any time during the progress of the liquidation, on the application of the liquidator or the Official Receiver, direct that such of the books, papers, and documents of the company or of the liquidator as are no longer required for the purpose of the liquidation, may be sold, destroyed, or otherwise disposed of.

[cf. R. 178]

Rule:	168	Expenses of sales		30/06/1997
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Where property forming part of a company's assets is sold by the liquidator through an auctioneer or other agent, the gross proceeds of the sale shall be paid over by such auctioneer or agent, and the charges and expenses connected with the sale shall afterwards be paid to such auctioneer or agent, on the production of the necessary certificate of the taxing officer. Every liquidator by whom such auctioneer or agent is employed, shall, unless the court otherwise

orders, be accountable for the proceeds of every such sale.

[cf. R. 179]

Rule:	169	Taxation of costs payable by or to Official Receiver or liquidator or by company		30/06/1997
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TAXATION OF COSTS

Every solicitor, manager, accountant, auctioneer, broker, or other person employed by an Official Receiver or liquidator in a winding up by the court shall on request by the Official Receiver or liquidator (to be made a sufficient time before the declaration of a dividend) deliver his bill of costs or charges to the Official Receiver or liquidator for the purpose of taxation; and if he fails to do so within the time stated in the request, or such extended time as the court may allow, the liquidator shall declare and distribute the dividend without regard to such person's claim, and subject to any order of the court the claim shall be forfeited. The request by the Official Receiver or liquidator shall be in the Form 90. (See Form 90)

[cf. R. 180]

Rule:	170	Notice of appointment		30/06/1997
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Where a bill of costs or charges in any winding up has been lodged with the taxing officer, he shall give notice of an appointment to tax the same, in a winding up by the court to the Official Receiver, and in every winding up to the liquidator, and to the person to or by whom the bill or charges is or are to be paid (as the case may be).

[cf. R. 181]

Rule:	171	Lodgment of bill	46 of 2000	01/07/2000
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The bill or charges, if incurred in a winding up by the court prior to the appointment of a liquidator, shall be lodged with the provisional liquidator, and if incurred after the appointment of a liquidator, shall be lodged with the liquidator. The provisional liquidator or the liquidator, as the case may be, shall lodge the bill or charges with the taxing officer.

(46 of 2000 s. 40)

[cf. R. 182]

Rule:	172	Copy of the bill to be furnished		30/06/1997
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Every person whose bill or charges in a winding up by the court is or are to be taxed shall, on application either of the Official Receiver or the liquidator, furnish a copy of his bill or charges so to be taxed, on payment at the rate of 75 cents per folio, which payment shall be charged on the assets of the company. The Official Receiver shall call the attention of the liquidator to any items which, in his opinion, ought to be disallowed or reduced, and may attend or be represented on the taxation.

(L.N. 50 of 1964)

[cf. R. 183]

Rule:	173	Applications for costs	L.N. 163 of 2013	03/03/2014
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Where any party to, or person affected by, any proceeding desires to make an application for an order that he be allowed his costs, or any part of them, incident to such proceeding, and such application is not made at the time of the proceeding- (L.N. 178 of 1978; 28 of 2012 ss. 912 & 920)

- (a) such party or person shall serve notice of his intended application on the Official Receiver or on the liquidator, as the case may be;
- (b) the Official Receiver or liquidator may appear on such application and object thereto;
- (c) no costs of or incident to such 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 proceeding.

[cf. R. 184]

Rule:	174	Certificate of taxation		30/06/1997
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Upon the taxation of any bill of costs, charges, or expenses being completed, the taxing officer shall issue to the person presenting such bill for taxation his allowance or certificate of taxation. The bill of costs, charges, and expenses, together with the allowance or certificate, shall be filed with the Registrar. (See Form 91)

[cf. R. 185]

Rule:	175	Certificate of employment	L.N. 190 of 2016	13/02/2017
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(1) Where the bill or charges of any solicitor, manager, accountant, auctioneer, broker, or other person employed by an 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. (14 of 2016 s. 167)

(2) If a bill of costs of a solicitor is produced to the taxing officer on the taxation of the bill, it must be accompanied by—

- (a) a copy of the resolution or any other authority sanctioning the employment of the solicitor to assist the liquidator in performing the liquidator's duties, or proof that the requirement under section 199(4)(b) of the Ordinance has been complied with; and
- (b) the instructions given to the solicitor by the liquidator. (14 of 2016 s. 167)

[cf. R. 186]

Rule:	176	Costs and taxation of bill exceeding \$3000*	L.N. 190 of 2016	13/02/2017
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(1) Subject to paragraph (2), if the bill of costs, charges and disbursements of a person employed by the Official Receiver or the liquidator, incurred in a winding up by the court, exceed \$3000 in the aggregate, such bill of costs, charges and disbursements shall be taxed by the Registrar. (L.N. 286 of 1997; 14 of 2016 s. 168)

(2) Taxation is not required if the bill of costs, charges and disbursements has been approved by a committee of inspection by resolution. (14 of 2016 s. 168)

Note:

* (14 of 2016 s. 168)

Rule:	177	Review of taxation and appeals thereon	25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

The procedure and practice of the High Court shall be observed in all reviews of taxation.

(25 of 1998 s. 2)

[cf. R. 190]

Rule:	178	Liquidator's charges		30/06/1997
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COSTS AND EXPENSES PAYABLE OUT OF THE ASSETS OF THE COMPANY

(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 Ordinance or rules to be performed by himself.

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

[cf. R. 191]

Rule:	179	Costs payable out of the assets	L.N. 190 of 2016	13/02/2017
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(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 fees, percentages and charges payable to, or costs, charges and expenses incurred by or authorized by, the Official Receiver, whether acting as Official Receiver or liquidator, including the costs of any person properly employed by him.

Next.-The taxed costs of the petition, including the taxed costs of any person appearing on the petition whose costs are allowed by the court but excluding the interest on such costs. (46 of 2000 s. 40)

Next.-The remuneration of and any fees, disbursements and expenses properly incurred by the special manager (if any). (46 of 2000 s. 40)

Next.-The costs and expenses of any person who makes the statement of affairs of the company or a supplementary affidavit in relation to that statement. (14 of 2016 s. 169)

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, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance, other than expenses properly incurred in preserving, realizing or getting in the assets heretofore provided for. (46 of 2000 s. 40)

Next.-The costs of any person properly employed by any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance. (46 of 2000 s. 40)

Next.-The remuneration of any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance. (46 of 2000 s. 40)

Next.-The actual out-of-pocket expenses necessarily incurred by the committee of inspection, subject to the approval of the Official Receiver.

Next.-The reasonable expenses incurred directly by members of the committee of inspection or their representatives in respect of travelling within Hong Kong-

- (a) to attend the committee's meetings; or
- (b) on the committee's business. (14 of 2016 s. 169)

(2) A payment in respect of a bill or charges of a solicitor, manager, accountant, auctioneer, broker or other person is only allowed out of the assets of a company on proof that the payment has been allowed by the Registrar, unless it is-

- (a) a payment made for costs and expenses payable under section 190A of the Ordinance;
- (b) a payment of a bill that has been taxed and allowed under an order made for its taxation; or
- (c) a payment in respect of a bill or charges that have been approved by the committee of inspection by resolution. (14 of 2016 s. 169)

(2A) Before allowing the bill or charges mentioned in paragraph (2), a taxing officer must be satisfied that-

- (a) the employment of the solicitor or other person in respect of the matters mentioned in the bill or charges has been duly sanctioned; or
- (b) in relation to the employment of a solicitor, proof that the requirement under section 199(4)(b) of the Ordinance has been complied with. (14 of 2016 s. 169)

(2B) Despite paragraphs (2) and (2A), the Official Receiver, when acting as a liquidator, may, without taxation, pay and allow the costs and charges of a person (other than a solicitor) employed by the Official Receiver, if the costs and charges-

- (a) are within the scale usually allowed by the court; and
- (b) do not exceed \$3000 in total. (14 of 2016 s. 169)

(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 or a judge thereof to be paid by the company or the liquidator, or the rights of the person to whom such costs are payable.

(L.N. 245 of 1977)
[cf. R. 192]

Rule:	180	Conclusion of winding up	30/06/1997
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STATEMENTS BY LIQUIDATOR TO THE REGISTRAR OF COMPANIES

The winding up of a company shall, for the purposes of section 284 of the Ordinance, be deemed to be concluded-

- (a) 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 205 of the Ordinance;
- (b) in the case of a company wound up voluntarily, 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. (L.N. 201 of 1984)

[cf. R. 193]

Rule:	181	Times of sending liquidator's statements, and regulations applicable thereto		30/06/1997
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In a voluntary winding up, 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- (L.N. 201 of 1984)

- (a) the first statement commencing at the date when a liquidator was first appointed and brought down to the end of 12 months from the commencement of the winding up, shall be sent within 30 days from the expiration of such 12 months, or within such extended period as the court 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;
- (b) subject to rule 182, Form 92, and where applicable Forms 94, 95 and 96, with such variations as circumstances may require, shall be used, and the directions specified in the Form shall (unless the court otherwise directs) be observed in reference to every statement; (See Forms 92, 94, 95 & 96)
- (c) every statement shall be certified to be correct by the liquidator in writing. (L.N. 247 of 1994)

[cf. R. 194]

Rule:	182	Affidavit of no receipts or payments		30/06/1997
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Where in a voluntary winding up 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 92, which statement shall-

- (a) contain the particulars therein required with respect to the proceedings in and position of the liquidation; and
- (b) be certified to be correct by the liquidator in writing. (See Form 92)

(L.N. 201 of 1984; L.N. 247 of 1994)

[cf. R. 195]

Rule:	183	Payment of undistributed and unclaimed money into companies liquidation account		30/06/1997
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UNCLAIMED FUNDS AND UNDISTRIBUTED ASSETS IN THE HANDS OF A LIQUIDATOR

(1) All money in the hands or under the control of a liquidator of a company representing unclaimed dividends, which for 6 months from the date when the dividend became payable have remained in the hands or under the control of the liquidator, shall forthwith, on the expiration of the 6 months, be paid into the companies liquidation account.

(2) In a voluntary winding up all other money in the hands or under the control of a liquidator of a company, representing unclaimed or undistributed assets, which under section 285(1) 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 6 months immediately preceding the date to which the statement is brought down, less such part

(if any) thereof as the Official Receiver may authorize him to retain for the immediate purposes of the liquidation. Such amount shall be paid into the companies liquidation account within 14 days from the date to which the statement of account is brought down. (L.N. 201 of 1984)

(3) Notwithstanding anything in this rule, any moneys 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 pay in the same through the Official Receiver and shall be entitled to a certificate of receipt for the money so paid in Form 105. (See Form 105)

(5) In a voluntary winding up 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), 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, or such securities as the court may direct, such securities, may, with the permission of the court, be transferred to the control of the Official Receiver 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 Official Receiver may realize the securities wholly or in part and pay the proceeds of realization into the companies liquidation account and deal with the same in the same way as other moneys paid into the said account may be dealt with. (L.N. 201 of 1984)

[cf. R. 196]

Rule:	184	Liquidator to furnish information to Official Receiver	30/06/1997
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In a voluntary winding up, every person who has acted as liquidator of any company, whether the liquidation has been concluded or not, shall furnish to the Official Receiver 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 Official Receiver may require for the purpose of ascertaining or getting in any money payable into the companies liquidation account at the bank. The Official Receiver may require such particulars to be verified by affidavit. (See Form 97)

(L.N. 201 of 1984)

[cf. R. 197]

Rule:	185	Official Receiver may call for verified accounts	30/06/1997
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(1) In a voluntary winding up, the Official Receiver may at any time order any such person to submit an account verified by affidavit of the sums received and paid by him as liquidator of the company and may direct and enforce an audit of the account. (See Forms 92 to 96) (L.N. 201 of 1984)

(2) For the purposes of section 285 of the Ordinance, and the rules, the court shall have, and, at the instance of the Official Receiver, may exercise all the powers conferred by the Bankruptcy Ordinance (Cap 6) with respect to the discovery and realization of the property of a debtor, and the provisions of Part I of that Ordinance with respect thereto shall, with any necessary modification, apply to proceedings under section 285 of the Ordinance.

[cf. R. 198]

Rule:	186	Application to the court for enforcing an account, and getting in money	30/06/1997
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An application by the Official Receiver for the purpose of ascertaining and getting in money payable into the bank pursuant to section 285 of the Ordinance, shall be made by motion.

[cf. R. 199]

Rule:	187	Application for payment out by person entitled	30/06/1997
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An application by a person claiming to be entitled to any money paid into the bank in pursuance of section 285 of the Ordinance, shall be made in such form and manner as the Official Receiver may from time to time direct, and shall, unless the Official Receiver otherwise directs, be accompanied by the certificate of the liquidator that the person claiming is entitled and such further evidence as the Official Receiver may direct.

[cf. R. 200]

Rule:	188	Application by liquidator for payment out		30/06/1997
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A liquidator who requires to make payments out of money paid into the bank in pursuance of section 285 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 Official Receiver may direct, and the Official Receiver may thereupon either pay to the liquidator 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.

(L.N. 50 of 1964)
[cf. R. 201]

Rule:	189	Proceedings for release of liquidator	L.N. 190 of 2016	13/02/2017
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RELEASE OF LIQUIDATOR IN A WINDING UP BY THE COURT

(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 to all the creditors who have proved their debts and to all the contributories, and shall send with the notice a summary of all receipts and payments in the winding up. (See Forms 98, 99 & 100)

(1A) If a liquidator in a winding up by the court has passed away and the personal representative of the deceased liquidator intends to apply to the court for the release of the deceased liquidator, the personal representative must, before making the application—

(a) give notice of that intention to—

- (i) all the creditors who have proved their debts; and
- (ii) all the contributories; and

(b) send with the notice a summary of all receipts and payments in the winding up. (14 of 2016 s. 170)

(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 requisite payment for the Gazette, which he may charge against the company's assets.

(3) When the court has granted the release of a deceased liquidator, a notice of the order granting the release must be published in the Gazette. (14 of 2016 s. 170)

(4) The person who applied for the release must provide the necessary payment for publishing the notice of the order under paragraph (3). (14 of 2016 s. 170)

(5) The payment may be charged against the company's assets. (14 of 2016 s. 170)

[cf. R. 202]

Rule:	190	Disposal of books and papers		30/06/1997
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DISPOSAL OF BOOKS AND PAPERS

(L.N. 50 of 1964)

(1) The court may order that the books and papers of a company which has been wound up shall not be destroyed for such period (not exceeding 5 years from the dissolution of the company) as the court thinks proper.

(2) Any creditor or contributory may make representations to the court with regard to the destruction of such books and papers.

(3) A resolution for the destruction of the books and papers of such a company within the said period of 5 years or any shorter period fixed by an order of the court in force at the date of such resolution shall not take effect until the expiration of such period 5 years or of such shorter period unless the court shall otherwise direct.

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

[cf. R. 203]

Rule:	191	Appointment	23 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 23 of 1999 s. 3

OFFICIAL RECEIVERS

(1) Judicial notice shall be taken of the appointment of the Official Receivers appointed by the Chief Executive.

(2) When the Chief Executive appoints any officer to act as deputy for or in the place of an Official Receiver notice thereof shall be given in the Gazette.

(3) Any person so appointed shall, during his tenure of office, have all the status, rights, and powers, and be subject to all the liabilities of an Official Receiver.

(23 of 1999 s. 3)

[cf. R. 204]

Rule:	192	Removal	23 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 23 of 1999 s. 3

Where an Official Receiver is removed from his office by the Chief Executive, notice of the order removing him shall be published in the Gazette.

(23 of 1999 s. 3)

[cf. R. 205]

Rule:	193	Personal performance of duties		30/06/1997
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The court may, by general or special directions determine what acts or duties of the Official Receiver in relation to the winding up of companies are to be performed by him in person, and in what cases he may discharge his functions through the agency of his clerks or other persons in his regular employ, or under his official control.

