LAWS OF BRUNEI

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COMPANIES ACT

An Act to provide for the incorporation and registration of companies in Brunei, to control and regulate the relation between members of a company and the company and between the company and its creditors and the public, to provide for the conditions under which companies incorporated outside Brunei may carry on business in Brunei and generally to control the functioning within Brunei of companies registered locally or carrying on business within Brunei.

25 of 1956
21 of 1957
S. 89/57
S. 99/59
20 of 1983, Sch. 4

Commencement: 1st January 1957 S. 3/57

1. This Act may be cited as the Companies Act.

Short title

INTERPRETATION

2. (1) In this Act —

Interpretation

"annual return" means the return required to be made, in the case of a company having a share capital, under section 107, and, in the case of a company not having a share capital, under section 108;

"articles" means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained in Table A in the First Schedule;

"book and paper" and "book or paper" include accounts, deeds, writings, and documents;

"Clerk of Council" means the person appointed to the position of Clerk to the Legislative Council;

"company" means a company formed and registered under this Act;

"Court" used in relation to a company means the Court having jurisdiction to wind up the company;

"debenture" includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not;

"director" includes any person occupying the position of director by whatever name called;

"document" includes summons, notice, order, and other legal process, and registers;

"general rules" means general rules made under section 281 and includes forms;

"memorandum" means the memorandum of association of a company, as originally framed or as altered in pursuance of any written law;

"Permanent Secretary" means the Permanent Secretary, Ministry of Finance;

"prescribed" means as respects the provisions of this Act relating to the winding-up of companies, prescribed by general rules, and as respects the other provisions of this Act, prescribed by His Majesty and Yang Di-Pertuan in Council;

"prospectus" means any prospectus, notice, circular, advertisement, or other invitation, offering to the public for subscription or purchase of any shares or debentures of a company;

"Registrar" means the registrar or other officer, appointed by His Majesty by notification in the *Gazette* to perform the duty of registration of companies under this Act;

"share" means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;

"Table A" means Table A in the First Schedule.

(2) A person shall not be deemed to be within the meaning of any provision in this Act a person in accordance with whose directions or instructions the directors of a company are accustomed to act, by reason only that the directors of the company act on advice given by him in a professional capacity.

Application

3. This Act applies to every company registered in Brunei irrespective of the place or places where the business of such company may be carried on.

PART I

INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO

MEMORANDUM OF ASSOCIATION

Mode of forming incorporated company

4. (1) Any 7 or more persons, or, where the company to be formed will be a private company, any two or more persons, associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability.

(2) Such a company may be either —

(*a*) a company having the liability of its members limited by the memorandum of the amount, if

any, unpaid on the shares respectively held by them (in this Act termed a company limited by shares);

(*b*) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Act termed a company limited by guarantee); or

(*c*) a company not having any limit on the liability of its members (in this Act termed an unlimited company).

Requirements with respect to memorandum

5. (1) The memorandum of every company incorporated after the commencement of this Act must state —

(*a*) the name of the company, with *"Berhad"* or the abbreviation *"Bhd"* as the last word of the name in the case of a company limited by shares or by guarantee;

(*b*) in the case of a private limited company, with the word *"Sendirian"* or the abbreviation *"Sdn"* as part of its name, inserted immediately before the word *"Berhad"* or before the abbreviation *"Bhd"* or, in the case of a private unlimited company, at the end of its name;

(*c*) the objects of the company.

(2) The memorandum of a company limited by shares or by guarantee must also state that the liability of its members is limited.

(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company in the event of its

being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(4) In the case of a company having a share capital —

(*a*) the memorandum must also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;

(*b*) no subscriber of the memorandum may take less than one share;

(*c*) each subscriber must write opposite to his name the number of shares he takes.

Stamp and signature of memorandum

6. The memorandum must bear the same stamp as if it were a deed, and must be signed by each subscriber in the presence of at least one witness who must attest the signature.

Restriction on alteration of memorandum

7. A company may not alter the conditions contained in its memorandum except in the cases, in the mode and to the extent for which express provision is made in this Act.

Mode in which and extent to which objects of company may be altered

8. (1) Subject to the provisions of this section, a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it —

(*a*) to carry on its business more economically or more efficiently;

(*b*) to attain its main purpose by new or improved means;

(*c*) to enlarge or change the local area of its operations;

(*d*) to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company;

(*e*) to restrict or abandon any of the objects specified in the memorandum;

(*f*) to sell or dispose of the whole or any part of the undertaking of the company; or

(*g*) to amalgamate with any other company or body of persons.

(2) The alteration shall not take effect until, and except in so far as, it is confirmed on petition by the Court.

(3) Before confirming the alteration the Court must be satisfied —

(*a*) that sufficient notice has been given to every holder of debentures of the company, and to any person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(*b*) that, with respect to every creditor who in the opinion of the Court is entitled to object and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court:

Provided that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

(4) The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit.

(5) The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement: Provided that no part of the capital of the company shall be expended in any such purchase.

(6) An office copy of the order confirming the alteration, together with a printed copy of the memorandum as altered, shall, within 15 days from the date of the order, be delivered by the company to the Registrar and he shall register the copy so delivered and shall certify the registration under his hand, and the certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the confirmation thereof have been complied with, and thenceforth the memorandum as so altered shall be the memorandum of the company. The Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

(7) If a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company shall be liable to a fine of $50 for every day during which the default continues.

ARTICLES OF ASSOCIATION

Articles prescribing regulations for companies

9. There may in the case of a company limited by shares, and there shall in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

Regulations required in case of unlimited company or company limited by guarantee

10. (1) In the case of an unlimited company the articles, if the company has a share capital, must state the amount of share capital with which the company proposes to be registered.

(2) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has not a share capital, must state the number of members with which the company proposes to be registered.

(3) Where a company not having a share capital has increased the number of its members beyond the registered number, it shall, within 15 days after the increase was resolved on or took place, give to the Registrar notice of the increase, and the Registrar shall record the increase. If default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a default fine.

Adoption and application of Table A

11. (1) Articles of association may adopt all or any of the regulations contained in Table A.

(2) In the case of a company limited by shares and registered after the commencement of this Act if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

12. Articles must —

Printing, stamp, and signature of articles

(*a*) be printed;

(*b*) be divided into paragraphs numbered consecutively;

(*c*) bear the same stamp as if they were contained in a deed;

(*d*) be signed by each subscriber of the memorandum of association in the presence of at least one witness who must attest the signature.

13. (1) Subject to the provisions of this Act and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles.

Alteration of articles by special resolution

(2) Any alteration or addition so made in the articles shall, subject to the provisions of this Act, be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.

FORM OF MEMORANDUM AND ARTICLES

14. The form of —

Statutory forms of memorandum and articles

(*a*) the memorandum of association of a company limited by shares;

(*b*) the memorandum and articles of association of a company limited by guarantee and not having a share capital;

(*c*) the memorandum and articles of association of a company limited by guarantee and having a share capital;

(*d*) the memorandum and articles of association of an unlimited company having a share capital;

First Schedule

shall be respectively in accordance with the forms set out in Tables B, C, D and E in the First Schedule, or as near thereto as circumstances admit.

REGISTRATION

Registration of memorandum and articles

15. The memorandum and the articles, if any, shall be delivered to the Registrar and the Registrar shall retain and register them.

Certificate of incorporation

16. On the registration of the memorandum of a company the Registrar shall certify under his hand that the company is incorporated and, in the case of a limited company, that the company is limited.

Effect of registration

17. From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Act.

Conclusiveness of certificate of incorporation

18. (1) A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorised to be registered and duly registered under this Act.

19. A statutory declaration by a person entitled to practise as an advocate, who is engaged in the formation of the company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, and the Registrar may accept such a declaration as sufficient evidence of compliance.

Registrar may accept statutory declaration as sufficient evidence of compliance with registration requirements

PROVISIONS WITH RESPECT TO NAMES OF COMPANIES

20. (1) No company shall be registered by a name which—

Restriction on registration of companies by certain names

(*a*) is identical with that by which a company in existence is already registered under any of the provisions of this Act or so nearly resembles that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar requires;

(*b*) is identical with the name of any company incorporated outside Brunei and carrying on business within Brunei which has duly complied with the requirements of Part IX of this Act, or, in the opinion of the Registrar, so nearly resembles that name as to be calculated to deceive except where the said company is about to cease carrying on business in Brunei, and signifies its consent in such manner as the Registrar requires;

(*c*) is identical with any name registered under any written law providing for the registration of business names, or in the opinion of the Registrar, so nearly resembles that name as to be calculated to deceive;

Provided that if the Registrar is satisfied that a company is being registered for the purpose of tak-

ing over any business which is carried on under a registered business name, and will be entitled as against the proprietor of that name to use that name, he may register the company by that name;

(*d*) in the opinion of the Registrar is likely to mislead the public as to the nature or the objects of the company;

(*e*) contains the words "*Chamber of Commerce*", unless the company is a company which is to be registered under a licence granted in pursuance of section 21 without the addition of the word "*Berhad*" to its name; or

(*f*) contains the words "*Building Society*".

(2) Except with the consent of His Majesty no company shall be registered by a name which —

(*a*) contains the words "*Royal*", or "*Di-Raja*" or in the opinion of the Registrar suggests, or is calculated to suggest, the patronage of His Majesty or connexion with the Government of Brunei or any department thereof;

(*b*) in the opinion of the Registrar suggests, or is calculated to suggest, connexion with any municipality or other local authority;

(*c*) contains the words "*Co-operative*";

(*d*) contains the word "*Brunei*";

(*e*) contains the word "*Savings*"; or

(*f*) contains the words "*Trust*" *or* "*Trustee*".

Power to dispense with "*Berhad*" in name of charitable and other companies.

21. (1) Where it is proved to the satisfaction of His Majesty that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, His Majesty may by licence direct that the association may be registered as a company with limited liability, without the addition of the word "*Berhad*" to its name, and the association may be registered accordingly.

(2) A licence by His Majesty under this section may be granted on such conditions and subject to such regulations as he may think fit, and those conditions and regulations shall be binding on the association, and shall, if His Majesty so direct, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited companies, and be subject to all their obligations, except those of using the word "*Berhad*" as any part of its name, and of publishing its name, and of sending lists of members to the Registrar of Companies.