[cf. R. 206]

Rule:	194	Assistant official receivers	23 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 23 of 1999 s. 3

An assistant official receiver, appointed by the Chief Executive, shall be an officer of the court, as fully as the Official Receiver to whom he is assistant, and, subject to the directions of the court, he may represent the Official Receiver in all proceedings in court, or in any administrative or other matter. Judicial notice shall be taken of the appointment of an assistant official receiver and he may be removed in the same manner as is provided in the case of an Official Receiver.

(23 of 1999 s. 3)

[cf. R. 207]

Rule:	195	Power of certain officers and Official Receivers' clerks in certain cases to act for Official Receivers	23 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 23 of 1999 s. 3

In the absence of the Official Receiver any officer duly authorized for the purpose by the Chief Executive, and any clerk of the Official Receiver duly authorized by him in writing, may by leave of the court act on behalf of the Official Receiver, and take part for him in any public or other examination and in any unopposed application to the court.

(23 of 1999 s. 3)

[cf. R. 208]

Rule:	196	Duties where no assets		30/06/1997
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Where a company against which a winding-up 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.

[cf. R. 209]

Rule:	197	Accounting by Official Receiver		30/06/1997
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(1) Where a liquidator is appointed by the court in a winding up by the court, the Official Receiver shall account to the liquidator.

(2) If the liquidator is dissatisfied with the account or any part thereof, he may report the matter to the court, which shall take such action (if any) thereon as it may deem expedient.

(3) The provisions of these 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.

[cf. R. 210]

Rule:	198	Official Receiver to act as committee of inspection where no committee of inspection appointed		30/06/1997
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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.

[cf. R. 211]

Rule:	199	Appeals from Official Receiver		30/06/1997
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An appeal to the court from an act or decision of the Official Receiver acting otherwise than as liquidator of a company, shall be brought within 21 days from the time when the decision or act appealed against is done, pronounced, or made.

[cf. R. 212]

Rule:	200	Applications under section 204 of the Ordinance*	L.N. 190 of 2016	13/02/2017
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(1) An application by the Official Receiver to the court to examine on oath the liquidator or any other person under section 204 of the Ordinance—

(a) is to be made ex parte; and

(b) is to be supported by a report to the court filed with the Registrar, stating the circumstances in which the application is made. (14 of 2016 s. 171)

(2) The report shall be signed by the Official Receiver; and shall for the purposes of such application be prima facie evidence of the statement therein contained.

[cf. R. 213]

Note:

* (14 of 2016 s. 171)

Rule:	201	Books to be kept by officers of the court		30/06/1997
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BOOKS TO BE KEPT AND RETURNS MADE BY OFFICERS OF THE COURT

(1) The Registrar of the court shall keep books according to the Forms in the Appendix, and the particulars given under the different heads in such books shall be entered forthwith after each proceeding has been concluded.

(2) The books shall at all times be open to inspection by the Official Receiver, and the officers of the court whose duty it is to keep the books prescribed by these rules shall furnish the Official Receiver with such information and returns as the Official Receiver may from time to time require. (See Forms 101 & 102)

[cf. R. 214]

Rule:	202	Gazetting notices		30/06/1997
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GAZETTING IN A WINDING UP BY THE COURT

(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 Gazette shall be gazetted by the Official Receiver or the liquidator, as may

be appropriate. (See Forms 103, (1) to (9))

(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 Official Receiver or the liquidator, as may be appropriate, 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.

(L.N. 286 of 1997)

[cf. R. 215]

Rule:	203	Filing memorandum of Gazette notices		30/06/1997
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(1) Whenever the Gazette contains any advertisement relating to any winding-up proceedings the Official Receiver or liquidator as the case may be shall file with the proceedings a memorandum referring to and giving the date of the advertisement. (See Form 104)

(2) In the case of an advertisement in a local paper, the Official Receiver or liquidator as the case may be shall keep a copy thereof and a memorandum referring to and giving the date of the advertisement shall be placed on the file.

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

(4) A memorandum under this rule shall be prima facie evidence that the advertisement to which it refers was duly inserted in the issue of the Gazette or newspaper mentioned in it.

[cf. R. 216]

Rule:	204	To whom warrants may be addressed		30/06/1997
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ARRESTS AND COMMITMENTS

A warrant of arrest, or any other warrant issued under the provisions of the Ordinance and rules, may be addressed to such bailiff or officer of the court or police officers of Hong Kong as the court may in each case direct.

[cf. R. 217]

Rule:	205	Prison to which person arrested on warrant is to be taken		30/06/1997
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Where the court issues a warrant for the arrest of a person under any of the provisions of the Ordinance or rules, he shall be committed, unless the court shall otherwise order, to the prison used by the court in cases of commitment made in the exercise by the court of its ordinary jurisdiction.

[cf. R. 218]

Rule:	206	Prison to which a person arrested is to be conveyed, and production and custody of persons arrested	L.N. 190 of 2016	13/02/2017
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Where a person is arrested under a warrant of commitment issued under any of the provisions of the Ordinance and rules, other than sections 224 and 286B of the Ordinance, and rule 56 of the rules he shall be forthwith conveyed in custody of the bailiff or officer apprehending him to the prison used by the court in cases of commitment made in the exercise by the court of its ordinary jurisdiction and kept therein for the time mentioned in the warrant of commitment, unless sooner discharged by the order of the court or otherwise by law. Where a person is arrested under a warrant, issued under section 224 or 286B of the Ordinance, or under rule 56 of the rules, he shall be forthwith conveyed in custody of the bailiff or officer apprehending him to such prison as aforesaid; and the Commissioner of Correctional Services shall produce such person before the court as it may from time to time direct, and shall safely keep him until such time as the court shall otherwise order, or such person shall be otherwise discharged by law.

(14 of 2016 s. 172)

[cf. R. 220]

Rule:	207	Disposal of moneys received after execution	L.N. 267 of 2003	13/02/2004
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MISCELLANEOUS MATTERS

(1) Where any money is seized or received by the bailiff in part satisfaction of an execution against the goods of a company the same shall be paid into court to the credit of a ledger account in the name of the bailiff with a sub-title in the matter of the action and if, before the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the bailiff that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding-up has been passed or that a winding-up statement made under section 228A of the Ordinance has been delivered to the Registrar of Companies under that section, the bailiff shall forthwith inform the Registrar of the service of such notice and the Registrar shall, on being so required, deliver any money so seized or received in part satisfaction of the execution to the liquidator after deducting therefrom the costs of the execution.

(2) Where under an execution in respect of a judgment for a sum exceeding \$200 the goods of a company are sold or money is paid in order to avoid a sale, the proceeds of sale or money paid in order to avoid a sale shall be paid into court to the credit of a ledger account in the name of the bailiff with a sub-title in the matter of the action and shall be retained for 14 days from the date of such sale or payment in order to avoid sale, and if within such 14 days notice is served on the bailiff of a petition for the winding up of the company having been presented or of a winding-up statement made under section 228A of the Ordinance having been delivered to the Registrar of Companies under that section or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the company, the bailiff shall forthwith notify the Registrar of the service of such notice and if an order is made or a resolution is passed, as the case may be, for the winding up of the company, the Registrar shall deduct the costs of the execution and shall pay the balance to the liquidator.

(3) Payment by the bailiff into court in pursuance of this rule shall be a good discharge to him as against the liquidator.

(L.N. 201 of 1984; 28 of 2003 s. 125)
[cf. R. 22A]

Rule:	208	Enlargement or abridgment of time		30/06/1997
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The court may, in any case in which it shall see fit, extend or abridge the time appointed by the rules or fixed by any order of the court for doing any act or taking any proceeding.

[cf. R. 222]

Rule:	209	Formal defect not to invalidate proceedings		30/06/1997
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(1) No proceedings under the Ordinance or the rules shall be invalidated by any formal defect or by any irregularity, unless the court is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the court. (L.N. 235 of 1996)

(2) No defect or irregularity in the appointment or election of an Official Receiver, liquidator, or member of a committee of inspection shall vitiate any act done by him in good faith.

[cf. R. 223]

Rule:	210	Application of existing procedure		30/06/1997
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In all proceedings in or before the court, or any Registrar or officer thereof, 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, procedure and regulations shall, unless the court otherwise in any special case directs, be in accordance with the rules and practice of the court.

[cf. R. 224]

Rule:	210A	Transitional and saving provisions relating to Companies (Winding Up and Miscellaneous Provisions) (Amendment) Ordinance 2016 (14 of 2016)	L.N. 190 of 2016	13/02/2017
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The transitional and saving provisions as set out in the Schedule are to have effect.

(14 of 2016 s. 178)

Rule:	211	Citation		30/06/1997
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These rules may be cited as the Companies (Winding-up) Rules.

[cf. R. 227]

Schedule:		Schedule	L.N. 190 of 2016	13/02/2017
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[rule 210A]

Transitional and Saving Provisions Relating to Companies (Winding Up and Miscellaneous Provisions) (Amendment) Ordinance 2016

1. Interpretation

In this Schedule—

Amendment Ordinance (《修訂條例》) means the Companies (Winding Up and Miscellaneous Provisions) (Amendment) Ordinance 2016 (14 of 2016);

commencement date (生效日期) means the date of commencement of the Amendment Ordinance;

former (原有), when it appears in conjunction with a reference to a rule or Form described by a number or a combination of a number and a letter, means the rule or Form of that number or of that combination of number and letter of the former Rules;

former Rules (《原有規則》) means the Companies (Winding-up) Rules (Cap 32 sub. leg. H) as in force immediately before the commencement date.

2. Contents of order for winding up or appointment of provisional liquidator (rule 35)

If the petition for the winding up of a company has been presented before the commencement date, the former rule 35(2) and the former Forms 9 and 14 continue to apply in relation to the order for the winding up and the order for the appointment of a provisional liquidator in connection with the petition.

3. Appointment of liquidator and committee of inspection on report of meetings of creditors and contributories under rule 45

(1) If the winding up of a company has commenced before the commencement date, the former rule 45(2) continues to apply in relation to that winding up.

(2) If the petition for the winding up of a company has been presented before the commencement date, rule 45(8) does not apply in relation to the appointment of a liquidator or a committee of inspection.

4. List of contributories (rules 68 to 72)

If the winding-up order of a company has been made before the commencement date, then in relation to the list of contributories of the company—

- (a) the former rules 68, 69, 70, 71 and 72 and the former Forms 42, 43, 44, 45, 46, 47, 48 and 49 continue to apply; and
- (b) rule 67A does not apply.

5. Vacation of office of liquidator under rule 155

The former rule 155 continues to apply in relation to a liquidator appointed before the commencement date.

6. Certificate of employment under rule 175

If the petition for the winding up of a company has been presented before the commencement date, then in relation to a bill or charges of any solicitor, manager, accountant, auctioneer, broker, or other person employed by the Official Receiver or liquidator—

- (a) the former rule 175 continues to apply; and
- (b) rule 175(2) does not apply.

7. Costs and taxation

If the petition for the winding up of a company has been presented before the commencement date, then for determining whether a bill of costs, charges and disbursements of a person employed by the Official Receiver or the liquidator is to be taxed by the Registrar, the former rule 176 continues to apply.

8. Costs payable out of the assets

- (1) In relation to the priority of payments in respect of the winding up of a company, subject to subsections (2) and (3), rule 179(1) applies irrespective of when the winding up of the company commenced.
- (2) If the petition for the winding up of the company has been presented before the commencement date, rule 179(1) applies as if “makes or concurs in making the company’s statement of affairs” were substituted for “makes the statement of affairs of the company or a supplementary affidavit in relation to that statement” .
- (3) The new item in rule 179(1) does not apply in relation to any expenses incurred by a member of a committee of inspection or the representative of a member before the commencement date.
- (4) If the petition for the winding up of the company has been presented before the commencement date, then in relation to the payments of bills or charges of solicitors, managers, accountants, auctioneers, brokers, or other persons out of the assets of the company, the former rule 179(2) continues to apply.

9. Requirements under former rule 200 with regard to applications under section 204 of the Ordinance

If the winding up of a company has commenced before the commencement date, the former rule 200 continues to apply in relation to an application made under section 204 of the Ordinance in respect of that winding up.

10. Giving notice to creditors and contributories of intention to apply for release by Form 98

In relation to an application for release under the former rule 189 by a liquidator appointed before the commencement date, the former Form 98 continues to apply.

(Schedule added 14 of 2016 s. 179)

Appendix:		APPENDIX	L.N. 190 of 2016	13/02/2017
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FORMS

FORM 1

[rule 7]

FORM OF SUMMONS (*General*)

(*Title*)

Let ^(a)
attend at
on the day of
19 , at o'clock in the noon on the hearing of an application of
_(b)
for an order that ^(c)

(a) Name of Respondent.

(b) Name and description of applicant.

(c) State object of application.

Dated the day of , 19 .

This summons was taken out by
of
Solicitors for
To

NOTE-If you do not attend, either in person or by your solicitor, at the time and place above-mentioned, such order will be made, and proceedings taken as the court may think just and expedient.

(L.N. 50 of 1964)

Form 1A

[rule 3B]

Statutory Demand under Section 178(1)(a) or 327(4)(a) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)

(*Title*)

Warning

- This is an important document. This statutory demand **must** be dealt with within 3 weeks after its service on the company. If you do not, a winding-up order may be made in respect of the company. Please read this statutory demand and the notes carefully.
- If the company has any doubt about its position, the company should seek advice **immediately** from a solicitor.
- Please also see the Notes for Creditor.

Demand To _____ (<i>the company</i>) Address _____ _____ This statutory demand is served on the company by the creditor- Name _____ Address _____ _____	Notes for Creditor If the creditor is entitled to the debt by way of assignment, then, in addition to the date of incurrence of the debt, details of the original creditor and any intermediary assignees should be given in Part B, including the date of each assignment to each of the
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The creditor claims that the company owes the following debt-			assignees. The amount of the debt, and the consideration for the debt (or if there is no such consideration, the way in which the debt arises) should be given. If the amount of the debt includes interest not previously notified to the company as a liability of the company, details should be given, including the grounds on which the interest is charged. If the amount of the debt includes interest, the amount of interest must be shown separately. Any other charge accruing from time to time may be claimed. The amount or rate of the charge must be identified and the grounds on which it is claimed must be stated. The amount of the debt claimed must be limited to that which has accrued due as at the date of this statutory demand. If a signatory is a solicitor or an agent of the creditor, the name of the firm of the solicitor or the name of the agent should be given.
When incurred <small>(see Note 1)</small>	Description of debt <small>(see Notes 2, 3 & 5)</small>	Amount due as at the date of this statutory demand <small>(see Note 4)</small>	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
Amount of Debts \$ _____			
The creditor demands that the company do pay the above debt or secure or compound for it to the creditor's satisfaction.			
Signature _____ Name (BLOCK LETTERS) _____ _____ Date _____ * I am authorized to make this statutory demand on the creditor's behalf. * Position with or relationship to creditor Address _____ Tel. No. _____ Ref. No. _____			
NB The person making this statutory demand must complete the whole of this statutory demand and Parts A and B. * Delete if signed by the creditor.			

Part A

The person or persons* whom the company may contact regarding this statutory demand is/are-

Name _____

Address _____

Tel. No. _____

* The person or persons must be an individual or individuals.

Part B

For completion if the creditor is entitled to the debt by way of assignment

	Name	Date of Assignment
Original creditor		
Assignees		

How to comply with a statutory demand

If the company wishes to avoid a winding-up petition being presented against it to the court, it must pay the debt set out in this statutory demand within 3 weeks after the service of this statutory demand on the company. Alternatively, the company can attempt to come to a settlement with the creditor. To do this, the company should-

- immediately inform the person or persons (or one of the persons) named in Part A that it is willing and able to offer security for the debt to the creditor's satisfaction; or
- immediately inform the person or persons (or one of the persons) named in Part A that it is willing and able to compound for the debt to the creditor's satisfaction.

If the company disputes this statutory demand in whole or in part, it should-

- immediately contact the person or persons (or one of the persons) named in Part A; or
- institute any legal proceedings that it thinks fit to respond to this statutory demand (for example, applying to the court for an injunction to restrain the creditor from presenting a winding-up petition or from advertising it).

Remember: The company has only 3 weeks after service of this statutory demand to pay the debt. After the expiry of the 3-week period, the creditor may present a winding-up petition against the company.

(14 of 2016 s. 173)

FORM 2

[rule 22]

PETITION

(Title)

To the High Court of Hong Kong.

The humble petition of ^(a) showeth as follows-

1. The _____ Company, Limited (hereinafter called the company), was in the month of _____, incorporated under the *Companies Ordinance 1865 (1 of 1865)/*Companies Ordinance 1911 (58 of 1911)/*Companies Ordinance (Chapter 32)/*Companies Ordinance (Cap 622). (*delete the inapplicable words)

(b) State the full address of the registered office so as sufficiently to show where it is situate.

2. The registered office of the company is at ^(b)

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

4. The objects for which the company was established are as follows-
To _____

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

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

[Here set out in paragraphs the facts on which the petitioner relies, and conclude as follows]:-

Your petitioner therefore humbly prays as follows-

(1) That the _____ Company, Limited, may be wound up by
the court under the provisions of the Companies (Winding Up and Miscellaneous
Provisions) Ordinance (Cap 32).

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

NOTE-(d) It is intended to serve this petition on.

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

(L.N. 201 of 1984; 25 of 1998 s. 2; 28 of 2012 ss. 912 & 920; E.R. 1 of 2014; E.R. 1 of 2015)

FORM 3

[rule 22]

PETITION BY UNPAID CREDITOR ON SIMPLE CONTRACT

(Title)

Paragraphs 1, 2, 3, and 4 as in Form 2.

5. The company is indebted to your petitioner in the sum of \$
for ^(a)

6. Your petitioner has made application to the company for payment of his debt, but the
company has failed and neglected to pay the same or any part thereof.

7. The company is [insolvent and] unable to pay its debts.

8. In the circumstances it is just and equitable that the company should be wound up.
Your petitioner, therefore, &c. [as in Form 2].

(a) State
consideration for
the debt, with
particulars so as to
establish that the
debt claimed is
due.

FORM 3A

(Repealed 28 of 2012 ss. 912 & 920)

FORM 4

[rule 24]

ADVERTISEMENT OF PETITION

(Title)

Notice is hereby given that a petition for the winding up of the above-named company by the
High Court of Hong Kong was, on the _____ day of _____,
19_____, presented to the said court by the said company [or, as the case may be]. And that said
petition is directed to be heard before the court at _____ .m. on the _____ day
of _____, 19_____; and any creditor or contributory of the said company desirous
to support or oppose the making of an order on the said petition may appear at the time of hearing
by himself or his counsel for that purpose; and a copy of the petition will be furnished to any creditor
or contributory of the said company requiring the same by the undersigned on payment of the
regulated charge for the same.

Signed ^(b) _____ [Name] ^(c)

(b) To be signed by

[Address] ^(c)

NOTE-Any person who intends to appear on the hearing of the said petition must serve on or send by post to the above-named, notice in writing of his intention so to do. The notice must state the name and address of the person, or, if a firm, the name and address of the firm, and must be signed by the person or firm, or his or their solicitor (if any), and must be served, or if posted, must be sent by post in sufficient time to reach the above-named not later than 6 o'clock in the afternoon of the of 19 .

the solicitor to the petitioner or by the petitioner if he has no solicitor.

(c) The name and address of the petitioner and the solicitor, if any, to the petitioner should be stated.

(L.N. 201 of 1984; 25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 4A

(Repealed 28 of 2012 ss. 912 & 920)

FORM 5

[rule 25]

AFFIDAVIT OF SERVICE OF PETITION ON MEMBERS,
OFFICERS, OR SERVANTS, &C.

(Title)

In the matter of a petition dated

I, , of , make oath and say-

1. *[In the case of service of petition on a company by leaving it with a member, officer, or servant at the registered office, or if no registered office at the principal or last known principal place of business of the company.]*

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

2. *[In the case of no member, officer, or servant of the company being found at the registered office or place of business.]*

That I did on day, the day of , 19 , having failed to find any member, officer, or servant of the above-named company at [here state registered office or place of business], leave there a copy of the above-mentioned petition, duly sealed with the seal of the court, before the hour of in the noon [add with whom such sealed copy was left, or where, e.g. affixed to door of offices, or placed in letter box, or otherwise].

3. *[In the case of directions by the court as to the member, or members, officer, or servant of the company to be served.]*

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

4. The said petition is now produced and shown to me, marked "A".

Sworn at, &c.

FORM 6

[rule 25]

AFFIDAVIT OF SERVICE OF PETITION ON LIQUIDATOR

(Title)

In the matter of a petition, dated _____, for winding up the above company [by] *or* [under the supervision of] the court [*as the case may be*].

I, _____, of _____, make oath and say-

That I did on _____ day, the _____ day of _____, 19_____, serve [*name and description*] the liquidator of the above-named company, with a copy of the above-mentioned petition, duly sealed with seal of the court, by delivering the same personally to the said at [*place*], before the hour of _____ in the _____ noon.

The said petition is now produced and shown to me, marked "A".

Sworn at, &c.

FORM 7

[rule 26]

AFFIDAVIT VERIFYING PETITION

(Title)

I, A.B., of &c., make oath and say, that such of the statements in the petition now produced and shown to me, and marked with the letter "A", as relate to ^(a) my own acts and deeds are true, and such of the said statements as relate to the acts and deeds of any other person or persons I believe to be true. (a) If the petition is by a firm, insert "the acts and deeds of my said firm".

Sworn, &c.

FORM 8

[rule 26]

AFFIDAVIT VERIFYING PETITION OF A LIMITED COMPANY

(Title)

I, A.B., of, &c., make oath and say as follows-

1. I am (a director) (the company secretary) of _____ Company, Limited, the petitioner in the above matter, and am duly authorized by the said petitioner to make this affidavit on its behalf.

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

Sworn, &c.

(28 of 2012 ss. 912 & 920)

FORM 9

[rule 28]

ORDER APPOINTING A PROVISIONAL LIQUIDATOR AFTER

PRESENTATION OF PETITION, AND BEFORE ORDER TO WIND UP

the _____ day of _____, 20____.

(Title)

Upon the application, &c., and upon reading, &c., the court doth hereby appoint the Official Receiver (or as may be) to be provisional liquidator of the above-named company. And the court doth hereby limit and restrict the powers of the said provisional liquidator to the following acts, that is to say [*describe the acts which the provisional liquidator is to be authorized to do and the property of which he is to take possession*].

Note—As the Official Receiver or provisional liquidator (interviewer) may require, it is the duty of a person who is or may be liable to make the statement of affairs of the company, or a supplementary affidavit in relation to that statement, to attend on the interviewer according to the day, time and place the interviewer appoints and to give the interviewer all information that the interviewer requires.

(46 of 2000 s. 40; 28 of 2012 ss. 912 & 920; 14 of 2016 s. 173)

FORM 10

[rule 30]

NOTICE OF INTENTION TO APPEAR ON PETITION

(Title)

Take notice that A.B., of ^(a) a creditor for \$ _____ of (or contributory ^(a) State full name, holding ^(b) shares in) the above company intends to appear on the hearing of or if a firm, the name of the firm the petition advertised to be heard on the _____ day of _____, 19____, and to support (or oppose) such petition. and address.

(Signed) ^(c)

[Address]

To

(b) State number and class of shares held.

(c) To be signed by the person or his solicitor or agent.

FORM 11

[rule 31]

LIST OF PARTIES ATTENDING THE HEARING OF A PETITION

(Title)

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

Name	Address	Name and address of solicitor of party who has given notice	Creditors. Amount of debt	Contributories. Number of shares	Opposing	Supporting

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FORM 12

[rule 34]

NOTIFICATION TO OFFICIAL RECEIVER OF WINDING-UP ORDER

(Title)

To the Official Receiver

(Address)

Order pronounced this day by
[or, as the case may be] for winding up the under-mentioned company under the Companies
(Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

Name of company	Registered office of company	Petitioner's solicitor	Date of presentation of petition

(28 of 2012 ss. 912 & 920)

FORM 13

[rule 34]

NOTIFICATION TO OFFICIAL RECEIVER OF ORDER PRONOUNCED
FOR APPOINTMENT OF PROVISIONAL LIQUIDATOR PRIOR TO
WINDING-UP ORDER BEING MADE

(Title)

To the Official Receiver

(Address)

Order pronounced this day by
[or, as the case may be] for the appointment of the Official Receiver (or, as the case may be, the
name, address and description of the person appointed) as provisional liquidator prior to any
winding-up order being made.

Name of company	Registered office of company	Petitioner's solicitor	Date of presentation of petition

FORM 14

[rule 35]

ORDER FOR WINDING UP BY THE COURT

day of , 20 .

(Title)

Upon the petition of the above-named company (or A.B., of &c., a creditor (or contributory) of the above-named company), on the day of , 20 , preferred unto the court, and upon hearing for the petitioner, and for and upon reading the said petition, an affidavit of (the said petitioner), filed, &c., verifying the said petition, an affidavit of L.M., filed the day of , 20 , the *Gazette* of the day of , 20 , the newspaper of the day of (enter any other papers), each containing an advertisement of the said petition (enter any other evidence), this court doth order that the said company be wound up by this court under the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

And it is ordered that the costs of of the said petition be taxed and paid out of the assets of the said company.

Note—As the Official Receiver, provisional liquidator or liquidator (interviewer) may require, it is the duty of a person who is or may be liable to make the statement of affairs of the company, or a supplementary affidavit in relation to that statement, to attend on the interviewer according to the day, time and place the interviewer appoints and to give the interviewer all information that the interviewer requires.

(L.N. 201 of 1984; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920; 14 of 2016 s. 173)

FORM 15

(Repealed L.N. 201 of 1984)

FORM 16

[rule 36(1)]

NOTICE OF ORDER TO WIND UP (FOR NEWSPAPER)

COMPANIES (WINDING UP AND MISCELLANEOUS
PROVISIONS) ORDINANCE
(Chapter 32)

In the matter of _____, Limited.

Winding-up order made _____, 19 ____.

Date and place of first meetings-

Creditors _____, 19 ____, at _____

Contributories _____, 19 ____, at _____

Official Receiver and
Provisional Liquidator

(28 of 2012 ss. 912 & 920)

FORM 17

[rule 38]

AFFIDAVIT BY SPECIAL MANAGER VERIFYING ACCOUNT

(Title)

I, _____, of _____ make oath and say as follows-

1. The account hereunto annexed, marked with the letter "A", produced and shown to me at the time of swearing this my affidavit, and purporting to be my account as special manager of the estate or business of the above-named company, contains a true account of all and every sums and sum of money received by me or by any other person or persons by my order or to my knowledge or belief for my use on account or in respect of the said estate or business.

2. The several sums of money mentioned in the said account hereby verified to have been paid or allowed have been actually and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every items and particulars therein contained, according to the best of my knowledge and belief.

Sworn, &c.

(L.N. 587 of 1995)

FORM 18

[rule 109]

NOTICE TO CREDITORS OF FIRST MEETING

(Title)

(Under the order for winding up the above-named company, dated
the _____ day of _____, 20 ____.)

Notice is hereby given that the first meeting of creditors in the above matter will be held at
on the _____ day of _____ 20 ____, at _____ o'clock in the _____ noon.

To entitle you to vote thereat your proof must be lodged with me not later than _____ o'clock
on the _____ day of _____, 20 ____.

Forms of proof and of general and special proxies are enclosed herewith. Proxies to be used at

the meeting must be lodged with me not later than o'clock on the day of ,
20 .

Address

(The company's statement of affairs ^(a)

) (a) Here insert "has not been lodged" or "has been lodged, and summary of the statement of affairs and any supplementary affidavit in relation to that statement is enclosed".

Note

At the first meetings of the creditors and contributories they may amongst other things-

1. *By resolution determine whether or not an application is to be made to the court to appoint a liquidator in place of the provisional liquidator.*

2. *By resolution determine whether or not an application shall be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.*

(46 of 2000 s. 40; 14 of 2016 s. 173)

FORM 19

[rule 109]

NOTICE TO CONTRIBUTORIES OF FIRST MEETING

(Title)

Notice is hereby given that the first meeting of the contributories in the above matter will be held at on the day of , 20 , at o'clock in the noon.

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me not later than o'clock on the day of , 20 .

Dated this day of , 20 .

Address

(The company's statement of affairs ^(a)

). (a) Here insert "has not been lodged" or "has been lodged, and summary of the statement of affairs and any supplementary affidavit in relation to that statement is enclosed".

Note

At the first meetings of creditors and contributories they may amongst other things-

1. *By resolution determine whether or not an application shall be made to the court to appoint a liquidator in place of the provisional liquidator.*

2. *By resolution determine whether or not an application shall be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.*

(46 of 2000 s. 40; 14 of 2016 s. 173)

FORM 20

[rule 110]

**NOTICE TO DIRECTORS AND OFFICERS OF COMPANY TO ATTEND
FIRST MEETING OF CREDITORS OR CONTRIBUTORIES**

(Title)

Take notice that the first meeting of creditors [or contributories] will be held on the day of _____, 19____, at _____ o'clock at ^(a) _____ (a) Here insert place where meeting will be held.
and that you are required to attend thereat, and give such information as the meeting may require.
Dated this _____ day of _____, 19____.
To ^(b) _____ (b) Insert name of person required to attend.

NOTE-The failure of any director or officer to attend will be reported to the court.

(46 of 2000 s. 40)

FORM 21

[rule 123(2)]

MEMORANDUM OF PROCEEDINGS AT ADJOURNED FIRST MEETING

(No quorum)

(Title)

Before _____ at _____ on the _____ day of _____, 19____, at _____ o'clock.
Memorandum-The adjourned meeting of ^(a) _____ in the above matter was held at the time and place above-mentioned; but it appearing that there was not a quorum of ^(a) _____ or "contributories", as the case may be. qualified to vote present or represented, no resolution was passed, and the meeting was not further adjourned.

Chairman

FORM 22

[rule 130]

LIST OF CREDITORS ^(a) PRESENT TO BE USED AT EVERY MEETING

(a) "or contributories".

(Title)

Meeting held at _____ this _____ day of _____, 19____.

Number	Names of creditors ^(a) present or represented	Amount of proof ^(b)		(b) In case of contributories insert "number of shares" and "number of votes according to the regulations of the company".
1		\$	¢	
2				
3				

4				
5				
6				
7				
7	Total number of creditors ^(a) present or represented.			

Page 1

FORM 23

Rule 39 of the Companies (Winding-up) Rules (Cap 32 sub. leg. H)

IN THE HIGH COURT OF HONG KONG COMPANIES (WINDING-UP) NO. _____ of 19

In the matter of _____
and

In the matter of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

STATEMENT OF AFFAIRS on the _____ day of _____ 19_____, the date of the Winding-up Order (or such other date as the liquidator has for special reasons directed).

Notes

- (1) Please complete this Statement of Affairs and such of the attached lists A, B, C, D, E, F, G, H, I and J as are applicable. If there is a dispute about any amount due to or by the wound-up company please specify this in the relevant list and supply details in a separate schedule which should be signed and attached as part of the Statement of Affairs.
- (2) Please do not insert figures in the shaded areas.