(4) A licence under this section may at any time be revoked by His Majesty, and upon revocation the Registrar shall enter the word "*Berhad*" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section: Provided that, before a licence is so revoked, His Majesty shall give to the association notice in writing of his intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

(5) Where the name of the association contains the words "*Chamber of Commerce*", the notice to be given as aforesaid shall include a statement of the effect of the provisions of subsection (3) of section 22.

Change of name

22. (1) A company may, by special resolution and with the prior approval of His Majesty signified in writing, change its name.

(2) If a company, through inadvertence or otherwise, is, without such consent as is mentioned in paragraph (*a*) of subsection (1) of section 20 registered by a name which is identical with that by which a company in existence is previously registered, or which so nearly resembles that name as to be calculated to deceive, the first-mentioned company may change its name with the sanction of the Registrar.

(3) Where a licence granted in pursuance of section 21 to a company the name of which contains the words "*Chamber of Commerce*" is revoked, the company shall, within a period of 6 weeks from the date of the revocation or such longer period as His Majesty may think fit to allow, change its name to a name which does not contain those words. If a company makes default in complying with the requirements of this subsection, it shall be guilty of an offence: Penalty, a fine of $250 for every day during which the default continues.

(4) Where a company changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(5) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

GENERAL PROVISIONS WITH RESPECT TO MEMORANDUM AND ARTICLES

Effect of memorandum and articles

23. Subject to the provisions of this Act the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member, and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

Moneys payable to be a specialty debt

24. All money payable by any member of the company under the memorandum or articles shall be a debt due from him to the company, and be of the nature of a speciality debt.

Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent

25. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company: Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.

Copies of memorandum and articles to be given to members

26. (1) A company shall, on being so required by any member, send to him a copy of the memorandum and of the articles, if any, and a copy of any Act which alters the memorandum, subject to payment, in the case of a copy of the memorandum and of the articles, of 50 cents or such sum as the company may with the prior approval of the Registrar prescribe, and, in the case of a copy of an Act, of such sum not exceeding the published price thereof as the company may require.

(2) If a company makes default in complying with this section, the company and every officer of the company

who is in default shall be guilty of an offence: Penalty, a fine of $100.

Issued copies of memorandum to embody alterations

27. (1) Where an alteration is made in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum which are not in accordance with the alteration, it shall be liable to a fine of $15 for each copy so issued, and every officer of the company who is in default shall be liable to the like penalty.

MEMBERSHIP OF COMPANY

Definition of member

28. (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

PRIVATE COMPANIES

Meaning of private company

29. (1) For the purposes of this Act, the expression "private company" means a company which by its articles—

(*a*) restricts the right to transfer its shares;

(*b*) limits the number of its members to fifty, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company, were

while in that employment, and have continued after the determination of that employment to be, members of the company; and

(*c*) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(2) Where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this section, be treated as a single member.

Circumstances in which company ceases to be, or to enjoy privileges of, a private company

30. (1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under section 29, are required to be included in the articles of a company in order to constitute it a private company, the company shall, as on the date of the alteration, cease to be a private company and shall, within a period of 14 days after the said date, deliver to the Registrar for registration a prospectus or a statement in lieu of prospectus in the form and containing the particulars set out in the Second Schedule.

Second Schedule

(2) If default is made in complying with subsection (1), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine of $500.

(3) Where the articles of a company include the provisions aforesaid but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in section 31, subsection (3) of section 109, subsection (1) of section 129 and paragraph (*d*) of section 162, and thereupon the said provisions shall apply to the company as if it were not a private company: Provided that the Court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or

that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the Court just and expedient, order that the company be relieved from such consequences as aforesaid.

REDUCTION OF NUMBER OF MEMBERS BELOW LEGAL MINIMUM

Prohibition of carrying on business with fewer than seven or, in the case of a private company, two members

31. If at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below seven, and it carries on business for more than 6 months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those 6 months and is cognisant of the fact that it is carrying on business with fewer than two members, or seven members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.

CONTRACTS, ETC.

Form of contracts

32. (1) Contracts on behalf of a company may be made as follows—

(*a*) a contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the company in writing under the common seal of the company;

(*b*) a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied;

(*c*) a contract which if made between private persons would by law be valid although made by parole only, and not reduced into writing, may be made by parole on behalf of the company by any person acting under its authority, express or implied.

(2) A contract made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised by this section to be made.

Bills of exchange and promissory notes

33. A bill of exchange or promissory note shall be deemed to have been made, accepted, or indorsed on behalf of a company if made, accepted, or indorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.

Execution of deeds abroad

34. (1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in Brunei.

(2) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the same effect as if it were under its common seal.

Power for company to have official seal for use abroad

35. (1) A company whose objects require or comprise the transaction of business outside Brunei, may, if authorised by its articles, have for use in any territory, district, or place not situate in Brunei, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district, or place where it is to be used.

(2) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

(3) A company having an official seal for use in any such territory, district or place may, by writing under its common seal, authorise any person appointed for the purpose in that territory, district or place, to affix the official seal to any deed or other document to which the company is party in that territory, district or place.

(4) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(5) The person affixing any such official seal shall, by writing under his hand, certify on the deed or other instrument, to which the seal is affixed, the date on which and the place at which it is affixed.

Authentication of documents

36. A document or proceeding requiring authentication by a company may be signed by a director, secretary, or other authorised officer of the company, and need not be under its common seal.

PART II

SHARE CAPITAL AND DEBENTURES

PROSPECTUS

Dating and registration of prospectus

37. (1) A prospectus issued by or on behalf of a company or in relation to an intended company shall be dated, and that date shall, unless the contrary is proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, shall be delivered to the Registrar for registration on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so delivered for registration.

(3) The Registrar shall not register any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been delivered for registration as required by this section.

(5) If a prospectus is issued without a copy thereof being so deliverd, the company, and every person who is knowlingly a party to the issue of the prospectus, shall be guilty of an offence: Penalty, a fine of $25 for every day from the date of the issue of the prospectus until a copy thereof is so delivered.

Specific requirements as to particulars in prospectus

Third Schedule

38. (1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, and must state the matters specified in Part I of the Third Schedule and set out the reports specified in Part II of that Schedule, and the said Parts I and II shall have effect subject to the provisions contained in Part III of the said Schedule.

(2) A condition requiring or binding an applicant for shares in or debentures of a company to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) It shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this section: Provided that this subsection shall not apply if it is shown that the form of application was issued either—

(*a*) in connexion with an invitation made in good faith to a person to enter into an underwriting agreement with respect to the shares or debentures; or

(*b*) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this subsection, he shall be guilty of an offence: Penalty, a fine of $5,000.

(4) In the event of a contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the contravention, if—

(*a*) as regards any matter not disclosed, he proves that he was not cognisant thereof;

(*b*) he proves that the contravention arose from an honest mistake of fact on his part; or

(*c*) the contravention was in respect of matters which in the opinion of the Court dealing with the case were immaterial or was otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters specified

in paragraph 15 of Part I of the Third Schedule, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

Third Schedule

(5) This section shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but, subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on or with reference to the formation of a company or subsequently.

(6) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

Restriction on alteration of terms mentioned in prospectus or statement in lieu of prospectus

39. (1) A company limited by shares or a company limited by guarantee and having a share capital shall not previously to the statutory meeting vary the terms of a contract referred to in the prospectus, or statement in lieu of prospectus, except subject to the approval of the statutory meeting.

(2) This section shall not apply to a private company.

Liability for statement in prospectus

40. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company —

(*a*) every person who is a director of the company at the time of the issue of the prospectus;

(*b*) every person who has authorised himself to be named and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time;

(*c*) every person being a promoter of the company; and

(*d*) every person who has authorised the issue of the prospectus,

shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved —

(i) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent;

(ii) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent;

(iii) that after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor; or

(iv) that —

(*a*) as regards every untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true;

(*b*) as regards every untrue statement purporting to be a statement by an expert or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation; and

(*c*) as regards every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document:

Provided that person shall be liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making any such statement, report or valuation as is mentioned in paragraph (iv) (*b*) was competent to make it.

(2) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorised or consented to the issue thereof, the directors of the company, except any director without whose knowledge or consent the prospectus was issued, and any other person who authorised the issue thereof, shall be liable to indemnify the person named as aforesaid against all damages, costs, and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(3) Every person who, by reason of his being a director or named as a director or as having agreed to become a

director, or of his having authorised the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(4) For the purpose of this section —

"promoter" means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company;

"expert" includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

Document containing offer of shares or debentures for sale to be deemed prospectus

41. (1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company, and all written laws and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Act, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown —

(*a*) that an offer of the shares or debentures or of any of them for sale to the public was made within 6 months after the allotment or agreement to allot; or

(*b*) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section 37 as applied by this section shall have effect as though the persons making the offer were persons named in a prospectus as directors of a company, and section 38 as applied by this section shall have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus —

(*a*) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and

(*b*) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected.

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by two directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorised in writing.

Prohibition of allotment unless minimum subscription received

Third Schedule

42. (1) No allotment shall be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which, in the opinion of the directors must be raised by the issue of share capital in order to provide for the matters specified in paragraph 5 in Part I of the Third Schedule has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the company. For the purposes of this subsection, a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company and the directors of the company have no reason for suspecting that the cheque will not be paid.

(2) The amount so stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than 5 *per cent* of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of 40 days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within 48 days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of 5 *per cent per annum* from the expiration of the 48th day: Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except subsection (3), shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar

43. (1) A company having a share capital which does not issue a prospectus on or with reference to its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, shall not allot any of its shares or debentures unless at least 3 days before the first allotment of either shares or debentures there has been delivered to the Registrar for registration a statement in lieu of prospectus, signed by every person who is named therein as a director or a proposed director of the company or by his agent authorised in writing, in the form and containing the particulars set out in the Fourth Schedule.

Fourth Schedule

(2) This section shall not apply to a private company.

(3) If a company acts in contravention of this section, the company and every director of the company who knowingly authorises or permits the contravention shall be guilty of an offence: Penalty, a fine of $5,000.

Effect of irregular allotment

44. (1) An allotment made by a company to an applicant in contravention of the provisions of sections 42 and 43, shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes, or permits or authorises the contravention of, any of the provisions of the said sections with respect to allot-

ment, he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby: Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of two years from the date of allotment.