I-AS REGARDS CREDITORS

List Reference	Particulars	Amount \$	Amount \$
	ASSETS		
A	(1) Various assets		
B	(2) Debts due to the company		
C	(3) Excess value of assets pledged as security to creditors fully secured		
D	(4) Unpaid calls		
	(5) Total Assets , i.e. total of items (1) to (4) above		
	LIABILITIES		
E	(6) Claims and amounts due to employees and Government departments		
F	(7) Debenture holders		
	(8) Subtotal , i.e. total of items (6) and (7) above		
C	(9) Secured creditors (net of security)-i.e. after deducting the amount of the security		
G	(10) Unsecured creditors and other liabilities		
H	(11) Contingent liabilities		

	(12) Subtotal , i.e. total of items (9) to (11) above		
	(13) Total Liabilities , i.e. total of items (8) and (12) above		
	(14) Estimated surplus/(deficiency) subject to cost of liquidation carried forward to item (15) on page 2 , i.e. total assets as in item (5) less total liabilities as in item (13).	\$	

Page 2

II-AS REGARDS CONTRIBUTORIES

List Reference	Particulars	Amount \$	Amount \$
	(15) Estimated surplus/(deficiency) brought forward from page 1		
	CAPITAL ISSUED AND ALLOTTED, viz:-		
	(16) Ordinary Shares of \$_____ each at nominal value (only applicable to shares with nominal value)		
I	(17) No. of Ordinary Shares issued as fully paid _____ (specify no. of shares)		
I	(18) No. of Ordinary Shares issued as partially paid, i.e. amount called up for _____ shares at \$ _____ (specify no. of shares) per share		
	(19) Total for ordinary share capital fully paid and called up , i.e. total of items (17) and (18) above		
I	(20) Any other type of shares or capital issued (give particulars) _____ _____		
	(21) Subtotal for item (20)		
	(22) Total of items (19) and (21) above		
	(23) TOTAL SURPLUS/(DEFICIENCY) AS PER ITEM (15) OF THE DEFICIENCY ACCOUNT IN LIST J i.e. item (15) less item (22)	\$	

AFFIDAVIT OR AFFIRMATION

Notes: (1) The Commissioner is particularly requested, before swearing the Affidavit or making the Affirmation, to ascertain that the full name, address and description of the Deponent are stated, and to initial all crossings-out or other alterations on the printed form. A deficiency in the Affidavit/Affirmation in any of the above respects will entail its refusal by the court, and will necessitate it being re-sworn/re-affirmed.

(2) Where the liquidator has directed any date other than the date of the winding-up order, substitute such other date.

(3) An asterisk (*) signifies that the inapplicable words should be deleted.

I/We, _____, of _____ * _____ make oath and say _____ that the
* _____ solemnly and sincerely affirm

foregoing Statement and the several Lists hereunto annexed marked _____ are, to the best of my/our knowledge and belief, a full, true, and complete statement of affairs of the above-named Company, on the

_____ day of _____ 19_____, the date of the Winding-up Order (see Note 2).

*Sworn at/*Affirmed at _____ in Hong Kong.
this _____ day of _____ 19_____.

Before me.

A Commissioner, etc.

(Signature)

LIST A VARIOUS

ASSETS

Full particulars of every description of assets not included in any other lists should be specified in this list. If the space allotted to items (a) to (h) below is not adequate, please provide the requisite information by attaching additional schedule(s) and completing item (j) below.

Particulars		Estimated to produce \$
(a) Cash at bank (Please specify the name(s) of the bank(s) and all account numbers)	_____ _____ _____	_____ _____ _____
(b) Cash in hand	_____	_____
(c) Stock in trade	_____ Cost \$ _____	_____
(d) Plant and machinery	_____ Cost \$ _____	_____
(e) Investment in stocks or shares, etc. (Please provide details)	_____ Cost \$ _____ _____ _____ _____	_____ _____ _____ _____
(f) Land and buildings	_____ Cost \$ _____	_____
(g) Security held by the company in respect of loans granted to others (Please provide details)	_____ _____ _____	_____ _____ _____
(h) Any other assets (Please provide details)	_____ _____ _____	_____ _____ _____ _____
(i) Total (show the total under "Assets" on page 1 of the Statement of Affairs)		\$ _____

(j) * _____ additional schedule(s) are attached/*No additional schedule(s) are attached.
(specify no.)

Dated this _____ day of _____ 19_____, (Signature)

(*delete the inapplicable words)

LIST B**DEBTS DUE TO THE COMPANY**

Show the total of column (vi) of \$ under "Assets" on page 1 of the Statement of Affairs

(i) No.	(ii) Name of debtor	(iii) Address	(iv) Amount of debt \$	(v) Date when contracted	(vi) Estimated to produce \$	(vii) Folio of ledger or other book where particulars to be found	(viii) Nature of debt and particulars of any securities held for debt
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.

Dated this day of 19 . (Signature)

Notes: (1) If the company is also indebted to any of the above-mentioned debtor(s), please specify in column (iii) both the amount of the company's debt due to the debtor and the amount due from the debtor. The net amount due to the company by the debtor should be inserted in columns (iv) and (vi). If, however, the amount owed by the company to the "debtor" is greater than the amount that the debtor owes the company, do not insert any amount in this list but use **List G** for the purpose.

(2) To substantiate the amount of debt, copies of the relevant source documents should be attached.

LIST B (CONTINUED)**DEBTS DUE TO THE COMPANY**

(i) No.	(ii) Name of debtor	(iii) Address	(iv) Amount of debt \$	(v) Date when contracted	(vi) Estimated to produce \$	(vii) Folio of ledger or other book where particulars to be found	(viii) Nature of debt and particulars of any securities held for debt
.....
.....
.....
.....
.....
.....
.....
.....
.....

Dated this day of 19 . (Signature)

LIST C

SECURED CREDITORS (either fully or partly secured but excluding debenture holders for whom List F should be used)/**EXCESS VALUE OF ASSETS PLEDGED AS SECURITY TO CREDITORS**

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount owed to creditor \$	(v) Date when contracted	(vi) Particulars of the asset being held or claimed or pledged as security	(vii) Date when security given	(viii) Estimated value of the asset in column (vi) \$	(ix) Estimated excess i.e. (viii) less (iv) \$	(x) Net indebtedness i.e. (iv) less (viii) \$
1.									
2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									
11.									
12.									
13.									
14.									
15.									
Total amount owed to creditors, i.e. total of column (iv)				Total value of security, i.e. total of column (viii)					
Show the total of column (ix) under "Assets" at item (3) on page 1 of the Statement of Affairs									
Show the total of column (x) under "Liabilities" at item (9) on page 1 of the Statement of Affairs									

Dated this day of 19 . (Signature)

Note: If the amount due to the fully-secured creditor (as stated in column (iv) above) is the same as the estimated value of security (as stated in column (viii) above), please specify a "Nil" amount in columns (ix) and (x). If any estimated surplus from security as reflected in column (ix) above is further pledged to any other creditor as partial security, that surplus should be deleted from column (ix) and shown in column (viii) for that other creditor instead. Such surplus should then be deducted from the relevant amount due to that other creditor before extending the amount to either column (ix) or (x), whichever is appropriate.

LIST D

UNPAID CALLS (i.e. amount called up but not yet paid by the shareholder)

(i) No.	(ii) No. in share register	(iii) Name of Shareholder	(iv) Address	(v) No. of shares held	(vi) Amount of call per share unpaid \$	(vii) Total amount due i.e. (vi) multiplied by (v) \$	(viii) Estimated to realize \$
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Totals (show the total of column (viii) under "Assets" on page 1 of the Statement of Affairs)						\$	

Dated this day of 19 . (Signature)

LIST E

**CLAIMS AND AMOUNTS DUE TO EMPLOYEES AND GOVERNMENT
DEPARTMENTS (e.g. Wages, Rates, Taxes, etc.)**

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Nature of claim	(v) Period during which claim accrued	(vi) Due date for payment	(vii) Amount of claim \$
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Show the total of column (vii) under "Liabilities" on page 1 of the Statement of Affairs						\$

Dated this day of 19 . (Signature)

LIST F

DEBENTURE HOLDERS (excluding Secured Creditors for whom List C should be used)

Should there be more than one issue of debentures, separate list must be provided of holders of each issue of debenture.

(i) No.	(ii) Date of debenture	(iii) Name of debenture holder	(iv) Address	(v) Amount \$	(vi) Description of assets over which security extends
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Show the total of column (v) under "Liabilities" on page 1 of the Statement of Affairs				\$	

Dated this day of 19 . (Signature)

Page 1

LIST G

UNSECURED CREDITORS AND OTHER LIABILITIES

Show the total of column (iv) of \$ under "Liabilities" on page 1 of the Statement of Affairs

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount \$	(v) Date when contracted	(vi) Consideration and the nature of liability
1.
2.

LIST H

CONTINGENT LIABILITIES

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount \$	(v) Date when contracted	(vi) Consideration and the nature of liability
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
Show the total of column (iv) under "Liabilities" on page 1 of the Statement of Affairs			\$		

Dated this day of

19 .

(Signature)

LIST I

LIST OF SHAREHOLDERS

Type of Shares

- *Ordinary Shares of \$_____ each at nominal value (only applicable to shares with nominal value)
- *Preference Shares of \$ _____ each at ____ % nominal value (only applicable to shares with nominal value)
- *Others (please specify) _____

(*delete whichever
is inapplicable)

(i) No.	(ii) No. in share register	(iii) Name of shareholder	(iv) Address	(v) No. of shares held	(vi) Amount per share fully paid/called up \$	(vii) Total amount i.e. (vi) multiplied by (v)		(viii) Total amount not called up (if any) \$
						Fully paid \$	Called up \$	
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.

13.	.....	.....	.....	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....	.....	.....	.....
Totals (show the totals of column (vii) under "Capital Issued and Allotted" on page 2 of the Statement of Affairs)						\$		

Dated this day of 19 . (Signature)

Notes: Separate list(s) should be used to provide a list of shareholders for each type of share capital, i.e. use separate list(s) for ordinary shareholders, preference shareholders, etc.

Page 1

LIST J

DEFICIENCY ACCOUNT

(1) Excess/(Deficiency) of Assets over Capital and Liabilities as per the company's latest audited balance sheet as at (This and the previous balance sheet to be annexed or handed to Official Receiver)			\$
(2) Gross profit (loss) arising from carrying on business from the date mentioned in (1) above or date of incorporation (whichever is the later) to date of winding-up order (as per Trading Account annexed)			
(3) Receipts, if any, during the same period as per item (2) from the following sources (see note):-			
	(a) Interest on loans	\$	
	(b) Interest on deposits		
	(c) Other receipts (please specify)		
	(d) Amounts paid on shares issued and subsequently forfeited (as per list annexed)		
(4) Subtotal of items (3)(a) to (3)(d) above			
(5) Total of items (1), (2) and (4)			

LESS

(6) Expenditure incurred and payments, if any, during the same period as per item (2):-

	(i) Amount paid	(ii) Amount outstanding at date of winding-up order	(iii) Total i.e. (i) + (ii)

the Statement of Affairs (see note):-		
(a) Bad debts		
(b) Losses on investments		
(c) Depreciation of property		
(d) Preliminary expenses written off		
(e) Others (please specify)		
(13) Subtotal of items (12)(a) to (12)(e) above		
(14) Total of items (11) and (13)		
(15) SURPLUS/(DEFICIENCY) AS PER ITEM (23) IN PART II OF THE STATEMENT OF AFFAIRS i.e. item (9) less item (14)		\$

Note: Where particulars are numerous they should be inserted in a separate schedule.

Dated this day of 19 . (Signature)

(L.N. 24 of 1995; 25 of 1998 s. 2; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920 and E.R. 1 of 2014)

FORM 24

[rule 45]

REPORT OF RESULT OF MEETING OF CREDITORS OR CONTRIBUTORIES

In the matter, &c.

I, A.B., the Official Receiver of the court [*or as the case may be*] chairman of a meeting of the creditors [*or contributories*] of the above-named company summoned by advertisement [*or notice*] dated the day of , 19 , and held on the day of 19 , at , in the , do hereby report to the court the result of such meeting as follows-

The said meeting was attended, either personally or by proxy, by creditors whose proofs of debt against the said company were admitted for voting purposes, amounting in the whole to the value of \$ [*or by* contributories, holding in the whole shares in the said company, and entitled respectively by the regulations of the company to the number of votes hereinafter mentioned].

The question submitted to the said meeting was, whether the creditors [*or contributories*] of the said company wished that [*here state proposal submitted to the meeting*].

The said meeting was unanimously of opinion that the said proposal should [*or should not*] be adopted; [or the result of the voting upon such question was as follows:]^(a)

(a) Here set out the majorities by which the respective resolutions were carried.

Resolutions at meetings	Voting on resolutions	
	For	Against

	No.	Amount		No.	Amount	
(State the substance of any resolutions passed and give names of committee of inspection (if any), and amount of their proofs if creditors or shares if contributories). CREDITORS- CONTRIBUTORIES-						
	No.	Shares	Votes	No.	Shares	Votes

Dated this day of , 19 .

(Signed)

H. T.

Chairman

FORM 25

[rule 45]

ORDER APPOINTING LIQUIDATOR

(Title)

the day of

Upon the application of the provisional liquidator of the above-named company, by summons dated and upon hearing the applicant in person and upon reading the order to wind up the said company dated , and the reports of the provisional liquidator of the results of the meetings of creditors and contributories made to the court and respectively dated the ^(a)], and the affidavit of as to the fitness of the liquidator hereinafter named filed]. It is ordered that of be appointed liquidator of the above-named company.

(a) To be inserted only if such affidavit is required.

^(b) It is also ordered that the following persons be appointed a committee of inspection to act with the said liquidator, namely-

(b) To be struck out if no committee of inspection appointed.

And it is ordered that the said liquidator do within 7 days from the date of this order give

security to the satisfaction of the provisional liquidator as provided by the Companies (Winding-up) Rules (Cap 32 sub. leg. H).

And notice of this order is to be gazetted and advertised in the^(c).

(c) State name of newspaper (if any).

(L.N. 286 of 1997; 46 of 2000 s. 40; E.R. 1 of 2014)

FORM 26

[rule 47]

CERTIFICATE THAT LIQUIDATOR OR SPECIAL MANAGER HAS
GIVEN SECURITY

(Title)

This is to certify that A.B., of _____, who was on the _____ day
of _____, 19_____, appointed liquidator [or special manager] of the above-named
company, has duly given security to the satisfaction of the Official Receiver.

Dated this _____ day of _____, 19_____.

(Signed)

J.S.
Official Receiver

FORM 27

[rule 45]

ADVERTISEMENT OF APPOINTMENT OF LIQUIDATOR

In the matter of _____, Limited.

By order of the _____, dated the _____ day of _____ 19_____
Mr. _____ of _____ has been appointed liquidator of the above-
named company with [or without] a committee of inspection.

Dated this _____ day of _____, 19_____.

FORM 28

(Repealed 28 of 2003 s. 126)

Form 29

[rule 52]

Order Directing Public Examination

(Title)

[On reading the reports of the [Official Receiver/liquidator]* in the above matter, dated
respectively the _____ day of _____, 20_____, and the _____ day of _____, 20_____/On the

application of the [Official Receiver/liquidator]* on the day of , 20 in the above matter]*,
and :

It is ordered that the persons whose names and addresses are set out in the Schedule do attend before the court, on a day and at a place to be appointed, and be publicly examined as to-

- (a) the promotion, formation or management of the above-named company;
- (b) the conduct of the business and affairs of the company; and
- (c) their conduct or dealings in relation to the company.

* *Delete where not applicable.*

THE SCHEDULE REFERRED TO

Name	Address	Connexion with the company

(46 of 2000 s. 40; 14 of 2016 s. 173)

Form 30

[rule 54]

Order Appointing Time for Public Examination

(Title)

Whereas by the order of this court dated the day of , 20 ,
[state name and address of person to be examined] was directed to attend before the court and be publicly examined:

On the application of the [Official Receiver/liquidator]* in the above matter, it is ordered that the public examination of the above-named be held on the day of , 20 , at [a.m./p.m.]*, at [state place to be attended at].

And it is ordered that the above-named do attend before the court according to the above-mentioned day, time and place and at any adjournment of the examination.

Dated this day of , 20 .

* *Delete where not applicable.*

Note to the above-named —Notice is hereby given that if you fail, without reasonable excuse, to attend before the court according to the above-mentioned day, time and place, or at any adjournment of the examination, you will be liable to be committed to prison without further notice. In addition, if you commit perjury during your examination, you will be liable on conviction to a fine and imprisonment for 7 years.

(14 of 2016 s. 173)

Form 31

[rule 54]

Notice to Attend Public Examination

(Title)

Whereas by an order of the court, made on the _____ day of _____, 20____, it was ordered that you, _____, should attend before the court, on a day and at a place to be appointed, and be publicly examined as to-

- (a) the promotion, formation or management of the above-named company;
- (b) the conduct of the business and affairs of the company; and
- (c) your conduct or dealings in relation to the company:

And whereas the _____ day of _____, 20____, at [a.m./p.m.]*, at [state place to be attended at] has been appointed as the day, time and place for holding the examination:

Notice is hereby given that you are required to attend before the court according to the above-mentioned day, time and place, and at any adjournment of the examination, and you are advised to bring with you all books, papers, and writing and other documents in your custody or power in any way relating to the company or the promotion, formation, trade, dealings, affairs or property of the company.

And take notice that if you fail, without reasonable excuse, to attend before the court according to the above-mentioned day, time and place, or at any adjournment of the examination, you will be liable to be committed to prison without further notice. In addition, if you commit perjury during your examination, you will be liable on conviction to a fine and imprisonment for 7 years.

Dated this _____ day of _____, 20____.

To _____

Official Receiver/liquidator*

* Delete where not applicable.

(14 of 2016 s. 173)

FORM 32

[rule 60]

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

(Title)

Ex parte the Official Receiver or liquidator, as the case may be.

I, _____ the Official Receiver or liquidator, as the case may be, herein, do hereby, pursuant to rule 60 of the Companies (Winding-up) Rules (Cap 32 sub. leg. H), apply to the court for an order for the appointment of _____ of _____ to take down in shorthand the notes of examination of _____ at their public examination, the costs of taking such notes, and of making a transcript thereof, to be paid in accordance with rule 60.

Dated this _____ day of _____, 19____.

Official Receiver or liquidator, as the case may be

Before

Upon the application of the Official Receiver or liquidator, as the case may be, the court hereby appoints _____ of _____ to take down in shorthand the notes of examination of the persons mentioned in the above application at their public examination, or at any adjournment thereof pursuant to rule 60 of the Companies (Winding-up) Rules (Cap 32 sub. leg. H), the costs of taking such notes, and of making a transcript thereof, to be paid in accordance with rule 60.

Dated this _____ day of _____, 19____.

(46 of 2000 s. 40; E.R. 1 of 2014)

FORM 33

[rule 60]

DECLARATION BY SHORTHAND WRITER

(Title)

Before
I, _____, of _____, the shorthand writer appointed by this court to take down the examination of _____, do solemnly and sincerely declare that I will truly and faithfully take down the questions and answers put to and given by the said _____ in this matter, and will deliver true and faithful transcripts thereof as the court may direct.

Dated this _____ day of _____, 19____.

[Declared before me at the time and place
above-mentioned.]

FORM 34

[rule 57]

NOTES OF PUBLIC EXAMINATION WHERE A SHORTHAND WRITER IS APPOINTED

(Title)

Before _____ Public examination of ^(a) _____
at the court _____
this _____ day of _____ 19____.
The above-named _____, being sworn and examined at the time and place above-mentioned, upon the several questions following being put and propounded to him, gave the several answers thereto respectively following each question, that is say:-

(a) Mr. an officer
[or as the case may
be] of the above-
named company.

A.

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

FORM 35

[rule 57]

NOTES OF PUBLIC EXAMINATION WHERE A

SHORTHAND WRITER IS NOT APPOINTED

(Title)

Before _____
Dated this _____ day of _____, 19____.
The above-named _____, being sworn and examined at the time and place _____
above-mentioned, upon his oath saith as follows-
A.
These are the notes of the public examination referred to in the memorandum of public
examination of _____, taken before me this _____ day of _____, 19____.

(a) Mr. an officer
[or as the case may
be] of the above-
named company

FORM 36

[rule 61]

REPORT TO THE COURT WHERE PERSON
EXAMINED REFUSES TO ANSWER TO SATISFACTION
OF REGISTRAR OR OFFICER

(Title)

At the examination of _____ (a) _____ held before me this _____ day
of _____, 19____, the following question was [allowed by me to be] put to
the said [_____]].
Q. (b) _____
The (c) _____ refused to answer the said question.
(or) The (c) _____ answered the said question as follows:-
A. (d) _____
I thereupon named the _____ day of _____, 19____, at _____ as the time and
place for such [refusal to] answer to be reported to the Hon. Mr. Justice _____ [or
His Honour Mr. Justice _____].

(a) e.g. A.B., a
person ordered to
attend for
examination.

(b) Here state
question.

(c) Witness.

(d) Here insert
answers (if any).

Registrar

[or as the case may be]

FORM 37

(Repealed 14 of 2016 s. 173)

FORM 38

[rule 56]

WARRANT AGAINST PERSON WHO FAILS
TO ATTEND EXAMINATION

(Title)

To the bailiff of our said court, and to each and all the police officers of Hong Kong and to the Commissioner of Correctional Services.

WHEREAS by an order of this court, made on the _____ day of _____, 20____, ^(a) _____ was ordered to attend before the court, on a day and at a place to be appointed, and be publicly examined. (a) Name of person required to attend.

AND WHEREAS by evidence taken upon oath, it hath been made to appear to the satisfaction of the court that the _____ day of _____, 20____, at _____ a.m./p.m. at the High Court of Hong Kong was appointed as the day, time and place for holding the said examination, and that notice of the said order and of the said day, time and place so appointed was duly served upon the said ^(a) _____

(AND WHEREAS the said ^(a) _____ did without good cause fail to attend on the said _____ day of _____, 20____, for the purpose of being examined, according to the requirements of the said order of this court made on the _____ day of _____, 20____, directing him so to attend.) _____ (or, and that the said ^(a) _____ has absconded (or, and that there is good reason to believe that the said ^(a) _____ is about to abscond) with a view to avoiding examination under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32)).

THESE ARE THEREFORE to require you the said bailiff and police officers to take the said ^(a) _____ and to deliver him to the Commissioner of Correctional Services, and you the said Commissioner of Correctional Services to receive the said ^(a) _____ and him safely keep in prison until such time as this Court may order.

Dated the _____ day of _____, 20____.

Registrar
(L.N. 201 of 1984; 28 of 2012 ss. 912 & 920; 14 of 2016 s. 173)

FORM 38A

[rule 56]

ORDER FOR WARRANT OF ARREST OF PERSON WHO HAS
FAILED TO ATTEND PUBLIC EXAMINATION

(Title)

Upon the application of S.W. the Official Receiver or Liquidator of the above-named company, as the case may be by summons dated the _____ day of _____, 20____, and upon hearing the applicant in person and upon reading the order to wind up the said company dated _____ the order dated and the affidavit of C.D. filed and the exhibits therein referred to and by which said affidavit it has been made to appear to the court that by the said order dated _____ A.B. was directed to attend before the court, on a day and at a place to be appointed, and be publicly examined as to the matters referred to in the said order and that the day of at a.m./p.m. at the High Court of Hong Kong, were appointed as

the day, time and place for holding the said examination and it has also been duly proved by the said affidavit of *C.D.* that the said order dated the and the notice to attend such examination on the at a.m./p.m. respectively had been duly served upon the said *A.B.* and it appearing that the said *A.B.* without good cause failed to attend on the in pursuance of the said order of the (date). IT IS ORDERED that a warrant do issue for the arrest of the said *A.B.*

Dated the day of, 20

Registrar
(25 of 1998 s. 2; 46 of 2000 s. 40; 14 of 2016 s. 173)

Form 38B

[rule 58B(1)]

Order under Section 286B of the Companies (Winding Up and
Miscellaneous Provisions) Ordinance (Cap 32)

(Title)

[On the application of the [Official Receiver/provisional liquidator/liquidator]* on the day of, 20
in the above matter:]#

It is ordered that

[state
name and address of person to be examined] do attend before the court [on a day and at a place to be appointed/on the
day of, 20, at [a.m./p.m.]*, at
[state place to be attended at]]*, and at any adjournment of the examination, and be examined as to the
promotion, formation, trade, dealings, affairs or property of the above-named company. And the above-named
is required to produce the documents mentioned in the Schedule, and all other books and papers in the custody or
power of the above-named that are in any way relating to the company or the promotion, formation, trade,
dealings, affairs or property of the company.

[Revise the heading and paragraphs above as appropriate for any other requirements, e.g. submission of affidavits.]

Dated this day of, 20

* Delete where not applicable.

Delete if no application made.

Note to the above-named —Notice is hereby given that if you fail, without lawful impediment, to attend before the court
according to the above-mentioned day, time and place, or at any adjournment of the examination, the court may, by warrant, cause you to be
apprehended and brought before the court. In addition, if you commit perjury during your examination, you will be liable on conviction to a fine
and imprisonment for 7 years.

The Schedule above referred to

(14 of 2016 s. 173)

Form 38C

[rule 58B(3)(a)]

Notice to Attend Examination under Section 286C of the Companies
(Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)

(Title)

Whereas by an order of the court, made on the _____ day of _____, 20____ in the above matter, it was ordered that you, _____, should attend before the court [on a day and at a place to be appointed/on the _____ day of _____, 20____, at _____ [a.m./p.m.]*, at _____ [state place to be attended at]]*, and at any adjournment of the examination, and be examined as to the promotion, formation, trade, dealings, affairs or property of the above-named company:

[And whereas the _____ day of _____, 20____, at _____ [a.m./p.m.]*, at _____ [state place to be attended at] has been appointed as the day, time and place for holding the examination:]#

Notice is hereby given that you are required to attend before the court according to the above-mentioned day, time and place, and at any adjournment of the examination.

And take notice that if you fail, without lawful impediment, to attend before the court according to the above-mentioned day, time and place, or at any adjournment of the examination, the court may, by warrant, cause you to be apprehended and brought before the court. In addition, if you commit perjury during your examination, you will be liable on conviction to a fine and imprisonment for 7 years.

Dated this _____ day of _____, 20____.

To

Official Receiver/provisional
liquidator/liquidator*

* Delete where not applicable.

Delete if day, time and place already specified above.

(14 of 2016 s. 173)

FORM 39

[rule 63]

DISCLAIMER

(Title)

Pursuant to an order for the court dated the _____ day of _____, 19____,
I, _____ the liquidator of the above-named company, hereby
disclaim all interest in the lease dated the _____ day of _____, 19____,
whereby the premises ^(a)_____ were demised to _____ at a rent (a) Insert description
of \$ _____ per annum for a term of _____. Notice of this of the property
disclaimer has been given to _____ disclaimed.

Dated this _____ day of _____, 19____.

Liquidator

FORM 40

[rule 63]

NOTICE OF DISCLAIMER OF LEASE

(Title)

Take notice that, pursuant to an order of the court dated the _____ day of _____, 20____, I, _____, the liquidator of the above-named company, by writing under my hand bearing date the _____ day of _____, 20____, disclaimed all interest in the lease dated the _____ day of _____, 20____, whereby the premises ^(a)_____ were demised to _____ at a rent of \$ _____ *per annum* for a term of _____

(a) Insert description of the property disclaimed.

The above-mentioned disclaimer has been filed at the office of the Registrar at the High Court of Hong Kong and notice thereof filed in the Land Registry.

Dated this _____ day of _____, 20____.

Liquidator

To

(address)

(8 of 1993 s. 30; 14 of 2016 s. 173)

FORM 41

[rule 67]

NOTICE BY LIQUIDATOR REQUIRING PAYMENT OF MONEY
OR DELIVERY OF BOOKS, &C., LIQUIDATOR

(Title)

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

(a) Name of liquidator.
(b) Name of person to whom notice is addressed.
(c) Address of liquidator's office.

Dated this _____ day of _____, 19____.

(Signed)

Liquidator

To ^(b)

(Address)

FORM 42

[rule 69(2)]

PROVISIONAL LIST OF CONTRIBUTORIES

(Title)

The following is a list of members of the above-named company liable to be included in the list of contributories of the company, made by me from the books and papers of the company, together with their respective addresses and the number of shares [*or* extent of interest] to be attributed to each and the amount called up and the amount paid up in respect of such shares (or interest) so far as I have been able to make out or ascertain the same.

In the first part of the list, the persons who are contributories in their own right are identified.

In the second part of the list, the persons who are contributories as being representatives of, or liable for the debts of, others are identified.

FIRST PART-CONTRIBUTORIES IN THEIR OWN RIGHT

No. in List	Name	Address	Description	Number of shares [<i>or</i> extent of interest]	Amount called up (a)	Amount paid up (a)
					\$	\$

SECOND PART-CONTRIBUTORIES AS BEING REPRESENTATIVES OF, OR LIABLE FOR THE DEBTS OF, OTHERS

No. in List	Name	Address	Description	In what character included	Number of shares [<i>or</i> extent of interest]	Amount called up (a)	Amount paid up (a)
						\$	\$

(a) At date of commencement of winding up.

(14 of 2016 s. 173)

FORM 43

[rule 69(4)]

NOTICE OF PROVISIONAL LIST OF CONTRIBUTORIES

(Title)

Take notice that-

- (a) I, _____, the liquidator of the above-named company, have made a provisional list of contributories of the company pursuant to the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) and the rules made under it;
- (b) you are included in the provisional list; and
- (c) the character in which and the number of shares [*or* extent of interest] for which you are included, and the amount called up and the amount paid up in respect of such shares (or interest), are stated below.

And further take notice that-

- (a) I will settle the list of contributories of the company based on the provisional list;
- (b) you will be included in the settled list unless, on considering an objection or otherwise, I decide to exclude you from the list when settling it; and
- (c) in relation to any shares (or interest) not fully paid up, your inclusion in the settled list may result in the unpaid capital being called.

If you object to your inclusion in the settled list of contributories of the company, you must inform me, the liquidator of the company, of your objection in writing within 21 days from the date of service of this notice on you.

Dated this _____ day of _____, 20____.

Liquidator

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

No. In List	Name	Address	Description	In what character included	Number of shares [<i>or</i> extent of interest]	Amount called up (a)	Amount paid up (a)
						\$	\$

(a) At date of commencement of winding up.

(28 of 2012 ss. 912 & 920; 14 of 2016 s. 173)

Form 44

[rule 69(5)]

Affidavit of Service of Notices of Provisional List of Contributories

(Title)

I, _____
deponent], make oath and say as follows-

[state name and description of

1. That-

- (a) On the day of , 20 , I did, in the manner mentioned below, serve on each person whose name, address and description appear in the second, third and fourth columns respectively of the provisional list of contributories of the company made by the liquidator on the day of , 20 , and now on the file of proceedings of the company, a notice in the form annexed to this affidavit, marked "A".
- (b) In the tabular form at the foot of each of such notices respectively there had been inserted the number in such list, name, address, description, in what character and for what number of shares [*or* extent of interest] included, and the amount called up and the amount paid up at the date of the commencement of the winding up in respect of such shares (or interest), of the person on whom the notice was served, in the same words and figures as those particulars are set out in the provisional list.

2. That I served the notices on each of the persons included in the provisional list by duly addressing the notices to the persons according to their respective names and addresses appearing in the provisional list and placing the notices prepaid into the post office at before a.m./p.m. on the day of , 20 .

Sworn, &c.

(14 of 2016 s. 173)

FORM 45

[rule 70(3)]

CERTIFICATE OF LIQUIDATOR OF FINAL SETTLEMENT OF
THE LIST OF CONTRIBUTORIES

(*Title*)

Pursuant to the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) and the rules made under it, I, the undersigned, being the liquidator of the above-named company, hereby certify as follows-

1. That I am satisfied by the affidavit of [*state name and description of deponent*], now on the file of proceedings of the company that a notice of provisional list of contributories has been duly served on each of the persons included in the provisional list of contributories of the company, dated the day of , 20 , informing the person on whom the notice was served-

- (a) that the person was included in the provisional list in the character, and for the number of shares [*or* extent of interest], stated in it and of the amount called up and the amount paid up in respect of such shares (or interest);
- (b) that I would settle the list of contributories of the company based on the provisional list;
- (c) that the person would be included in the settled list unless, on considering an objection or otherwise, I decide to exclude the person from the list when settling it;
- (d) that in relation to any shares (or interest) not fully paid up, the inclusion of the person in the settled list may result in the unpaid capital being called; and
- (e) that if the person objected to the inclusion of the person in the settled list, the person must inform me, the liquidator of the company, of the person's objection in writing within 21 days from the date of service of the notice on the person (***objection period***).