Return as to allotments

45. (1) Whenever a company limited by shares or a company limited by guarantee and having a share capital makes any allotment of its shares, the company shall within 8 weeks thereafter deliver to the Registrar for registration —

(*a*) a return of the allotments stating the number and nominal amount of the shares comprised in the allotment, the names, addresses, and descriptions of the allottees and the amount, if any, paid or due and payable on each share; and

(*b*) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of allottee to the allotment together with any contract of sale, or for services or other consideration in respect of which that allotment was made, such contracts being duly stamped, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

(2) Where such a contract as above-mentioned is not reduced to writing, the company shall within 8 weeks after the allotment deliver to the Registrar for registration the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing, and those particulars shall be deemed to be an instrument within the meaning of the Stamp Act, and the Registrar may, as a condition of filing

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the particulars, require that the duty payable thereon be adjudicated under that Act.

(3) If default is made in complying with this section, every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall be guilty of an offence: Penalty, a fine of $250 for every day during which the default continues:

Provided that, in case of default in delivering to the Registrar any document within 8 weeks after the allotment any document required to be delivered by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to deliver the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the delivery of the document for such period as the Court may think proper.

COMMISSIONS AND DISCOUNTS

Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.

46. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if —

(*a*) the payment of the commission is authorised by the articles;

(*b*) the commission paid or agreed to be paid does not exceed 10 *per cent* of the price at which the shares are issued or the amount or rate authorised by the articles, whichever is the less;

(*c*) the amount or rate *per cent* of the commission paid or agreed to be paid is —

(i) in the case of shares offered to the public for subscription, disclosed in the prospectus; or

(ii) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the prescribed form signed in like manner as a statement in lieu of prospectus and delivered before the payment of the commission to the Registrar for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and

(*d*) the number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount, or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay.

(4) A vendor to, promoter of, or other person who receives payment in money or shares from, a company shall have and shall be deemed always to have had power to

apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.

(5) If default is made in complying with the provisions of this section relating to the delivery to the Registrar of the statement in the prescribed form, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $5,000.

Statement in balance sheet as to commissions and discounts

47. (1) Where a company has paid any sums by way of commission in respect of any shares or debentures or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much, thereof as has not been written off, shall be stated in every balance sheet of the company until the whole amount thereof has been written off.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

Prohibition of provision of financial assistance by company for purchase of its own shares

48. (1) Subject as provided in this section, it shall not be lawful for a company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connexion with a purchase made or to be made by any person of any shares in the company: Provided that nothing in this section shall be taken to prohibit —

(*a*) where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business;

(*b*) the provision by a company, in accordance with any scheme for the time being in force, of money for the purchase by trustees of fully-paid

shares in the company to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company;

(*c*) the making by a company of loans to persons, other than directors, genuinely in the employment of the company with a view to enabling those persons to purchase fully-paid shares in the company to be held by themselves by way of beneficial ownership.

(2) The aggregate amount of any outstanding loans made under the authority of provisos (*b*) and (*c*) to subsection (1) shall be shown as a separate item in every balance sheet of the company.

(3) If a company acts in contravention of this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $5,000.

ISSUE OF REDEEMABLE PREFERENCE SHARES AND SHARES AT DISCOUNT

Power to issue redeemable preference shares

49. (1) Subject to the provisions of this section, a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed: Provided that —

(*a*) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption;

(*b*) no such shares shall be redeemed unless they are fully paid;

(*c*) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called the capital redemption reserve fund, a sum equal to the amount applied in redeeming the shares, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company;

(*d*) where any such shares are redeemed out of the proceeds of a fresh issue, the premium, if any, payable on redemption, must have been provided for out of the profits of the company before the shares are redeemed.

(2) There shall be included in every balance sheet of a company which has issued redeemable preference shares a statement specifying what part of the issued capital of the company consists of such shares and the date on or before which those shares are, or are to be liable, to be redeemed.

If a company fails to comply with the provisions of this subsection, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $5,000.

(3) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of

the company shall not for the purposes of any written law relating to stamp duty be deemed to be increased by the issue of shares in pursuance of this subsection: Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to stamp duty, be deemed to have been issued in pursuance of this subsection unless the old shares are redeemed within one month after the issue of the new shares.

(5) Where new shares have been issued in pursuance of subsection (4), the capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company, up to an amount equal to the nominal amount of the shares so issued, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

Power to issue shares at a discount

50. (1) Subject as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued: Provided that —

(*a*) the issue of the shares at a discount must be authorised by resolution passed in general meeting of the company, and must be sanctioned by the Court;

(*b*) the resolution must specify the maximum rate of discount at which the shares are to be issued;

(*c*) not less than one year must at the date of the issue have elapsed since the date on which the company was entitled to commence business; and

(*d*) the shares to be issued at a discount must be issued within one month after the date on which the issue is sanctioned by the Court or within such extended time as the Court may allow.

(2) Where a company has passed a resolution authorising the issue of shares at a discount, it may apply to the Court for an order sanctioning the issue, and on any such application the Court, if, having regard to all the circumstances of the case, it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.

(3) Every prospectus relating to the issue of the shares and every balance sheet issued by the company subsequently to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the document in question. If default is made in complying with this subsection, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

Power of company to arrange for different amounts being paid on shares

51. A company, if so authorised by its articles, may do any one or more of the following things —

(*a*) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;

(*b*) accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;

(*c*) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

Reserve liability of limited company

52. A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company

being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

Power of company limited by shares to alter its share capital

53. (1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorised by its articles, may alter the conditions of its memorandum as follows, that is to say, it may —

(*a*) increase its share capital by new shares of such amount as it thinks expedient;

(*b*) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(*c*) convert all or any of its paid-up shares into stock, and re-convert that stock into paid-up shares of any denomination;

(*d*) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

(*e*) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section must be exercised by the company in general meeting.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Act.

Notice to Registrar of consolidation of share capital, conversion of shares into stock, etc.

54. (1) If a company having a share capital has —

(*a*) consolidated and divided its share capital into shares of larger amount than its existing shares;

(*b*) converted any shares into stock;

(*c*) re-converted stock into shares;

(*d*) subdivided its shares or any of them;

(*e*) redeemed any redeemable preference shares; or

(*f*) cancelled any shares, otherwise than in connexion with a reduction of share capital under section 58,

it shall within one month after so doing give notice thereof to the Registrar of Companies specifying, as the case may be, the shares consolidated, divided, converted, subdivided, redeemed or cancelled, or the stock re-converted.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

Notice of increase of share capital

55. (1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall within 15 days after the passing of the resolution authorising the increase, give to the Registrar notice of the increase, and the Registrar shall record the increase.

(2) The notice to be given as aforesaid shall include such particulars as may be prescribed with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and there shall be forwarded to the Registrar together with the notice a printed copy of the resolution authorising the increase.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

Power of unlimited company to provide for reserve share capital on re-registration

56. An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Act, do either or both of the following things, namely —

(*a*) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;

(*b*) provide that a special portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.

Power of company to pay interest out of capital in certain cases

57. (1) Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant: Provided that —

(*a*) no such payment shall be made unless it is authorised by the articles or by special resolution;

(*b*) no such payment, whether authorised by the articles or by special resolution, shall be made without the previous sanction of the Court;

(*c*) before sanctioning any such payment the Court may, at the expense of the company, appoint a person to inquire and report to them as to the circumstances of the case, and may before making the appointment, require the company to give security for the payment of the costs of the inquiry;

(*d*) the payment shall be made only for such period as may be determined by the Court, and that period shall in no case extend beyond the close of the half year next after the half year during which the works or buildings have been actually completed or the plant provided;

(*e*) the rate of interest shall in no case exceed 4 *per cent per annum* or such other rate as may for the time being be prescribed by the Court;

(*f*) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;

(*g*) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

(2) If default is made in complying with proviso (*g*) to subsection (1), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $5,000.

REDUCTION OF SHARE CAPITAL

Special resolution for reduction of share capital

58. (1) Subject to confirmation by the Court, a company limited by shares or a company limited by guarantee and having a share capital may, if so authorised by its articles, by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may —

(*a*) extinguish or reduce the liability on any of its shares in respect of share capital not paid up;

(*b*) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(*c*) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Act referred to as a resolution for reducing share capital.

Application to Court for confirming order, objections by creditors, and settlement of list of objecting creditors

59. (1) Where a company has passed a resolution for reducing share capital, it may apply by petition to the Court for an order confirming the reduction.

(2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, the following provisions shall have effect, subject nevertheless to the next following subsection —

(*a*) every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction;

(*b*) the court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction;

(*c*) where a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount —

(i) if the company admits the full amount of the debt or claim, or, though not admitting it is willing to provide for it, then the full amount of the debt or claim;

(ii) if the company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court.

(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if having regard to any special circumstances of the case it thinks proper so to do, direct that subsection (2) shall not apply as regards any class or any classes of creditors.

Order confirming reduction and powers of Court on making such order

60. (1) The Court, if satisfied, with respect to every creditor of the company who under section 59 is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

(2) Where the Court makes any such order, it may —

(*a*) if for any special reason it thinks proper so to do, make an order directing that the company shall, during such period, commencing on or at any time after the date of the order as is specified in the order, add to its name as the last words thereof the words "and reduced"; and

(*b*) make an order requiring the company to publish as the Court directs the reasons for reduction or such other information in regard thereto as the Court may think expedient with a view to giving proper information to the public, and, if the Court thinks fit, the causes which led to the reduction.

(3) Where a company is ordered to add to its name the words "and reduced", those words shall, until the expiration of the period specified in the order, be deemed to be part of the name of the company.

Registration of order and minute of reduction

61. (1) The Registrar, on production to him of an order of the Court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute approved by the Court, showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute.

(2) On the registration of the order and minute, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Act with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

(5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.

(6) The substitution of any such minute as aforesaid for part of the memorandum of the company shall be deemed to be an alteration of the memorandum within the meaning of section 27.