2. That no objection to the notices has been received by me within the objection periods.

that-

- (a) for each of the notices objected to-
 - (i) I have determined the objection; and
 - (ii) a notice of my determination has been given to the person objecting; and
- (b) for each of the other notices, the objection period has expired.]

final settlement, so far as the list has been settled, up to the date of this certificate, is as follows-

- (a) The persons whose names are set out in the second column of the First Schedule have been included in the settled list of contributories as contributories of the company in respect of the number of shares [*or* extent of interest] set out opposite to the names of such contributories respectively in that Schedule. In particular-
 - (i) I have, in the first part of that Schedule, identified the persons who are contributories in their own right; and
 - (ii) I have, in the second part of that Schedule, identified the persons who are contributories as being representatives of, or liable for the debts of, others.
- (b) The persons whose names are set out in the second column of the Second Schedule, and were included in the provisional list of contributories of the company, have been excluded from the settled list of contributories.
- (c) The date when each of such persons was included in or excluded from the settled list of contributories are set out opposite to the name of that person in the sixth column of the first part of the First Schedule, the seventh column of the second part of that Schedule and the seventh column of the Second Schedule respectively.
- (d) The amount called up at the date of the commencement of the winding up, and the amount paid up at that date, in respect of the shares (or interest) of each of such persons are set out opposite to the name of that person in the seventh and eighth columns of the first part of the First Schedule and the eighth and ninth columns of the second part of that Schedule respectively.

Dated this day of , 20 .

In the matter of _____ Limited.

The FIRST SCHEDULE above referred to

FIRST PART-CONTRIBUTORIES IN THEIR OWN RIGHT

No. in List	Name	Address	Description	Number of shares [<i>or</i> extent of interest]	Date when included in the List	Amount called up	Amount paid up
						\$	\$

In the matter of _____ Limited.

SECOND PART-CONTRIBUTORIES AS BEING REPRESENTATIVES
OF, OR LIABLE FOR THE DEBTS OF, OTHERS

No. in List	Name	Address	Description	In what character included	Number of shares [<i>or</i> extent of interest]	Date when included in the List	Amount called up	Amount paid up
							\$	\$

In the matter of

Limited.

The SECOND SCHEDULE above referred to

No. in List	Name	Address	Description	In what character proposed to be included	Number of shares [<i>or</i> extent of interest]	Date when excluded from the List

(28 of 2012 ss. 912 & 920; 14 of 2016 s. 173)

FORM 46

[rule 71(3)]

NOTICE TO CONTRIBUTORY OF FINAL SETTLEMENT OF LIST
OF CONTRIBUTORIES AND THAT THE CONTRIBUTORY IS INCLUDED

(Title)

Take notice that I, _____, the liquidator of the above-named company, have, by certificate, dated the _____ day of _____, 20____, under my hand, finally settled the list of contributories of the company pursuant to the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) and the rules made under it, and that you are included in the settled list. The character in which, and the number of shares [*or* extent of interest] for which, you are included, and the amount called up and the amount paid up in respect of such shares (or interest), are stated below.

Any application by you for excluding yourself from the list of contributories, or for a variation of the list of contributories, must be made by you to the court by summons within 21 days from the date of service of this notice on you, or any further period as the court may extend or allow. No such application will otherwise be entertained.

The settled list may be inspected by you at the Registry of the High Court of Hong Kong during the opening hours of the Registry.

Dated this day of , 20 .

(Signed)

Liquidator

to Mr.
[or to Mr.
his solicitor]. }

No. in List	Name	Address	Description	In what character included	Number of shares [<i>or</i> extent of interest]	Amount called up (a)	Amount paid up (a)
						\$	\$

(a) At date of commencement of winding up.

(14 of 2016 s. 173)

FORM 47

[rule 73]

SUPPLEMENTAL LIST OF CONTRIBUTORIES

(Title)

1. The following is a supplemental list of persons who, since making the list of contributories of the above-named company, dated the day of , 20 , I have ascertained are, or have been, holders of shares in [*or* members of] the company, and to the best of my judgment are contributories of the company.

2. The supplemental list contains the names of such persons together with their respective addresses and the number of shares [*or* extent of interest] and the amount called up at the commencement of the winding up and the amount paid at such date in respect of the shares (or interest) to be attributed to each.

3. In the first part of the list, the persons who are contributories in their own right are identified.

4. In the second part of the list, the persons who are contributories as being representatives of, or liable for the debts of, others are identified.

[*The supplemental list is to be made in the same form as the original list.*]

(14 of 2016 s. 173)

Form 48

[rule 71(4)]

Affidavit of Service of Notices to Contributory

(*Title*)

I,
as follows-

[*state name and description of deponent*], make oath and say

1. That-

- (a) On the day of , 20 , I did, in the manner mentioned below, serve on each person whose name, address, and description appear in the second, third, and fourth columns respectively of the First Schedule to the list of contributories of the company finally settled by the liquidator on the day of , 20 , and now on the file of proceedings of the company, a notice in the form annexed to this affidavit, marked "A" .
- (b) In the tabular form at the foot of each of such notices respectively there had been inserted the number in such list, name, address, description, in what character and for what number of shares [*or* extent of interest] included, and the amount called up and the amount paid up at the date of the commencement of the winding up in respect of such shares (or interest), of the person on whom the notice was served, in the same words and figures as those particulars are set out in the above-mentioned Schedule.

2. That I served the notices on each of the persons included in the list of contributories by duly addressing the notices to the persons according to their respective names and addresses appearing in the above-mentioned Schedule and placing the notices prepaid into the post office at before a.m./p.m. on the day of , 20 .

Sworn, &c.

(14 of 2016 s. 173)

FORM 49

[rule 72]

ORDER ON APPLICATION TO VARY LIST OF CONTRIBUTORIES

(*Title*)

Upon the application of *W.N.*, by summons dated the day of , 20 ,

for an order that the list of contributories of the company and the liquidator's certificate finally settling the same be varied by excluding the applicant [*or as the case may be*], and upon hearing, &c., and upon reading &c., it is ordered, that the list of contributories of the company and the liquidator's certificate finally settling the same be varied by excluding the said *W.N.* from the said list of contributories, or by including the said *W.N.* as a contributory in the said list for shares, [*or as the case may be*] [*or the court does not think fit to make any order on the said application, except that the said W.N. do pay to the liquidator of the said company his costs of this application, to be taxed in case the parties differ*].

(14 of 2016 s. 173)

FORM 50

[rule 74(a)]

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

(Title)

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

(a) To be a date not less than seven days from the date when the notice will in course of post reach the person to whom it is addressed.

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

Dated this _____ day of _____, 19____.

(Signed)

Liquidator

STATEMENT

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

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

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

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

5. In order to provide the said sum of \$ _____ it is necessary to make a call on the contributories, and having regard to the probability that some of them will partly or wholly fail to

pay the amount of the call, I estimate that for the purpose of realizing the amount required it is necessary that a call of \$ _____ per share should be made.

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

FORM 51

[rule 74(b)]

ADVERTISEMENT OF MEETING OF COMMITTEE
OF INSPECTION TO SANCTION PROPOSED CALL

(Title)

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

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

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

Dated this _____ day of _____, 19____.

(a) Insert address.

Liquidator

FORM 52

[rule 74(d)]

RESOLUTION OF COMMITTEE OF INSPECTION
SANCTIONING CALL

(Title)

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

(signed)

Members of the Committee
of Inspection

Dated this _____ day of _____, 19____.

FORM 53

[rule 77]

NOTICE OF CALL SANCTIONED BY COMMITTEE OF
INSPECTION TO BE SENT TO CONTRIBUTORY

(Title)

Take notice that the committee of inspection in the winding up of this company have sanctioned a call of _____ per share on all the contributories of the company.

The amount due from you in respect of the call is the sum of \$ _____. This sum should be paid by you direct to me at my office ^(a) _____ on or before the _____ (a) Insert address.
day of _____, 19 ____.

Dated this _____ day of _____, 19 ____.

To Mr. _____

Liquidator

NOTE-If you do not pay the sum due from you by the date mentioned interest will be claimed on such sum at the rate of 8 per cent per annum from the said date until payment.

FORM 54

[rule 75]

SUMMONS FOR LEAVE TO MAKE A CALL

(Title)

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

Dated the _____ day of _____, 19 ____.

This summons was taken out by _____ of _____ Solicitors for the [Official Receiver and] liquidator.

To _____

NOTE-If you do not attend either in person or by your solicitor, at the time and place above-mentioned, such order will be made and proceedings taken as the court may think just and expedient.

SCHEDULE

Number on List	Name and address	In what character included

AFFIDAVIT OF LIQUIDATOR IN SUPPORT OF
PROPOSAL FOR CALL

(Title)

I, _____ of, &c., the liquidator of the above-named company, make oath and say as follows-

1. I have in the schedule now produced and shown to me, and marked with the letter "A", set forth a statement showing the amount due in respect of the debts proved and admitted against the said company, and the estimated amount of the costs, charges, and expenses of and incidental to the winding up the affairs thereof, and which several amounts form in the aggregate the sum of \$ _____ or thereabouts.

2. I have also in the said schedule set forth a statement of the assets in hand belonging to the said company, amounting to the sum of \$ _____ and no more. There are no other assets belonging to the said company, except the amounts due from certain of the contributories of the said company, and, to the best of my information and belief, it will be impossible to realize in respect of the said amounts more than the sum of \$ _____ or thereabouts.

3. _____ persons have been settled by me on the list of contributories of the said company in respect of the total number of _____ shares.

4. For the purpose of satisfying the several debts and liabilities of the said company and of paying the costs, charges, and expenses of and incidental to the winding up the affairs thereof, I believe the sum of \$ _____ will be required in addition to the amount of the assets of the said company mentioned in the said Schedule A, and the said sum of \$ _____.

5. In order to provide the said sum of \$ _____, it is necessary to make a call upon the several persons who have been settled on the list of contributories as before-mentioned, and, having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that, for the purpose of realizing the amount required as before-mentioned, it is necessary that a call of \$ _____ per share should be made.

Sworn, &c.

ADVERTISEMENT OF APPLICATION FOR LEAVE TO MAKE A CALL

In the matter of _____

Notice is hereby given that the court has appointed _____ the _____ day of _____, 20____, at _____ a.m./p.m. at the High Court of Hong Kong, to hear an application for leave to make a call on all the contributories of the said company [*or as the case may be*] and that the liquidator of the said company proposes that such call shall be for \$ _____ per share. All persons interested are entitled to attend at such day, hour, and place, to offer objection to such call.

Dated this _____ day of _____, 20____.

Liquidator

(25 of 1998 s. 2; 14 of 2016 s. 173)

FORM 57

[rule 75]

The day of 19 .

ORDER GIVING LEAVE TO MAKE A CALL

The day of 19 .

(Title)

Upon the application of the [Official Receiver and] liquidator of the above-named company, the order to wind up the above-named company, the list of contributories of the said company and the liquidator's certificate of the final settlement of the same, and the affidavit of the said [Official Receiver and] liquidator, filed the day of 19 , and the exhibit marked "A" therein referred to, and an affidavit of filed the day of 19 .

It is ordered that leave be given to the [Official Receiver and] liquidator to make a call of \$ per share on all the contributories of the said company ^(a).

(a) Or as the case may be.

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

FORM 58

[rule 76]

DOCUMENT MAKING A CALL

(Title)

I, the [Official Receiver and] liquidator of the above-named company, in pursuance of ^(a) made (or passed) this day of 19 , hereby make a call of per share on all the contributories of the company, which sum is to be paid at my office ^(b) on the day of 19 .

^(a) An order of court, or resolution of the committee of inspection.
^(b) Insert address.

Dated this day of , 19 .

(L.N. 587 of 1995)

FORM 59

[rule 77]

NOTICE TO BE SERVED WITH THE ORDER SANCTIONING A CALL

(Title)

The amount due from you, *A.B.*, in respect of the call made pursuant to leave given by the above [*or within*] order is the sum of \$, which sum is to be paid by you to me as the liquidator of the said company at my office, ^(a).

^(a) Insert address.

In default of payment interest at the rate of 8 *per cent per annum* will be charged upon the amount unpaid from the _____ day of _____ until payment.

Dated this _____ day of _____, 19 ____.

To Mr. A.B.

Liquidator

FORM 60

[rule 78]

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ORDER
FOR PAYMENT OF CALL

(Title)

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

1. None of the contributories of the said company, whose names are set forth in the schedule hereto annexed, marked "A", have paid or caused to be paid the sums set opposite their respective names in the said schedule, which sums are the amounts now due from them respectively under the call of _____ per share, duly made under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32) dated the _____ day of 19 ____.

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

A

THE SCHEDULE ABOVE REFERRED TO

No. on List	Name	Address	Description	In what character included	Amount due	
					\$	¢

Sworn, &c.

NOTE-In addition to the above affidavit, an affidavit of the service of the application for the call will be required in cases in which the committee of inspection of the court has authorized a call to be made.

(28 of 2012 ss. 912 & 920)

FORM 61

[rule 78]

ORDER FOR PAYMENT OF CALL DUE FROM A CONTRIBUTORY

The _____ day of _____, 19____.

(Title)

Upon the application of the liquidator of the above-named company, and upon reading an affidavit of _____ filed the _____ day of _____, 19____, and an affidavit of the liquidator filed the _____ day of _____, 19____, it is ordered that *C.D.*, of, &c., [*or E.F.*, of, &c., the legal personal representative of *L.M.*, late of, &c., deceased], one of the contributories of the said company [*or, if against several contributories*, the several persons named in the second column of the schedule to this order, being respectively contributories of the said company], do, on or before the _____ day of _____, 19____, or within 4 days after service of this order, pay to *A.B.*, the liquidator of the said company at his office,^(a)

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

And it is ordered that the said several persons do within the like period and at the place aforesaid pay to the said *A.B.*, as such liquidator as aforesaid, interest at the rate of 8 *per cent per annum* on the amounts specified in the sixth column of the said schedule from _____ day of _____ to the date of payment.

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

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

THE SCHEDULE REFERRED TO IN THE FOREGOING ORDER

No. on List	Name	Address	Description	In what character included	Amount due	
					\$	¢

NOTE-The copy for service of the above order must be endorsed as follows-

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

(L.N. 286 of 1997)

FORM 62

[rule 78]

AFFIDAVIT OF SERVICE OF ORDER FOR PAYMENT OF CALL

(Title)

I, *F.B.*, of, &c., make oath and say as follows-

1. I did on the _____ day of _____, 19____, personally serve *G.F.*, of _____, &c., with an order made in this matter by this court, dated the _____ day of _____, 19____, whereby it was ordered [*set out the order*] by delivering to and leaving with, the said *G.F.*, at _____, a true copy of the said order, and at the same time producing and showing unto him, the said *G.F.*, the said original order.

2. There was endorsed on the said copy when so served the following words, that is to say, "*If you, the undermentioned G.F., neglect to obey this order by the time mentioned therein, you will be liable to process of execution for the purpose of compelling you to obey the same*".

Sworn, &c.

FORM 63A

[rule 80]

PROOF OF DEBT-GENERAL FORM

IN THE HIGH COURT OF HONG KONG

COMPANIES WINDING-UP No. _____ of 19____

Except in the case of claims for wages or salary, where the debt proved for exceeds \$250 a fee of \$15 must be paid hereon otherwise the proof cannot be admitted.

IN THE MATTER of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)

and

IN THE MATTER of _____

Date of Winding-up Order

1	Name of creditor	
2	Address of creditor	
3	Total amount of claim, including any outstanding uncapitalised interest as at the date of the winding-up order	(Analysis of claim can be supplied on separate sheet signed by creditor or person authorized to act on his behalf) \$
4	Details of any documents by reference to which the debt can be substantiated [Note: Either the originals or copies of documentary evidence should be submitted. Bills of exchange or other negotiable securities must be produced before the proof can be admitted. The Official Receiver or liquidator may call for any document or evidence to substantiate the claim at his discretion.]	
5	If total amount above includes outstanding uncapitalised interest please state amount	

6	Particulars of how and when debt incurred	
7	Particulars of any security held, the value of the security, and the date it was given	
8	<p>I hereby declare that the particulars set out in this Proof of Debt are, to the best of my knowledge and belief, true and correct.</p> <p>Signature of creditor or person authorized to act on his behalf _____</p> <p>Name in BLOCK LETTERS _____</p> <p>Position with or relation to creditor and means of knowledge of the matters declared herein _____</p>	

Warning: A person convicted of making a false statement in respect of a proof of debt shall be liable to a fine at level 6 and imprisonment for 6 months. (sections 349 and 351)

Admitted to vote for
\$
Date
Official Receiver/Provisional Liquidator

Admitted preferentially for
\$
Date
Liquidator

Admitted non-preferentially for
\$
Date
Liquidator

To be returned to the provisional liquidator or, if a liquidator has been appointed, to the liquidator.

Note: The proof cannot be admitted for voting at the first meeting unless it is properly completed and lodged with the liquidator not later than 24 hours before the time specified in the notice convening the meeting.
(L.N. 225 of 1992; L.N. 306 of 1996; 25 of 1998 s. 2; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920; E.R. 1 of 2014)

FORM 63B

[rule 83]

AFFIDAVIT OF DEBT

IN THE HIGH COURT OF HONG KONG

COMPANIES WINDING-UP No. _____ of 19 _____

IN THE MATTER of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32)

and

IN THE MATTER of

I, ^(a)

, ^(a) Fill in full name, address

of
make oath and say-
(1) ^(b) That I am ^(c)

of the under-mentioned creditor, and that I am duly authorized by ^(d)

to make this affidavit, and that it is within my own knowledge that the debt hereinafter deposed to was incurred and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

(2) That the above-named company was, at the date of the order for winding up the same, viz., the day of 19 , and still is justly and truly indebted to ^(e) in the sum of dollars as shown in the proof of debt exhibited hereto marked "A".

and occupation of deponent.
(b) If proof made by creditor personally strike out clause (1).

(c) State capacity, e.g. director, company secretary, solicitor, etc. (d) State full name and address of creditor. (e) Insert "me" or in case of a firm "me and C.D. and E.F., my co-partners trading as", or, if by clerk or agent etc. insert name, address and description of principal.

Debt.....\$:

Sworn at day of 19 } [Deponent's
this day of 19 Signature.]

Before me,

[Notary Public/
Commissioner for Oaths/
other authorized person+]

+ Delete as appropriate.

Warning: A person convicted of making a false statement in respect of a proof of debt shall be liable to a fine at level 6 and imprisonment for 6 months. (sections 349 and 351)

To be returned to the provisional liquidator or, if a liquidator has been appointed, to the liquidator.

(L.N. 225 of 1992; L.N. 306 of 1996; 47 of 1997 s. 10; 25 of 1998 s. 2; 46 of 2000 s. 40; 28 of 2012 ss. 912 & 920; E.R. 1 of 2014)

FORM 64

[rule 90]

PROOF OF DEBT OF WORKMEN

(Title)

I ^(a) of ^(b)
make an oath and say:

1. That the above-named company was on the day of 19 , and still is justly and truly indebted to the several persons whose names, addresses, and descriptions appear in the schedule endorsed hereon in sums severally set against their names in the sixth column of such schedule for wages due to them respectively as workmen or others in the employ of the company in respect of services rendered by them respectively to the company during such periods as are set out against their respective names in the fifth column of such schedule, for which said sums, or any part thereof, I say that they have not, nor hath any of them had or received any manner of satisfaction or security whatsoever.

(a) Fill in full name, address, and occupation of deponent.

(b) On behalf of the workmen and others employed by the above-named company.

Sworn at }
in Hong Kong }
this day of }
19 }
Before me

Deponent's Signature.

SCHEDULE referred to on the other side

1 No.	2 Full name of workman	3 Address	4 Description	5 Period over which wages due	6 Amount due	
					\$	¢

Signature of Deponent.

(L.N. 201 of 1984)

FORM 65

[rule 94]

NOTICE OF REJECTION OF PROOF OF DEBT

(Title)

Take notice, that, as [Official Receiver and] liquidator of the above-named company, I have this day rejected your claim against the company ^(a) [to the extent of \$] on the following grounds-

(a) If proof wholly rejected strike out works underlined.

And further take notice that subject to the power of the court to extend the time, no application to reverse or vary my decision in rejecting your proof will be entertained after the expiration of ^(b) days from this date.

(b) 21 days or 7 days as the case may be.

Dated this day of , 19 .

Signature

Address

To

[Official Receiver and] Liquidator

FORM 66

[rule 101]

LIST OF PROOFS TO BE FILED UNDER RULE 101

(Title)

I hereby certify that the following is a correct list of all proofs tendered to me in the above

matter during the past month.

Dated this day of , 19 .

Liquidator

Name of creditor	Proofs tendered				
	Amount of proofs		Whether admitted, rejected, or standing over for further consideration	If admitted, amount	
	\$	¢		\$	¢

FORM 67

[rule 142(1)]

NOTICE TO CREDITORS OF INTENTION TO DECLARE DIVIDEND

(*Title*)

A ^(a)dividend is intended to be declared in the above matter. You are mentioned in the statement of affairs or a supplementary affidavit in relation to that statement, but you have not yet proved your debt.

(a) Insert here "first" or "second", or "final", or as the case may be

If you do not prove your debt by the _____ day of _____, 20____, you will be excluded from this dividend.

Dated this day of , 20 .

Liquidator

To [Address]

(14 of 2016 s. 173)

FORM 68

[rule 142(5)]

CERTIFIED LIST OF PROOFS UNDER RULE 142(5) COMPANIES
(WINDING-UP) RULES (CAP 32 SUB. LEG. H), AND APPLICATION
FOR ISSUE OF CHEQUES FOR DIVIDEND ON
COMPANIES LIQUIDATION ACCOUNT

Companies Liquidation Account.
Ledger Folio

 Re

No.

Dated the day of , 19 .

I hereby certify that a dividend of *per cent* has been declared, and that the creditors whose names are set forth below are entitled to the amounts set opposite their respective names.

Liquidator

Dated this day of , 19 .

To the Official Receiver.

Surname	Christian name	Amount of proof		Amount of dividend	
		\$	¢	\$	¢

(E.R. 1 of 2014)

FORM 70

[rule 142(1)]

NOTICE TO PERSONS CLAIMING TO BE CREDITORS OF
INTENTION TO DECLARE FINAL DIVIDEND

(Title)

Take notice that a final dividend is intended to be declared in the above matter, and that if you do not establish your claim to the satisfaction of the court on or before the day of , 19 , or such later day as the court may fix, your claim will be expunged, and I shall proceed to make a final dividend without regard to such claim.

Dated this day of , 19 .

Liquidator

To X. Y.

[Address]

FORM 71

[rule 142(3)]

NOTICE OF DIVIDEND

Dividend cheques are cancelled at the expiration of 6 months from date of issue
and money orders at the expiration of 12 months from date of issue.

[Please bring this Dividend Notice with you.]

(Title)

Dividend of *per cent*

[Address]

[Date]

Notice is hereby given that a _____ dividend of _____ per cent has been declared in this matter, and that the same may be received at my office, as above, on _____ the day of _____, 19____, or on any subsequent _____ between, the hours of _____ and _____

Upon applying for payment **this notice must be produced entire**, together with any bills of exchange, promissory notes or other negotiable securities held by you. If you desire the dividend to be paid to some other person you can sign and lodge with the liquidator an authority in the prescribed Form 72. Otherwise if you do not attend personally you must fill up and sign the subjoined forms of RECEIPT and AUTHORITY TO DELIVER, when a cheque or money order payable to your order will be delivered in accordance with the AUTHORITY.

To _____

(Signed)

Liquidator

NOTE-The receipt or authority should, in the case of a firm, be signed in the firm's name, or in the case of a limited company by an officer of the company, so described.

RECEIPT

Received of _____ in this matter the sum of _____
dollars _____ and cents _____, being the amount payable to
me/us in respect of the _____ dividend of _____ per
cent on my/our claim against this company.

Payee's Signature

\$ _____

AUTHORITY FOR DELIVERY ^(a)

Sir,

Please deliver *to me/us by post, at my/our risk or* to the Bearer ^(b), _____, a specimen of whose signature is appended hereunder, the cheque or money order for the dividend payable to me/us in this matter.

Specimen signature of Bearer

To the [Official Receiver and] Liquidator.

Payee's signature

Date

19____

Notes: (a) *This is an authority only to deliver the cheque or money order, NOT to make it payable to another person.*

(b) *Strike out words inapplicable. If not to be sent by post strike out words in italics and insert the name of the person who is to receive the cheque or money order.*

(L.N. 50 of 1964)

FORM 72

[rule 142(7)]

AUTHORITY TO LIQUIDATOR TO PAY DIVIDENDS TO ANOTHER PERSON

(Title)

To the [Official Receiver and] Liquidator.

SIR,

I/We hereby authorize and request you to pay to M
of

(a specimen of whose signature is given below), all dividends as they are declared in the above-named matter, and which may become due and payable to me/us in respect of the proof of debt for the sum of \$, against the above-named company, made [by Mr.] on my/our behalf.

And I/we further request that the cheque or cheques drawn in respect of such dividends may be made payable to the order of the said M whose receipt shall be sufficient authority to you for the issue of such cheque or cheques in his name.

It is understood that this authority is to remain in force until revoked by me/us in writing.

Signatures

Witness to the signature

of

Witness to the signature

of

Date

Specimen of signature of person appointed as above.

Witness to the signature

of

Witness to the signature of person appointed as above.

FORM 73

[rule 143]

NOTICE OF RETURN TO CONTRIBUTORIES

Cheques are cancelled at the expiration of 6 months from date of issue, and money orders at the expiration of 12 months from month of issue.

[Please bring this notice with you.]

(Title)

Return of \$ per share.

[Address]

[Date]

Notice is hereby given that a return of per share has been declared in this matter, and that the same may be received at my office, as above, on the day of , 19 , or on any subsequent day, except Saturday, between the hours of

Upon applying for payment **this notice must be produced entire**, together with the share certificate. If you do not attend personally you must forward the share certificate and fill up and sign the subjoined forms of RECEIPT and AUTHORITY TO DELIVER, when a cheque or money order payable to your order will be delivered in accordance with the AUTHORITY.

(Signed)

Liquidator

NOTE-The receipt should be signed by the contributory personally, or in the case of joint contributories by each, and in the case of a limited company by an officer of the company, so described.

RECEIPT

No. _____ 19 ____ .

Received of the _____ in this matter the sum of dollars _____
 and cents _____ being the amount payable to _____ in respect of
 the _____ return of _____ per share held by _____
 _____ Contributory's signature _____
 \$ _____

AUTHORITY FOR DELIVERY

SIR,
 PLEASE deliver to
 (Insert the name of the person who is to receive the cheque or money order, or the
 words "me/us by post," at "my/our risk", if you wish it sent to you in that way.)
 the cheque or money order for the return payable to me/us in this matter.

Contributory's signature
 To the [Official Receiver and] Liquidator.

FORM 74

[rule 143]

SCHEDULE OR LIST OF CONTRIBUTORIES HOLDING PAID-UP SHARES TO WHOM A RETURN IS TO BE PAID ^(a)

In the matter of				No.										of 19			
Number in settled List	Name of contributory as in settled List	Address	Number of shares held as per settled List	Total called-up value		Total paid-up value		Arrears of calls at date of return		Previous return of capital appropriated by liquidator for arrears of calls		Amount of return payable at per share		Net return payable		Date and particulars of transfer of interest or other variation in List	
				\$	¢	\$	¢	\$	¢	\$	¢	\$	¢	\$	¢		

(a) Where the articles provide that the amount divisible among the members or any class of the members shall be divisible in proportion to the amount paid up or which ought to have been paid up at the date of winding up, or contain any other provision which will necessitate further information before a return can be made, columns should be added showing the amount called up and the amount paid up at such date in respect of shares then held by such members or class of members or such other facts as may be requisite.

NOTICE OF MEETING [*General Form*]

(Title)

Take notice that a meeting of creditors [*or contributories*] in the above matter will be held at
on the day of , 19 , at o'clock in the noon.

Agenda

(a)

Dated this day of , 19 . (Signed)

(a) [Here insert
purpose for which
meeting called.]

(b)

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting
must be lodged not later than o'clock on the day of , 19 .

(b) "Liquidator" or
"Official Receiver".

AFFIDAVIT OF POSTAGE OF NOTICES OF MEETING

(Title)

I, a ^(a) , make oath and say as follows:-

1. That I did on the day of , 20 , send to each creditor
mentioned in the company's statement of affairs or a supplementary affidavit in relation to that
statement [*or to each contributory mentioned in the register of members of the company*] a notice
of the time and the place of the ^(b) in the form hereunto annexed marked "A".

(a) State the
description of the
deponent.

2. That the notices for creditors were addressed to the said creditors respectively, according
to their respective names and addresses appearing in the statement of affairs of the company or a
supplementary affidavit in relation to that statement or the last known addresses of such creditors.

(b) Insert here
"general" or
"adjourned general"
or "first" meeting
of creditors [*or
contributories as
the case may be*].

3. That the notices for contributories were addressed to the contributories respectively
according to their respective names and registered or last known addresses appearing in the register
of the company.

4. That I sent the said notices by putting the same prepaid into the post office at
before the hour of o'clock in the noon on the said day.

Sworn, &c.

(14 of 2016 s. 173)

CERTIFICATE OF POSTAGE OF NOTICES (GENERAL)

(Title)

I, a clerk in the office of the
Official Receiver, hereby certify-

1. That I did on the day of , 20 , send to ^(a) a notice of the time and the place of the first meeting, or ^(b) in the form hereunto annexed marked "A".

(a) Each creditor
mentioned in the
statement of affairs
or a supplementary
affidavit in relation

[Paragraphs 2, 3 and 4 as in last preceding form.]

Dated this day of , 20 .

Signature
to that statement,
or each
contributory
mentioned in the
register of
members of the
company, *or as the
case may be.*
(b) "A general
meeting", *or*
"adjourned general
meeting", *or as the
case may be.*
(14 of 2016 s. 173)

FORM 78

[rule 122]

MEMORANDUM OF ADJOURNMENT OF MEETING

(Title)

Before at on the day
of , 19 , at o'clock.

Memorandum.-The ^(a) meeting of ^(b) in the above matter was held at the time and place above-mentioned; but it appearing that ^(c) the meeting was adjourned until the day of , 19 , at o'clock in the noon, then to be held at the same place.

Chairman

(a) "First" *or as the
case may be.*
(b) Insert
"creditors" or
"contributories" *as
the case may be.*
(c) Here state
reason for
adjournment.

FORM 79

[rule 118]

AUTHORITY TO DEPUTY TO ACT AS CHAIRMAN OF
MEETING AND USE PROXIES

(Title)

I, the Official Receiver [*or the liquidator*] do hereby nominate
Mr. of to be chairman of the meeting of creditors
[*or contributories*] in the above matter, appointed to be held at on the
day of , 19 , [and I depute him ^(a) to attend such meeting
and use, on my behalf, any proxy or proxies held by me in this matter].

Dated this day of , 19 .
Official Receiver,
or Liquidator

(a) Where authority
given by the
Official
Receiver. *Here
insert "being a
person under my
official control".*

FORM 80

[rule 132]

GENERAL PROXY

(Title)

I/We, _____ of _____,
a creditor (or contributory) hereby appoint (1) _____ to be my/our general proxy
to vote at the meeting of creditors (or contributories) to be held in the above matter on the
day of _____, _____, or at any adjournment hereof.

Dated this _____ day of _____, _____.

(Signed) (2)

Notes-(1) The person appointed general proxy may be the Official Receiver, the liquidator, or such other person as the creditor (or contributory) may approve, and the proxy form when signed must be lodged by the time and at the address named for that purpose in the notice convening the meeting at which it is to be used.

(2) If a firm, sign the firm's trading title, and add "by A.B., a partner in the said firm". If the appointor is a corporation, then the form of proxy must be under its common seal or under the hand of some officer duly authorized in that behalf, and the fact that the officer is so authorized must be stated.

In a voluntary winding up the liquidator or if there is no liquidator the chairman of a meeting may but the Official Receiver may not be appointed proxy. The proxy form will be altered accordingly.

(L.N. 286 of 1997)

FORM 81

[rule 132]

SPECIAL PROXY

(Title)

I/We, _____ of _____,
a creditor (or contributory), hereby appoint (1) _____ as my/our proxy at the
meeting of creditors (or contributories) to be held on the _____ day of _____,
or at any adjournment thereof, to vote ^(a) _____ the resolution _____,
numbered _____ in the _____.