Liability of members in respect of reduced shares

62. (1) In the case of a reduction of share capital, a member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the

share as fixed by the minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been paid, on the share, as the case may be: Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Act with respect to winding up by the Court, to pay the amount of his debt or claim, then —

(*a*) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the said date; and

(*b*) if the company is wound up, the Court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

Penalty on concealment of name of creditor

63. If any director, manager, secretary or other officer of the company —

(*a*) wilfully conceals the name of any creditor entitled to object to the reduction;

(*b*) wilfully misrepresents the nature or amount of the debt or claim of any creditor; or

(*c*) aids, abets or is privy to any such concealment or misrepresentation as aforesaid,

he shall be guilty of an offence: Penalty, imprisonment for one year and a fine.

VARIATION OF SHAREHOLDERS' RIGHTS

Rights of holders of special classes of shares

64. (1) If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorising the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than 15 *per cent* of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the Court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the Court.

(2) An application under this section must be made within 7 days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application the Court, after hearing the applicant and any other persons who apply to the Court to be heard and appear to the Court to be interested in the

application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.

(4) The decision of the Court on any such application shall be final.

(5) The company shall within 15 days after the making of an order by the Court on any such application forward a copy of the order to the Registrar, and, if default is made in complying with this provision, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

(6) The expression "variation" in this section includes abrogation and the expression "varied" shall be construed accordingly.

TRANSFER OF SHARES AND DEBENTURES, EVIDENCE OF TITLE

Nature of shares

65. (1) The shares or other interest of any member in a company shall be movable property, transferable in manner provided by the articles of the company, and shall not be of the nature of immovable property.

(2) Each share in a company having a share capital shall be distinguished by its appropriate number.

Transfer not to be registered except on production of instrument of transfer

66. Notwithstanding anything in the articles of a company, it shall not be lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company: Provided that nothing in this section shall prejudice any power of the company to register as shareholder or debenture holder any person to whom the right to any

shares in or debentures of the company has been transmitted by operation of law.

Transfer by personal representative

67. A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member of the company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.

Registration of transfer at request of transferor

68. On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

Notice of refusal to register transfer

69. (1) If a company refuses to register a transfer of any shares or debentures, the company shall, within 2 months after the date on which the transfer was lodged with the company, send to the transferee notice of the refusal.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be guilty of an offence: Penalty, a fine of $25 for every day during which the default continues.

Duties of company with respect to issue of certificates

70. (1) Every company shall, within 2 months after the allotment of any of its shares, debentures, or debenture stock, and within 2 months after the date on which a transfer of any such shares, debentures, or debenture stock, is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide. The expression "transfer" for the purpose of this subsection means a transfer duly stamped and otherwise valid, and does not include such a

transfer as the company is for any reason entitled to refuse to register and does not register.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be guilty of an offence: Penalty, a fine of $25 for every day during which the default continues.

(3) If any company on whom a notice has been served requiring the company to make good any default in complying with the provisions of subsection (1) fails to make good the default within 10 days after the service of the notice, the Court may, on the application of the person entitled to have the certificate or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default.

Certificate to be evidence of title

71. A certificate, under the common seal of the company, specifying any shares held by any member, shall be evidence until the contrary be proved of the title of the member to the shares.

Evidence of grant of probate

72. The production to a company of any document which is by law sufficient evidence of probate of the will, or letters of administration of the estate, or confirmation as executor, of a deceased person having been granted to some person shall be accepted by the company, notwithstanding anything in its articles, as sufficient evidence of the grant.

Issue and effect of share warrants to bearer

73. (1) A company limited by shares, if so authorised by its articles, may, with respect to any full paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares therein specified, and may provide, by coupons or otherwise, for the payment

of the future dividends on the shares included in the warrant.

(2) Such a warrant as aforesaid is in this Act termed a share warrant.

(3) A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant.

Penalty for personation of shareholder

74. If any person falsely and deceitfully personates any owner of any share or interest in any company, or of any share warrant or coupon, issued in pursuance of this Act, and thereby obtains or endeavours to obtain any such share or interest or share warrant or coupon, or receives or endeavours to receive any money due to any such owner, as if the offender were the true and lawful owner, he shall be guilty of a seizable offence: Penalty, imprisonment for 15 years.

SPECIAL PROVISIONS AS TO DEBENTURES

Right of debenture holders and shareholders to inspect register of debenture holders and to have copies of trust deed

75. (1) Every register of holders of debentures of a company shall, except when duly closed, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that not less than two hours in each day shall be allowed for inspection. For the purposes of this subsection, a register shall be deemed to be duly closed if closed in accordance with provisions contained in the articles or in the debentures or, in the case of debenture stock, in the stock certificates, or in the trust deed or other document securing the debentures or debenture stock, during such period or periods, not exceeding in the whole 30 days in any year, as may be therein specified.

(2) Every registered holder of debentures and every holder of shares in a company may require a copy of the

register of the holders of debentures of the company or any part thereof on payment of 50 cents for every hundred words required to be copied.

(3) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of one dollar or such less sum as may be prescribed by the company, or, where the trust deed has not been printed, on payment of 50 cents for every hundred words required to be copied.

(4) If inspection is refused, or a copy is refused or not forwarded, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $500, and a default fine of $20.

(5) Where a company is in default as aforesaid, the Court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the person requiring them.

Perpetual debentures

76. A condition contained in any debentures or in any deed for securing any debentures shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

Power to re-issue redeemed debentures in certain cases

77. (1) Where after the commencement of this Act a company has redeemed any debentures previously issued, then —

(*a*) unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company; or

(*b*) unless the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

the company shall have, and shall be deemed always to have had, power to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place.

(2) On a re-issue of redeemed debentures the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.

(3) Where a company has power to re-issue debentures which have been redeemed, particulars with respect to the debentures which can be so re-issued shall be included in every balance sheet of the company.

(4) Where a company has after the passing of this Act deposited any of its debentures to secure advances from time to time on current account or other rent account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(5) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued: Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negli-

gence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

Specific performance of contracts to subscribe for debentures

78. A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

Payment of certain debts out of assets subject to floating charge in priority to claims under the charge

79. (1) Where, in the case of a company registered in Brunei, either a receiver is appointed on behalf of the holders of any debentures of the company secured by 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 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 relating to preferential payments to be paid in priority to all other debts, shall 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.

(2) The period of time mentioned in the said provisions of Part V 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 available for payment of general creditors.

PART III

REGISTRATION OF CHARGES

REGISTRATION OF CHARGES WITH REGISTRAR OF COMPANIES

Registration of charges created by companies registered in Brunei

80. (1) Subject to the provisions of this Part, every charge created by a company registered in Brunei and being a charge to which this section applies shall, so far as any security on the company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the charge, together with the instrument, if any, by which the charge is created or evidenced, are delivered to or received by the Registrar for registration in manner required by this Act within 5 weeks after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this section the money secured thereby shall immediately become payable.

(2) The section applies to the following charges —

(*a*) a charge for the purpose of securing any issue of debentures;

(*b*) a charge on uncalled share capital of the company;

(*c*) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale;

(*d*) a charge on land, wherever situate, or any interest therein;

(*e*) a charge on book debts of the company;

(*f*) a floating charge on the undertaking or property of the company;

(*g*) a charge on calls made but not paid;

(*h*) a charge on a ship or any share in a ship;

(*i*) a charge on goodwill, on a patent or a licence under a patent, on a trademark or on a copyright or a licence under a copyright.

(3) In the case of a charge created out of Brunei comprising solely property situate outside Brunei the delivery to and the receipt by the Registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced, shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and 5 weeks after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in Brunei shall be substituted for 5 weeks after the date of the creation of the charge, as the time within which the particulars and instrument or copy are to be delivered to the Registrar.

(4) Where a charge is created in Brunei but comprises property outside Brunei the instrument creating or purporting to create the charge may be sent for registration under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(5) Where a negotiable instrument has been given to secure the payment of any book debts of a company the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a charge on those book debts.

(6) The holding of debentures entitling the holder to a charge on land shall not for the purposes of this section be deemed to be an interest in land.

(7) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled in equal degree is created by a company, it shall for the purposes of this section be sufficient if there are delivered to or received by the Registrar within 5 weeks after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars —

(*a*) the total amount secured by the whole series; and

(*b*) the dates of the resolutions authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and

(*c*) a general description of the property charged; and

(*d*) the names of the trustees, if any, for the debenture holders,

together with the deed containing the charge, or, if there is no such deed, one of the debentures of the series: Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(8) Where any commission, allowance, or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or

agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount of rate *per cent* of the commission, discount, or allowance so paid or made, but omission to do this shall not affect the validity of the debentures issued: Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this subsection be treated as the issue of the debentures at a discount.

(9) In this Part "charge" includes mortgage.

Duty of company to register charges created by company

81. (1) It shall be the duty of a company to send to the Registrar for registration the particulars of every charge created by the company and of the issues of debentures of a series, requiring registration under section 80, but registration of any such charge may be effected on the application of any person interested therein.

(2) Where registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the Registrar on the registration.

(3) If any company makes default in sending to the Registrar for registration the particulars of any charge created by the company, or of the issues of debentures of a series, requiring registration as aforesaid, then, unless the registration has been effected on the application of some other person, the company and every director, manager, secretary or other person, who is knowingly a party to the default shall be guilty of an offence: Penalty, a fine of $250 for every day during which the default continues.

Duty of company to register charges existing on property acquired

82. (1) Where after the commencement of this Act a company registered under this Act acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part, the company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the Registrar for registration in manner required by this Act within 5 weeks after the date on which the acquisition is completed: Provided that, if the property is situate and the charge was created outside Brunei, 5 weeks after the date on which the copy of the instrument could in due course of post, and if despatched with due diligence, have been received by Brunei shall be substituted for 5 weeks after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the Registrar.

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine of $250.

Register of charges to be kept by Registrar

83. (1) The Registrar shall keep, with respect to each company, a register in the prescribed form of all the charges requiring registration under this Part, and shall, on payment of the prescribed fee, enter in the register with respect to such charges the following particulars —

(*a*) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in subsection (7) of section 80;

(*b*) in the case of any other charge —

(i) if the charge is a charge created by the company, the date of its creation, and if the charge

was a charge existing on property acquired by the company, the date of the acquisition of the property;

(ii) the amount secured by the charge;

(iii) short particulars of the property charged; and

(iv) the persons entitled to the charge.

(2) The Registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Part as to registration have been complied with.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding $5 for each inspection.

(4) The Registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the charges entered in the register.

Endorsement of certificate of registration on debentures

84. (1) The company shall cause a copy of every certificate of registration given under section 83 to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the charge so registered: Provided that nothing in this subsection shall be construed as requiring a company to cause a certificate of registration of any charge so given to be endorsed on any debenture or certificate of debenture stock issued by the company before the charge was created.

(2) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this section is required to have endorsed on it a copy of a certificate of registration without the copy being so endorsed upon it, he

shall, without prejudice to any other liability, be guilty of an offence: Penalty, a fine of $5,000.

Entry of satisfaction

85. The Registrar may, on evidence being given to his satisfaction that the debt for which any registered charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the company with a copy thereof.

Rectification of register of charges

86. The Court, on being satisfied that the omission to register a charge within the time required by this Act, or that the omission or misstatement of any particular with respect to any such charge or in a memorandum of satisfaction, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the Court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or misstatement shall be rectified.

Registration of enforcement of security

87. (1) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within seven days from the date of the order or of the appointment under the said powers, give notice of the fact to the Registrar, and the Registrar shall, on payment of the prescribed fee, enter the fact in the register of charges.

(2) Where any person appointed receiver or manager of the property of a company under the powers contained in any instrument ceases to act as such receiver or manager, he shall, on so ceasing, give the Registrar notice to that effect, and the Registrar shall enter the notice in the register of charges.

(3) If any person makes default in complying with the requirements of this section, he shall be guilty of an offence: Penalty, a fine of $25 for every day during which the default continues.

PROVISIONS AS TO COMPANY'S REGISTER OF CHARGES AND AS TO COPIES OF INSTRUMENTS CREATING CHARGES

Copies of instruments creating charges to be kept by company

88. Every company shall cause a copy of every instrument creating any charge requiring registration under this Part to be kept at the registered office of the company: Provided that, in the case of a series of uniform debentures, a copy of one debenture of the series shall be sufficient.

Company's register of charges

89. (1) Every limited company shall keep at the registered office of the company a register of charges and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or any property of the company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto.

(2) If any director, manager, or other officer of the company knowingly and wilfully authorises or permits the omission of any entry required to be made in pursuance of this section, he shall be guilty of an offence: Penalty a fine of $5,000.

Right to inspect copies of instruments creating mortgages and charges and company's register of charges

90. (1) The copies of instruments creating any charge requiring registration under this Part with the Registrar, and the register of charges, kept in pursuance of section 89, shall be open during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day shall be allowed for inspection) to the inspection of any creditor or member of the company without fee, and the register of

charges shall also be open to the inspection of any other person on payment of such fee, not exceeding $5 for each inspection, as the company may prescribe.

(2) If inspection of the said copies or register is refused, any officer of the company refusing inspection, and every director and manager of the company authorising or knowingly and wilfully permitting the refusal, shall be guilty of an offence: Penalty, a fine of $500, and a further fine of $20 for every day during which the refusal continues.

(3) If any such refusal occurs in relation to a company registered in Brunei, the Court may by order compel an immediate inspection of the copies or register.

APPLICATION OF PART III TO COMPANIES INCORPORATED OUTSIDE BRUNEI

Application of Part III to company incorporated outside Brunei

91. The provisions of this Part shall extend to charges on property in Brunei which are created, and to charges on property in Brunei which is acquired, after the commencement of this Act, by a company (whether a company within the meaning of this Act or not) incorporated outside Brunei which has an established place of business in Brunei.

PART IV

MANAGEMENT AND ADMINISTRATION

REGISTERED OFFICE AND NAME

Registered office of company

92. (1) A company shall, as from the day on which it begins to carry on business or as from the twenty-eighth day after the date of its incorporation, whichever is the earlier, have a registered office in Brunei to which all communications and notices may be addressed.

(2) Notice of the situation of the registered office, and of any change therein, shall be given within twenty-eight days after the date of the incorporation of the company or of the change, as the case may be, to the Registrar, who shall record the same. The inclusion in the annual return of a company of a statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this subsection.

Publication of name by company

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

93. (1) Every company —

(*a*) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible;

(*b*) shall have its name engraven in legible characters on its seal; and

(*c*) shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of the company, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

(2) If a company does not paint or affix its name in manner directed by this Act, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $250, and if a company does not keep its name painted or affixed in manner so directed, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

(3) If a company fails to comply with any of the provisions of subsections (1) and (2) the company shall be guilty of an offence: Penalty, a fine of $500.

(4) If a director, manager, or officer of a company, or any person on its behalf —

(*a*) uses or authorises the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid;

(*b*) issues or authorises the issue of any notice, advertisement, or other official publication of the company, or signs or authorises to be signed on behalf of the company any bill of exchange, promissory note, indorsement, cheque, or order for money or goods, wherein its name is not mentioned in manner aforesaid; or

(*c*) issues or authorises the issue of any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid;

he shall be guilty of an offence: Penalty, a fine of $500 and shall further be personally liable to the holder of the bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless it is by the company.

RESTRICTIONS ON COMMENCEMENT OF BUSINESS

Restrictions on commencement of business

94. (1) Where a company having a share capital has issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers unless —

(*a*) shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription;

(*b*) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and

(*c*) there has been delivered to the Registrar for registration a statutory declaration by the secretary or one of the directors, in the prescribed form, that the aforesaid conditions have been complied with.

(2) Where a company having a share capital has not issued a prospectus inviting the public to subscribe for its shares, the company shall not commence any business or exercise any borrowing powers, unless —

(*a*) there has been delivered to the Registrar for registration a statement in lieu of prospectus;

(*b*) every director of the company has paid to the company, on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash; and

(*c*) there has been delivered to the Registrar for registration a statutory declaration by the secretary or one of the directors in the prescribed form that paragraph (*b*) has been complied with.

(3) The Registrar shall, on the delivery to him of the said statutory declaration, and, in the case of a company

which is required by this section to deliver a statement in lieu of prospectus, of such a statement, certifying that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.

(4) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

(5) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.

(6) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention shall, without prejudice to any other liability, be guilty of an offence: Penalty, a fine of $250 for every day during which the contravention continues.

(7) If a company fails to obtain a certificate to commence business within one year of the date of its incorporation, the Registrar shall send by registered post to the company at its registered office a letter calling upon the company to apply for the said certificate.

(8) If the company fails to obtain the said certificate within one month of the posting of the said letter, the Registrar shall publish in the *Gazette* a notice to that effect that the company will be struck off the register if it fails to obtain the said certificate within two months after the publication of the said notice.

(9) If the company fails to obtain the said certificate within two months of the publication of the said notice, the Registrar shall strike the company off the register and shall

publish in the *Gazette* a notification to the effect that the company has been struck off the register.

(10) Upon the publication in the *Gazette* of the said notification, the company shall be deemed to be dissolved.

(11) If any company is struck off the register or dissolved under the provisions of this section, the Court, on the application of the company or of any member or creditor thereof may, on any ground which may seem fit to the Court, order that the company be restored to the register, either permanently or temporarily, and may make such restoration subject to any condition which may seem fit to the Court.

(12) Upon the making of any such order, the company shall be restored to the register and shall, subject to any order which the Court may make, be deemed to have continued in existence as if it had not been struck off the register, and the Court may give any directions which may seem necessary in the circumstances.

(13) If no office of the company has been registered, copies of the letter referred to in subsection (7) shall be sent by the Registrar by registered post to each of the persons who subscribed the memorandum of the company at the respective addresses given therein.

(14) Nothing in this section shall apply to a private company.

REGISTER OF MEMBERS

Register of members

95. (1) Every company shall keep in one or more books, a register of its members, and enter therein the following particulars —

(*a*) the names and addresses, and the occupations, if any, of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(*b*) the date at which each person was entered in the register as a member;

(*c*) the date at which any person ceased to be a member: Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the Registrar, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (*a*).

(2) If default is made in complying with this section the company and every officer of the company who is in default shall be liable to a default fine.

Index of members of company

96. (1) Every company having more than 50 members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall, within fourteen days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.

(2) The index, which may be in the form of a card index, shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

Provisions as to entries in register in relation to share warrants

97. (1) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely —

(*a*) the fact of the issue of the warrant;

(*b*) a statement of the shares included in the warrant, distinguishing each share by its number; and

(*c*) the date of the issue of the warrant.

(2) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members.

(3) The company shall be responsible for any loss incurred by any person by reason of the company entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.

(4) Until the warrant is surrendered, the particulars specified in subsection (1) shall be deemed to be the particulars required by this Act to be entered in the register of members, and, on the surrender, the date of the surrender must be entered.

(5) Subject to the provisions of this Act, the bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company, either to the full extent or for any purposes defined in the articles.

Inspection of register of members

98. (1) The register of members, commencing from the date of the registration of the company, and the index of the names of members, shall be kept at the registered office of the company, and, except when the register is closed under the provisions of this Act, shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than 2 hours in each day be allowed for inspection) be open to the inspection of any member without charge and of any other person on payment of $5 or such less sum as the company may prescribe, for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, on payment of 50 cents, or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied. The company shall cause any copy so required by any person to be sent to that person within a period of 10 days commencing on the day next after the day on which the requirement is received by the company.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, in respect of each offence a fine of $200 and a default fine of $20.

(4) In the case of any such refusal or default, the Court may by order compel an immediate inspection of the register and index or direct that the copies required shall be sent to the persons requiring them.

Power to close register

99. A company may, on giving notice by advertisement in some newspaper in Brunei, close the register of members for any time or times not exceeding in the whole 30 days in each year.

Power of Court to rectify register

100. (1) If —

(*a*) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or

(*b*) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member;

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) Where an application is made under this section, the Court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On an application under this section the Court may decide any question relating to the title of any person who is a party to the application to have this name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Act to send a list of its members to the Registrar, the Court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.

Trusts not to be entered on register

101. No notice of any trust, expressed, implied, or constructive, shall be entered on the register, or be receivable by the Registrar, in the case of companies registered in Brunei.

102. The register of members shall unless and until the contrary be proved be evidence of any matters by this Act directed or authorised to be inserted therein.