Dated this _____ day of _____, _____.

(Signed) (2)

(a) Here insert the word "for" or the word "against" as the case may require, and specify the particular resolution.

Notes-(1) The person appointed proxy may be the Official Receiver, the liquidator, or such other person as the creditor (or contributory) may approve, and the proxy form when signed must be lodged by the time and at the address named for that purpose in the notice convening the meeting at which it is to be used. A creditor (or contributory) may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters-

- (a) for or against the appointment or continuance in office of any specified person as liquidator or as member of the committee of inspection;*
- (b) on all questions relating to any matter, other than those above referred to, arising at a*

specified meeting or adjournment thereof.

(2) If a firm, sign the firm's trading title, and add "by A.B., a partner in the said firm". If the appointor is a corporation, then the form of proxy must be under its common seal or under the hand of some officer duly authorized in that behalf, and the fact that the officer is so authorized must be stated.

In a voluntary winding up the liquidator or if there is no liquidator the chairman of a meeting may but the Official Receiver may not be appointed proxy. The proxy form will be altered accordingly.

(L.N. 286 of 1997)

FORMS 82-83
(Repealed 30 of 1999 s. 44)

FORMS 84-85
(Repealed L.N. 247 of 1994)

FORM 86

[rule 161]

CERTIFICATE BY COMMITTEE OF INSPECTION AS TO
AUDIT OF LIQUIDATOR'S ACCOUNTS

(Title)

We, the undersigned, members of the committee of inspection in the winding up of the above-named company, hereby certify that we have examined the foregoing account with the vouchers, and that to the best of our knowledge and belief the said account contains a full, true, and complete account of the liquidator's receipts and payments.

Dated this day of , 19

Committee of Inspection.

FORM 87
(Repealed L.N. 247 of 1994)

FORM 88

[rule 163]

LIQUIDATOR'S TRADING ACCOUNT UNDER SECTION 203

(Title)

G.H. the liquidator of the above-named company in account with the estate.

RECEIPTS

PAYMENTS

Dr.

Cr.

Date				Date			

Liquidator
(Date)

We have examined this account with the vouchers and find the same correct, and we are of opinion the expenditure has been proper.

Dated this day of , 19 .

Committee of Inspection
[or member of the Committee of Inspection]

FORM 89
(Repealed L.N. 247 of 1994)

FORM 90

[rule 169]

REQUEST TO DELIVER BILL FOR TAXATION

(Title)

I hereby request that you will, within days of this date, or such further time as the court may allow, deliver to me for taxation by the proper officer your bill of costs [or charges] as ^(a) failing which, I shall, in pursuance of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32) and rules proceed to declare and distribute a dividend without regard to any claim which you may have against the assets of the company, and your claim against the assets of the company will be liable to be forfeited.

(a) Here state nature of employment.

Dated this day of , 19 .

(28 of 2012 ss. 912 & 920)

CERTIFICATE OF TAXATION

(Title)

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

Dated this _____ day of _____, 19____.

Registrar

\$ _____

STATEMENT OF RECEIPTS AND PAYMENTS AND GENERAL
DIRECTION AS TO STATEMENTS

(Name of company)

- (1) Every statement must be on sheets 210 x 297 mm in size.
- (2) Every statement must contain a detailed account of all the liquidator's realizations and disbursements in respect of the company. The statement of realizations should contain a record of all receipts derived from assets existing at the date of the winding-up order or resolution and subsequently realized, including balance in bank, book debts and calls collected, property sold, &c.; and the account of disbursements should contain all payments for costs and charges, or to creditors, or contributories. Where property has been realized, the gross proceeds of sale must be entered under realizations, and the necessary payments incidental to sales must be entered as disbursements. These accounts should not contain payments into the companies liquidation account (except unclaimed dividend-see para. 5) or payments into or out of bank, or temporary investments by the liquidator, or the proceeds of such investments when realized, which should be shown separately-

Size of sheets.
Form and contents
of statement.

- (a) by means of the bank pass book;
- (b) by a separate detailed statement of moneys invested by the liquidator, and investments realized.

Interest allowed or charged by the bank, bank commission, &c., and profit or loss upon the realization of temporary investments, should, however, be inserted in the accounts of realizations or disbursements, as the case may be. Each receipt and payment must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet, and the totals carried forward from one account to another without any intermediate balance, so that the gross totals shall represent the total amounts received and paid by the liquidator respectively.

(3) When the liquidator carries on a business, a trading account must be forwarded as a Trading account. distinct account, and the totals of receipts and payments on the trading account must alone be set out in the statement.

(4) When dividends or instalments of compositions are paid to creditors, or a return of surplus assets is made to contributories, the total amount of each dividend, or instalment of composition, or return to contributories, actually paid, must be entered in the statement of disbursements as one sum; and the liquidator must forward separate accounts showing in lists the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor, and of surplus assets payable to each contributory, distinguishing in each list the dividends or instalments of composition and shares of surplus assets actually paid and those remaining unclaimed. Each list must be on sheets 210 x 297 mm in size. Dividends, etc.

(5) When unclaimed dividends, instalments of compositions or returns of surplus assets are paid into the companies liquidation account, the total amount so paid in should be entered in the statement of disbursements as one sum.

(6) Credit should not be taken in the statement of disbursements for any amount in respect of liquidator's remuneration unless it has been duly allowed by resolution of the committee of inspection or of the creditors or of the company in general meeting, or by order of court as the case may require.

LIQUIDATOR'S STATEMENT OF ACCOUNT

Pursuant to section 284 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32)

Name of company.

Nature of proceedings (whether wound up by the court, or under the supervision of the court, or voluntarily). }

Date of commencement of winding up.

Date of which statement is brought down.

Name and address of liquidator.

LIQUIDATOR'S STATEMENT OF ACCOUNT PURSUANT TO SECTION 284 OF THE COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE (Chapter 32)

REALIZATIONS				DISBURSEMENTS					
Date	Of whom received	Nature of assets realized	Amount		Date	Of whom paid	Nature of disbursements	Amount	
		<i>Brought forward</i>	\$	¢			<i>Brought forward</i>	\$	¢

			*						
		Carried forward					Carried forward		

* NOTE-No balance should be shown on this account, but only the total realizations and disbursements, which should be carried forward to the next account.

ANALYSIS OF BALANCE

Total realizations	_____	\$	¢
" disbursements	_____		
Balance	_____	\$	¢

The Balance is made up as follows-

1. Cash in hands of liquidator	_____	\$	¢
2. Total payments into Bank, including balance at date of commencement of winding up (<i>as per Bank Book</i>)	_____		
Total withdrawals from Bank	_____		
Balance at Bank	_____		
3. Amount in companies liquidation account	_____		
4. Amounts invested by liquidator	_____	\$	¢
Less amounts realized from same	_____		
Balance	_____		
Total balance as shown above	_____	\$	

Note-Full details of investments should be given in a separate statement.

Note-The liquidator shall also state-

(1) The amount of the estimated assets and liabilities at the date of the	Assets (after deducting amounts charged to secured creditors and debenture holders)...
_____	\$ _____

commencement of the winding up.

}

Liabilities

{

secured creditors \$
debenture holders
\$
unsecured creditors .. \$

(2) The total amount of the capital paid up at the date of the commencement of the winding up.

}

Paid up in cash \$
Issued as paid up otherwise than
for cash \$

(3) The general description and estimated value of outstanding assets (if any).

}

(4) The causes which delay the termination of the winding up.

}

(5) The period within which the winding up may probably be completed.

}

(L. N. 397 of 1984; L.N. 247 of 1994; 28 of 2012 ss. 912 & 920)

FORM 93

[rule 185]

AFFIDAVIT VERIFYING STATEMENT OF LIQUIDATOR'S
ACCOUNT UNDER SECTION 284

(Name of company)

I,

of

the liquidator of the above-named company, make oath and say-That **the account hereunto annexed marked "B", contains a full and true account of my receipts and payments in the winding up of the above-named company, from the* day of 19 , to the day of 19 , inclusive, **and that I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said company, *other than and except the items mentioned and specified in the said account.*

I further say that the particulars given in the annexed Form 92, marked "B", with respect to the

proceedings in and position of the liquidation, are true to the best of my knowledge and belief.

Sworn at }

* *NOTE-If no receipts or payments, strike out the words in italics.* (L.N. 247 of 1994)

FORM 94 [rules 181 and 185]

LIQUIDATOR'S TRADING ACCOUNT UNDER SECTION 284

(Name of company) Insert here the name of the company.
Insert here the name of the liquidator.

the liquidator of the above-named company in account with the estate.

This account is required in duplicate in addition to Form 92.

RECEIPTS PAYMENTS

Dr.

Cr.

Date				Date			

Date Liquidator

FORM 95 [rules 181 and 185]

LIST OF DIVIDENDS OR COMPOSITION

(Name of company)

I hereby certify that a dividend (or composition) of _____
per cent was declared payable on and after the _____ day of
19____, and that the creditors whose names are set forth below are entitled to the
amounts set opposite their respective names, and have been paid such amounts except in the cases
specified as unclaimed.

Liquidator

Dated the _____ day of _____, 19____.

To the Official Receiver.

[illegible]

This List is required in duplicate.

FORM 96

[rules 181 and 185]

LIST OF AMOUNTS PAID OR PAYABLE TO CONTRIBUTORIES

(Name of company)

I hereby certify that a return of surplus assets was declared payable to contributories on and after the _____ day of _____, 19____, at the rate of _____ per share, and that the contributories whose names are set forth below are entitled to the amounts set opposite their respective names, and have been paid such amounts except in the cases specified as unclaimed.

Liquinator

Dated the _____ day of _____, 19____.

To the Official Receiver.

--	--	--	--

Surname	Christian name	No. of shares	Amount returned on shares			
			Paid		Unclaimed	
			\$	¢	\$	¢

This List is required in duplicate.

FORM 97

[rule 184]

AFFIDAVIT VERIFYING ACCOUNT OF UNCLAIMED AND UNDISTRIBUTED FUNDS

(Title)

I, _____ of _____ make oath and say that the particulars entered in the statement hereunto annexed, marked "A", are correct, and truly set forth all money in my hands or under my control, representing unclaimed or undistributed assets of the above company, and that the amount due by me to the companies liquidation account in respect of unclaimed dividends and undistributed funds is \$ _____

Signature

Sworn, &c.

FORM 98

[rule 189]

NOTICE TO CREDITORS AND CONTRIBUTORIES OF INTENTION TO APPLY FOR RELEASE

(Title)

Take notice that I, the undersigned liquidator of the above-named company, intend to apply to the court for my release, and further take notice that any objection you may have to the granting of my release must be notified to the court within 21 days of the date hereof.

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

Dated this _____ day of _____, 20____.

Liquidator

To

Note-Section 205(3) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32), enacts that "An order of the court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order-

- (a) does not prevent the exercise of the court ' s powers under section 276; and*
- (b) may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact."*

(28 of 2012 ss. 912 & 920; 14 of 2016 s. 173)

FORM 99

[rule 189]

APPLICATION BY LIQUIDATOR TO THE COURT FOR RELEASE

(Title)

I, _____ the liquidator of the above-named company, do hereby report to this Honourable Court as follows-

1. That the whole of the property of the company has been realized for the benefit of the creditors and contributories [and a dividend to the amount of \$ _____ *per cent* 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 \$ _____ *per cent* has been paid, together with a return of _____ *per share* to the contributories of the company]; ^(a)

2. I hereby make application to this Honourable Court, (i) that it cause a report on my accounts to be prepared, and (ii) that on my complying with all the requirements of the court, it take into consideration the report and make an order granting my release.

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

Dated this _____ day of _____, 19 _____.

Liquidator

(L.N. 50 of 1964)

FORM 100

[rule 189]

STATEMENT TO ACCOMPANY NOTICE OF APPLICATION FOR RELEASE

(Title)

Statement showing position of company at date of application for release

Dr.		Cr.
	Receipts	Payments

Estimated to produce as per company's statement of affairs and any supplementary affidavit in relation to that statement		\$	¢	By court fees (including stationery, printing, and postages in respect of contributories, creditors, and debtors, and fee for audit)		\$	¢	(a) State number of creditors.
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 Total	\$	¢			Law costs of petition	\$	¢	
					Law costs of solicitor to liquidator			
					Other law costs			
					Liquidator's remuneration, viz.-			
					per cent on \$ assets realized			
					per cent on \$ assets distributed in dividend			
Less- Payments to redeem securities Costs of execution ... Payments per trading account	\$	¢			Shorthand writer's charges			
					Special manager's charges			
					Person appointed to assist in preparation of statement of affairs or supplementary affidavit			
					Auctioneer's charges as taxed			
					Other taxed costs			
					Costs of possession and maintenance of estate			
					Costs of notices in <i>Gazette</i> and local papers			
					Incidental outlay			
					Total costs and charges	\$		
					Creditors, viz.-			
		(a) Preferential						
		(a) Unsecured: dividend of \$						
		per cent						
		The estimate of amount expected to rank for						
		Amount returned to contributories						
		Balance						
	\$							
Net realizations		\$						
Amounts received from calls on contributories made by the liquidator								
	\$							

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

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

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

(14 of 2016 s. 173)

FORM 101

[rule 201]

REGISTER OF WINDING-UP ORDERS TO BE KEPT IN THE COURT

Number of Winding-up Order	Number of Petition	Date of Petition	Date of Winding-up Order	Dates of Public Examinations (if any)	Liquidator

FORM 102

[rule 201]

REGISTER OF PETITIONS TO BE KEPT IN THE COURT

No. of Petition	Name of Company	Address of registered office	Description of Company	Date of Petition	Petitioner	Date of Winding-up Order

FORM 103

[rule 202]

NOTICES FOR GAZETTE

(1) NOTICE OF WINDING-UP ORDER

(rule 36(1)(c))

Name of company

Address of registered office

Number of matter
Date of presentation of petition*

Date of order

(* Where it is known that a voluntary winding up preceded the presentation of the petition, the date of the resolution for voluntary winding up should also be given)

(2) NOTICE OF FIRST MEETING

(rule 107)

Name of company	Number of matter	Address of registered office
Hour	Place	Creditors, Date
Hour	Place	Contributories, Date

(3) NOTICE OF PUBLIC EXAMINATION

(rule 55(1))

Name of company	Address of registered office
Number of matter	Date fixed for examination
Names of persons to be examined	Hour
Place	

(4) NOTICE OF INTENDED DIVIDEND

(rule 142(1))

Name of company	Address of registered office
Number of matter	Last day for receiving proofs
Name of liquidator	Address

(5) NOTICE OF DIVIDEND

(rule 142(3))

Name of company	Address of registered office
Number of matter	Amount <i>per cent</i>
First and final or otherwise	When payable
Where payable	

(6) NOTICE OF RETURN TO CONTRIBUTORIES

(rule 143)

Name of company	Address of registered office
Number of matter	Amount per share
First and final or otherwise	When payable
Where payable	

(7) NOTICE OF APPOINTMENT OF LIQUIDATOR

(rule 45(5))

Name of company	Address of registered office
Number of matter	Liquidator's name
Address	Date of appointment

(8) NOTICE OF REMOVAL OF LIQUIDATOR

(rule 45(7))

Name of company	Address of registered office
Number of matter	Liquidator's name
Liquidator's address	Date of removal

(9) NOTICE OF RELEASE OF LIQUIDATOR

(rule 189(2))

Name of company	Address of registered office
Number of matter	Liquidator's name
Liquidator's address	Date of release

(14 of 2016 s.173)

FORM 104

[rule 203]

MEMORANDUM OF ADVERTISEMENT OR GAZETTING

(Title)

Name of paper	Date of issue	Date of filing	Nature of order, &c.

(Signed)

CERTIFICATE OF RECEIPT FOR MONEY PAID INTO COMPANIES
LIQUIDATION ACCOUNT*(Title)*

This is to certify that Mr. _____, liquidator of the above-named company has this day paid into the companies liquidation account through me the sum of _____ representing unclaimed or undistributed assets of the above-named company or money held by the company in trust in respect of dividends or other sums due to members of the company.

Dated this _____ day of _____, 19____.

Official Receiver

(L.N. 201 of 1984)