Register to be evidence

LOCAL OR BRANCH REGISTERS

103. (1) The Registrar may, subject to instruction from His Majesty, issue an annual licence, available for the period of one year, to any company whose objects comprise the transaction of business outside Brunei, empowering such company, if it is authorised so to do by its regulations as originally framed or as altered by special resolution, to keep in any place in which it transacts business a register or registers of members: Provided that a company applying for such licence must satisfy the Registrar by a statutory declaration to be filed with him or otherwise that a substantial part of the business of the company is carried on at or near the place where it desires to keep such register. Every such licence shall be valid only until the 31st day of December next following the date on which it is issued: Provided always that where the period between the date of the issue of the first annual licence to a company and the 31st day of December next following is less than a year, a proportionate part only of the fee mentioned in subsection (2) shall be charged.

Power for company to keep local or branch register

(2) An annual fee at the rate of two cents for every hundred dollars of the paid-up capital of the company to which the licence is issued shall be paid by such company in respect of such licence. Such fees shall be paid to the Registrar within 4 months of the date of the licence.

(3) When the Registrar has reasonable cause to believe that a company is keeping in any place where it transacts business outside Brunei a register of members, without out having a valid licence under this Act, he shall publish in the *Gazette* and send to the company a notice that at the expiration of 2 months from the date of such notice the

name of the company mentioned therein will, unless cause to the contrary is shown, be struck off the register and the company will be dissolved.

(4) At the expiration of the time mentioned in the notice, the Registrar may, unless cause to the contrary is previously shown by the company, strike the name of the company off the register and shall publish notice thereof in the *Gazette*, and on such publication the company whose name is so struck off shall be dissolved: Provided that the liability, if any, of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved.

(5) If any company or member thereof feels aggrieved by the name of such company having been struck off the register in pursuance of this section, the company or member may apply to the Court, and the Court, if it is satisfied that it is just to do so, may order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if the name had never been struck off and the Court may, by the order, give such directions and make such provisions as seem just for placing the company and all other persons in the same position, as nearly as may be, as if the name of the company had never been struck off.

(6) A letter or notice under this section may be addressed to the company as its registered office, or, if no office has been registered, to the care of some director or officer of the company, or if there is no director or officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

(7) If default is made in complying with subsection (2), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

104. (1) A local or branch register shall be deemed to be part of the company's register of members (in this and the next following section called the "principal register").

Regulations as to branch register

(2) It shall be kept in the same manner in which the principal register is by this Act required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in Brunei.

(3) The company shall transmit to its registered office a copy of every entry in its local or branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its local or branch register. Every such duplicate shall, for all the purposes of this Act, be deemed to be part of the principal register.

(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a local or branch register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a local or branch register shall, during the continuance of that registration, be registered in any other register.

(5) A company may discontinue to keep a local or branch register, and thereupon all entries in that register shall be transferred to some other local or branch register kept by the company or to the principal register.

(6) Subject to the provisions of this Act, any company may, by its articles, make such provisions as it may think fit respecting the keeping of local or branch registers.

(7) If default is made in complying with subsection (3), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

Exemption from certain duties in case of shares registered in local branch registers

105. (1) An instrument of transfer of a share registered in a local or branch register, shall be deemed to be a transfer of property situate out of Brunei, and, unless executed in any part of Brunei, shall be exempt from stamp duty chargeable in Brunei.

(2) No estate duty shall be payable in respect of the share or other interest of a deceased member registered in a local or branch register kept out of Brunei under this Act.

Provisions as to branch registers of companies kept in Brunei

106. If by virtue of the law in force in any foreign country, companies incorporated under the law of that foreign country and registered in Brunei under Part IX of the Act, have power to keep in Brunei local or branch registers of their members resident in Brunei, His Majesty in Council may by order direct that sections 98 and 100 shall, subject to any modifications and adaptations specified in the order, apply to and in relation to any such local or branch registers kept in Brunei as they apply to and in relation to the registers of companies within the meaning of this Act.

ANNUAL RETURN

Annual return to be made by company having a share capital

107. (1) Every company having a share capital shall once at least in every year make a return containing a list of all persons who, on the day of the first or only ordinary general meeting in the year, are members of the company, and of all persons who have ceased to be members since the date of the last return or, in the case of the first return, of the incorporation of the company.

(2) The list must state the names, addresses, and occupations of all the past and present members therein mentioned and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return or, in the case of the first return, of the incorporation of the company by

persons who are still members and have ceased to be members respectively and the dates of registration of the transfers, and, if the names therein are not arranged in alphabetical order, must have annexed to it an index sufficient to enable the name of any person in the list to be readily found: Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the Registrar, the list must state the amount of stock held by each of the existing members instead of the amount of shares and the particulars relating to shares hereinbefore required.

(3) The return must also state the address of the registered office of the company and must contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars —

(*a*) the amount of the share capital of the company, and the number of the shares into which it is divided;

(*b*) the number of shares taken from the commencement of the company up to the date of the return;

(*c*) the amount called up on each share;

(*d*) the total amount of calls received;

(*e*) the total amount of calls unpaid;

(*f*) the total amount of the sums, if any, paid by way of commission in respect of any shares or debentures;

(*g*) particulars of the discount allowed on the issue of any shares issued at a discount, or of so much of that discount as has not been written off at the date on which the return is made;

(*h*) the total amount of the sums, if any, allowed by way of discount in respect of any debentures, since the date of the last return;

(*i*) the total number of shares forfeited;

(*j*) the total amount of shares for which share warrants are outstanding at the date of the return;

(*k*) the total amount of share warrants issued and surrendered respectively since the date of the last return;

(*l*) the number of shares comprised in each share warrant;

(*m*) all such particulars with respect to the persons who at the date of the return are the directors of the company as are by this Act required to be contained with respect to directors in the register of the directors of a company;

(*n*) the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Registrar under this Act.

Fifth Schedule

(4) The return shall be in accordance with the form set out in the Fifth Schedule, or as near thereto as circumstances admit.

(5) In the case of a company keeping a branch register, the particulars of the entries in that register shall, so far as they relate to matters which are required to be stated in the return, be included in the return made next after copies of those entries are received at the registered office of the company.

108. (1) Every company not having a share capital shall once at least in every year make a return stating —

Annual return to be made by company not having share capital

(*a*) the address of the registered office of the company;

(*b*) all such particulars with respect to the persons who at the date of the return are the directors of the company as are by this Act required to be contained with respect to directors in the register of directors of a company.

(2) There shall be annexed to the return a statement containing particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Registrar under this Act.

109. (1) The annual return must be contained in a separate part of the register of members and must be completed within 28 days after the first or only general meeting in the year, and the company must forthwith forward to the Registrar a copy signed by a director or by the manager or by the secretary of the company.

General provisions as to annual returns

(2) Section 98 shall apply to the annual return as it applies to the register of members.

(3) Except where the company is a private company, the annual return shall include a written copy, certified by a director or the manager or secretary of the company to be a true copy, of the last balance sheet which has been audited by the company's auditors, including every document required by law to be annexed thereto, together with a copy of the report of the auditors thereon certified as aforesaid, and if any such balance sheet is in a foreign language there shall also be annexed to it a translation thereof in such language as may be prescribed by the Registrar, certified in the prescribed manner to be a correct translation: Provided that, if

the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets, there shall be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended shall be stated thereon.

(4) If a company contravenes this section or section 107 or 108, the company and every officer of the company who is in default shall be liable to a default fine.

(5) For the purposes of subsection (4), the expression "officer", and for the purposes of sections 107 and 108 the expression "director", shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act.

Certificates to be sent by private company with annual return

110. A private company shall send with the annual return required by section 107 a certificate signed by a director or the secretary of the company that the company has not, since the date of the last return, or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company, and, where the annual return discloses the fact that the number of members of the company exceeds 50, also a certificate so signed that the excess consists wholly of persons who, under paragraph (*b*) of subsection (1) of section 29, are not to be included in reckoning the number of 50.

MEETINGS AND PROCEEDINGS

Annual general meeting

111. (1) A general meeting of every company shall be held once at the least in every year, and not more than 15 months after the holding of the last preceding general meeting.

(2) If default is made in holding a meeting of the company in accordance with the provisions of this section, the company, and every director or manager of the company who is knowingly a party to the default shall be guilty of an offence: Penalty, a fine of $2,500.

(3) If default is made as aforesaid, the Court may, on the application of any member of the company, call, or direct the calling of, a general meeting of the company.

Statutory meeting and statutory report

112. (1) Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than 3 months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called the statutory meeting.

(2) The directors shall, at least 7 days before the day on which the meeting is held, forward a report (in this Act referred to as "the statutory report") to every member of the company.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than two directors, by the sole director and manager, and shall state —

(*a*) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(*b*) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid;

(*c*) an abstract of the receipts of the company and of the payments made thereout, up to a date within 7 days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company;

(*d*) the names, addresses, and descriptions of the directors, auditors, if any, managers, if any, and secretary of the company; and

(*e*) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors, if any, of the company.

(5) The directors shall cause a copy of the statutory report, certified as required by this section, to be delivered to the Registrar for registration forthwith after the sending thereof to the members of the company.

(6) The directors shall cause a list showing the names, descriptions, and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to

the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) In the event of any default in complying with the provisions of this section every director of the company who is guilty of or who knowingly and wilfully authorises or permits the default shall be guilty of an offence: Penalty, a fine of $2,500.

(10) This section shall not apply to a private company.

Convening of extraordinary general meeting on requisition

113. (1) The directors of a company, notwithstanding anything in its articles shall, on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company, or, in the case of a company not having a share capital, members of the company representing not less than one-tenth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company.

(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not within 21 days from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration 3 months from the said date.

(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of their services to such of the directors as were in default.

(6) For the purposes of this section, the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section 116.

Provisions as to meetings and votes

114. (1) The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf —

(*a*) a meeting of a company, other than a meeting for the passing of a special resolution, may be called by 7 days' notice in writing;

(*b*) notice of the meeting of a company shall be served on every member of the company in the

manner in which notices are required to be served by Table A, and for the purpose of this paragraph the expression "Table A" means that table as for the time being in force;

(*c*) two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than 5 *per cent* in number of the members of the company may call a meeting;

(*d*) in the case of a private company two members, and in the case of any other company three members, personally present shall be a *quorum;*

(*e*) any member elected by the members present at a meeting may be chairman thereof;

(*f*) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each one hundred dollars of stock held by him, and in any other case every member shall have one vote.

(2) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in manner prescribed by the articles or this Act, the Court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the Court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.

Representation of companies at meetings of other companies and of creditors

115. (1) A corporation, whether a company within the meaning of this Act or not, may —

(*a*) if it is a member of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company;

(*b*) if it is a creditor (including a holder of debentures) of another corporation, being a company within the meaning of this Act, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorised as aforesaid shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual shareholder, creditor, or holder of debentures, of that other company.

Provisions as to extraordinary and special resolutions

116. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the

passing of an extraordinary resolution and at a general meeting of which not less than 21 days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given: Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than 21 days' notice has been given.

(3) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed a poll shall be taken to be effectively demanded, if demanded —

(*a*) by such number of members for the time being entitled under the articles to vote at the meeting as may be specified in the articles, so however, that it shall not in case be necessary for more than 5 members to make the demand; or

(*b*) if no provision is made by the articles with respect to the right to demand the poll, by 3 members so entitled or by one member or 2 members so entitled, if that member holds or those 2 members together hold not less than 15 *per cent* of the paid-up share capital of the company.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member is entitled by virtue of this Act or of the articles of the company.

(6) For the purposes of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Act or the articles.

Registration and copies of certain resolutions and agreements

117. (1) A printed copy of every resolution or agreement to which this section applies shall, within 15 days after the passing or making thereof, be forwarded to the Registrar and recorded by him.

(2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.

(3) Where articles have not been registered, a printed copy of every such resolution or agreement shall be forwarded to any member at his request, on payment of one dollar or such sum as the company with the approval of the Registrar direct.

(4) This section shall apply to —

(*a*) special resolutions;

(*b*) extraordinary resolutions;

(*c*) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless, as the case may be, they had been passed as special resolutions or as extraordinary resolutions;

(*d*) resolutions or agreements which have been agreed to by all the members of some class of shareholders, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority

or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;

(*e*) resolutions requiring a company to be wound up voluntarily, passed under paragraph (*a*) of subsection (1) of section 213.

(5) If a company fails to comply with subsection (1), the company and every officer of the company who is in default shall be liable to a default fine of $50.

(6) If a company fails to comply with subsection (2) or (3), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $15 for each copy in respect of which default is made.

(7) For the purposes of subsections (5) and (6), a liquidator of the company shall be deemed to be an officer of the company.

Resolutions passed at adjourned meetings

118. Where a resolution is passed at an adjourned meeting of —

(*a*) a company;

(*b*) the holders of any class of shares in a company;

(*c*) the directors of a 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.

Minutes of proceedings of meeting and directors

119. (1) Every company shall cause minutes of all proceedings of general meetings, and where there are directors or managers, of all proceedings at meetings of its directors or of its managers, to be entered in books kept for that purpose.

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators, shall be deemed to be valid.

Inspection of minute books

120. (1) The books containing the minutes of proceedings of any general meeting of a company held after the commencement of this Act shall be kept at the registered office of the company, and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that no less than 2 hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(2) Any member shall be entitled to be furnished, within 7 days after he has made a request in that behalf to the company,with a copy of any such minutes as aforesaid at a charge not exceeding 50 cents for every hundred words.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the company and every officer of each company who is in default shall be guilty of an offence:

Penalty, in respect of each offence, a fine of $200 and a default of $20.

(4) In the case of any such refusal or default, the Court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.

ACCOUNTS AND AUDIT

Keeping of books of account

121. (1) Every company shall cause to be kept proper books of account with respect to —

(*a*) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

(*b*) all sales and purchases of goods by the company;

(*c*) the assets and liabilities of the company.

And for this purpose every company shall cause to be kept the following books, namely —

(i) a cash book or books which shall contain a full and complete record of all sums of money paid to the company or to any agent of the company and of all sums of money expended by the company or by any agent of the company and of the matters in respect of which such receipt and expenditure take place: Provided that, there shall also be kept a book which shall contain a daily summary of all the receipts and payments which are recorded in

the cash book or books. There shall be set out in such summary under appropriate heads the daily totals of receipts and payments in such a manner as to show clearly their respective sources and the accounts in respect of which they are made, and full particulars shall be given in respect of all receipts and payments on account of capital and of all payments made to directors of the company. The entries in such book shall in every case be made at a date not later than one month from the date under which the transactions of which they are a record are entered in the cash book or books;

(ii) a journal or other book or books in which shall be recorded all financial transactions of the company other than cash transactions and all transactions which in any way affect the accretions and diminutions on capital and revenue accounts of the company with full explanations of such transactions;

(iii) a ledger or other book or books in which shall be entered each to its proper account the transactions recorded in the cash book and journal so as to show the financial relations of the company with every party with whom it has dealings and the financial position of the company itself.

(2) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors.

(3) If any person being a director of a company fails to take all reasonable steps to secure compliance by the

company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall be guilty of an offence: Penalty, in respect of each offence, imprisonment for 2 years or a fine of $5,000: Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the Court dealing with the case, the offence was committed wilfully.

Profit and loss account and balance sheet

122. (1) The directors of every company shall at some date not later than 18 months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account for the period, in the case of the first account, since the incorporation of the company, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than 9 months, or, in the case of a company, carrying on business or having interests abroad, by more than 12 months: Provided that the Court, if for any special reason they think fit so to do, may, in the case of any company, extend the period of 18 months aforesaid, and in the case of any company and with respect to any year extend the periods of 9 and 12 months aforesaid.

(2) The directors shall cause to be made out in every calendar year, and to be laid before the company in general meeting, a balance sheet as at the date to which the profit and loss account, or the income and expenditure account, as the case may be, is made up, and there shall be attached to every such balance sheet a report by the directors with respect to the state of the company's affairs, the amount, if any, which they recommend should be paid by way of dividend, and the amount, if any, which they propose to carry to the reserve fund, general reserve or reserve account shown specifically on the balance sheet, or to a reserve fund, general reserve or reserve account to be shown specifically on a subsequent balance sheet.

(3) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of this section, he shall be guilty of an offence: Penalty, in respect of each offence, imprisonment for 2 years or a fine of $5,000: Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the Court dealing with the case, the offence was committed wilfully.

Contents of balance sheet

123. (1) Every balance sheet of a company shall contain a summary of the authorised share capital and of the issued share capital of the company, its liabilities and its assets, together with such particulars as are necessary to disclose the general nature of the liabilities and the assets of the company and to distinguish between the amounts respectively of the fixed assets and of the floating assets, and shall state how the values of the fixed assets have been arrived at.

(2) There shall be stated under separate headings in the balance sheet, so far as they are not written off —

(*a*) the preliminary expenses of the company;

(*b*) any expenses incurred in connexion with any issue of share capital or debentures; and

(*c*) if it is shown as a separate item in or is otherwise ascertainable from the books of the company, or from any contract for the sale or purchase of any property to be acquired by the company, or from any documents in the possession of the company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property, the amount of the goodwill and of any patents and trade marks as so shown or ascertained.

(3) Where any liability of the company is secured otherwise than by operation of law on any assets of the company, the balance sheet shall include a statement that

that liability is so secured, but it shall not be necessary to specify in the balance sheet the assets on which the liability is secured.

(4) The provisions of this section are in addition to other provisions of this Act requiring other matters to be stated in balance sheets.

Assets consisting of shares in subsidiary companies to be set out separately in balance sheet

124. Where any of the assets of a company consist of shares in, or amounts owing (whether on account of a loan or otherwise) from a subsidiary company or subsidiary companies, the aggregate amount of those assets, distinguishing shares and indebtedness, shall be set out in the balance sheet of the first-mentioned company separately from all its other assets, and where a company is indebted, whether on account of a loan or otherwise, to a subsidiary company or subsidiary companies, the aggregate amount of that indebtedness shall be set out in the balance sheet of that company separately from all its other liabilities.

Balance sheet to include particulars as to subsidiary companies

125. (1) Where a company (in this section referred to as the holding company) holds shares either directly or through a nominee in a subsidiary company or in two or more subsidiary companies, there shall be annexed to the balance sheet of the holding company a statement, signed by the persons by whom in pursuance of section 128 the balance sheet is signed, stating how the profits and losses of the subsidiary company, or, where there are two or more subsidiary companies, the aggregate profits and losses of those companies, have, so far as they concern the holding company, been dealt with in, or for the purposes of, the accounts of the holding company, and in particular how, and to what extent, —

(*a*) provision has been made for the losses of a subsidiary company either in the accounts of that company or of the holding company, or of both; and

(*b*) losses of a subsidiary company have been taken into account by the directors of the holding company in arriving at the profits and losses of the holding company as disclosed in accounts:

Provided that it shall not be necessary to specify in any such statement the actual amount of the profits or losses of any subsidiary company, or the actual amount of any part of any such profits or losses which has been dealt with in any particular manner.

(2) If in the case of a subsidiary company the auditors' report on the balance sheet of the company does not state without qualification that the auditors have obtained all the information and explanations they have required and that the balance sheet is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them and as shown by the books of the company, the statement which is to be annexed as aforesaid to the balance sheet of the holding company shall contain particulars of the manner in which the report is qualified.

(3) For the purposes of this section, the profits or losses of a subsidiary company mean the profits or losses shown in any accounts of the subsidiary company made up to a date within the period to which the accounts of the holding company relate, or, if there are no such accounts of the subsidiary company available at the time when the accounts of the holding company are made up, the profits or losses shown in the last previous accounts of the subsidiary company which became available within that period.

(4) If for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement aforesaid, the directors who sign the balance sheet shall so report in writing and their report shall be annexed to the balance sheet in lieu of the statement.

Meaning of subsidiary company

126. (1) Where the assets of a company consist in whole or in part of shares in another company, whether held directly or through a nominee and whether that other company is a company within the meaning of this Act or not, and —

(*a*) the amount of the shares so held is at the time when the accounts of the holding company are made up more than 50 *per cent* of the issued share capital of that other company or such as to entitle the company to more than 50 *per cent* of the voting power in that other company; or

(*b*) the company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company,

that other company shall be deemed to be a subsidiary company within the meaning of this Act, and the expression "subsidiary company" in this Act means a company in the case of which the conditions of this section are satisfied.

(2) Where a company the ordinary business of which includes the lending of money holds shares in another company as security only, no account shall for the purpose of determining under this section whether that other company is a subsidiary company be taken of the shares so held.

Accounts to contain particulars as to loans to, and remuneration of, directors, etc.

127. (1) The accounts which in pursuance of this Act are to be laid before every company in general meeting shall, subject to the provisions of this section, contain particulars showing —

(*a*) the amount of any loans which during the period to which the accounts relate have been

made either by the company or by any other person under a guarantee from or on a security provided by the company to any director or officer of the company, including any such loans which were repaid during the said period;

(*b*) the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof; and

(*c*) the total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages, or other emoluments, paid to or receivable by them by or from the company or by or from any subsidiary company.

(2) The provisions of subsection (1) with respect to loans shall not apply —

(*a*) in the case of a company the ordinary business of which includes the lending of money to a loan made by the company in the ordinary course of its business; or

(*b*) to a loan made by the company to any employee of the company if the loan does not exceed $20,000 and is certified by the directors of the company to have been made in accordance with any practice adopted or about to be adopted by the company with respect to loans to its employees.

(3) The provisions of subsection (1) with respect to the remuneration paid to directors shall not apply in relation to a managing director of the company, and in the case of any other director who holds any salaried employment or office in the company there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of directors' fees.

(4) If in the case of any such accounts as aforesaid the requirements of this section are not complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report on the balance sheet of the company, so far as they are reasonably able to do so, a statement giving the required particulars.

(5) In this section the expression "emoluments" includes fees, percentages and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

Signing of balance sheet

128. (1) Every balance sheet of a company shall be signed on behalf of the board by two of the directors of the company, or, if there is only one director, by that director, and the auditors' report shall be attached to the balance sheet, and the report shall be read before the company in general meeting, and shall be open to inspection by any member.

(2) In the case of a banking company, the balance sheet must be signed by the secretary or manager, if any, and where there are more than three directors of the company by at least three of those directors, and where there are not more than three directors by all the directors.

(3) If any copy of a balance sheet which has not been signed as required by this section is issued circulated, or published, or if any copy of a balance sheet is issued, circulated, or published without having a copy of the auditors' report attached thereto, the company, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default, shall be guilty of an offence: Penalty, a fine of $5,000.

Right to receive copies of balance sheets and auditors' report

129. (1) In the case of a company not being a private company —

(*a*) a copy of every balance sheet, including every document required by law to be annexed

thereto, which is to be laid before the company in general meeting, together with a copy of the auditors' report, shall, not less than 7 days before the date of the meeting, be sent to all persons entitled to receive notices of general meetings of the company;

(*b*) any member of the company, whether he is or is not entitled to have sent to him copies of the company's balance sheets, and any holder of debentures of the company, shall be entitled to be furnished on demand without charge with a copy of the last balance sheet of the company, including every document required by law to be annexed thereto, together with a copy of the auditors' report on the balance sheet.

If default is made in complying with paragraph (*a*), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $200, and if, where any person makes a demand for a document with which he is by virtue of paragraph (*b*) entitled to be furnished, default is made in complying with the demand within 7 days after the making thereof, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be guilty of an offence: Penalty, a fine of $25 for every day during which the default continues, unless it is proved that that person has already made a demand for and been furnished with a copy of the document.

(2) In the case of a company being a private company, any member shall be entitled to be furnished, within 7 days after he has made a request in that behalf to the company, with a copy of the balance sheet and auditors' report at a charge not exceeding 50 cents for every hundred words. If default is made in furnishing such a copy to any member who demands it and tenders to the company the amount of the proper charge therefor, the company and every officer

of the company who is in default shall be guilty of an offence: Penalty, a default fine.

Special provisions relating to insurance and certain other companies

130. (1) Every company, being an insurance company or a deposit, provident, or benefit society, shall, before it commences business, and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business, make a statement in the form set out in the Sixth Schedule, or as near thereto as circumstances admit.

Sixth Schedule

(2) A copy of the statement shall be put up in a conspicuous place in the registered office of the company, and in every branch office or place where the business of the company is carried on.

(3) Every member and every creditor of the company shall be entitled to a copy of the statement, on payment of a sum not exceeding one dollar.

(4) If default is made in complying with this section, the company and every director and manager of the company who knowingly and wilfully authorises or permits the default shall be guilty of an offence: Penalty, a fine of $2,000 and a default fine of $50 for every day during which the default continues.

(5) For the purposes of this Act a company which carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance company.

Appointment and remuneration of auditors

131. (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment of auditors is not made at an annual general meeting, the Court may, on the application of any member of the company, appoint an auditor of the company for the current year.

(3) The Clerk of Council shall publish annually by notification in the *Gazette* a list in 2 parts containing the names of all persons who are authorised by His Majesty in Council to perform the duties required by this Act to be performed by an auditor, and shall from time to time similarly publish the names of persons added to or removed from any part of the last published annual list by order of His Majesty in Council. The last published annual list as so amended shall be deemed the current authorised list. His Majesty in Council shall not order the insertion of the name of any person in any part of any such list unless he deems him in all respects fit and suitable to be authorised. His Majesty in Council may in his absolute discretion by order remove the name of any authorised auditor who has ceased to practice in Brunei; he may also on any ground which he may deem sufficient, remove the name of any person he may consider unfit or unsuitable to continue to be authorised; but in such last mentioned case notice shall be given, if practicable, to the person whose name it is proposed to remove and he may if so required to be heard by His Majesty in Council either in person or by advocate, before such removal is made. The first part of the current authorised list shall contain the names of persons authorised to audit accounts kept in English; and the second part shall contain the names of persons authorised to audit accounts kept in a language other than English. Where the accounts of a company are kept in English, no person shall be appointed auditor unless his name appears in the first part of the current authorised list, and where the accounts of a company are kept in a language other than English, no person shall be appointed auditor unless his name appears in the second part of the current authorised list as a person authorised to audit accounts in such language. Every company which keeps its accounts partly in English and partly in a language other than English shall have its accounts audited as to that part which is kept in English by a person whose name appears in the first part of the current authorised list and as to that part which is kept in a language other than English by a person whose name appears in the second part of the

current authorised list as a person authorised to audit accounts in such language. Nothing herein shall be deemed to prevent His Majesty in Council authorising the inclusion of a name in both parts of the current authorised list; and nothing herein shall be deemed to require a second auditor for the daily summary in the English language referred to in the proviso in subsection (1) of section 121. In this subsection person shall include a firm.

(4) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the company not less than 14 days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the members, either by advertisement or in any other mode allowed by articles, not less than 7 days before the annual general meeting: Provided that if, after notice of the intention to nominate an auditor has been so given, an annual general meeting is called for a date 14 days or less after the notice has been given, the notice, though not given within the time required by this subsection, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this subsection, be sent or given at the same time as the notice of the annual general meeting.

(5) Subject as hereinafter provided, the first auditors of the company may be appointed by the directors at any time before the first annual general meeting, and auditors so appointed shall hold office until that meeting: Provided that —

(*a*) the company may at a general meeting of which notice has been served on the auditors in the same manner as on members of the company remove any such auditors and appoint in their place

any other persons being persons who have been nominated for appointment by any member of the company and of whose nomination notice has been given to the members of the company not less than 7 days before the date of the meeting; and

(*b*) if the directors fail to exercise their powers under this subsection, the company in general meeting may appoint the first auditors, and thereupon the said powers of the directors shall cease.

(6) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act.

(7) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of an auditor appointed before the first annual general meeting, or of an auditor appointed to fill a casual vacancy, may be fixed by the directors, and that the remuneration of an auditor appointed by the Court may be fixed by the Court.

Disqualification for appointment as auditor

132. None of the following persons shall be qualified for appointment as auditor of a company —

(*a*) a director or officer of the company;

(*b*) except where the company is a private company, a person who is a partner of or in the employment of an officer of the company;

(*c*) a body corporate.

Auditors' report and auditors' right of access to books and right to attend general meetings

133. (1) The auditors shall make a report to the members on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state —

(*a*) whether or not they have obtained all the information and explanations they have required; and

(*b*) whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(2) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors: Provided that, in the case of a banking company which has branch banks beyond the limits of Brunei, it shall be sufficient if the auditor is allowed access to such copies and extracts from such books and accounts of any such branch as have been transmitted to the head office of the company in Brunei.

(3) The auditors of a company shall be entitled to attend any general meeting of the company at which any accounts which have been examined or reported on by them are to be laid before the company and to make any statement or explanation they desire with respect to the accounts.

INSPECTION

Investigation of affairs of company by inspectors

134. (1) The Court may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Court may direct —

(*a*) in the case of a banking company having a share capital, on the application of members holding not less than one-third of the shares issued;

(*b*) in the case of any other company having a share capital, on the application of members holding not less than one-tenth of the shares issued;

(*c*) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Court may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in, requiring the investigation, and the Court may, before appointing an inspector, require the applicants to give security, to an amount not exceeding $10,000, for payment of the costs of the inquiry.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, the inspectors may certify the refusal under their hands to the Court, and the Court may thereupon inquire into the case, and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the Court.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Court which shall direct that a copy of the report be forwarded to the registered office of the company. A further copy shall, at the request of the applicants for the investigation, be delivered to them. The report shall be written or printed, as the Court may direct.

Proceedings on report by inspectors

135. (1) If from any report made under section 134 it appears to the Court that any person has been guilty of any offence in relation to the company for which he is criminally liable, the Court may direct that the matter shall be referred to the Public Prosecutor.

(2) If where any matter is referred to the Public Prosecutor under this section he considers that the case is one in which a prosecution ought to be instituted and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him, he shall institute proceedings accordingly, and it shall be the duty of all officers and agents of the company, past and present (other than the defendant in the proceedings), to give to him all assistance in connexion with the prosecution which they are reasonably able to give.

For the purposes of this subsection, the expression "agents" in relation to a company shall be deemed to include the bankers and solicitors of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.

(3) The expenses of and incidental to an investigation under section 134 (in this subsection referred to as the "expenses") shall be defrayed as follows —

(*a*) where as a result of the investigation a prosecution is instituted by the Public Prosecutor, the expenses shall be defrayed by the revenues of Brunei;

(*b*) in any other case the expenses shall be defrayed by the company unless the Court thinks proper to direct, as the Court is hereby authorised to do, that they shall either be paid by the applicants or in part by the company and in part by the applicants:

Provided that —

(*a*) if the company fails to pay the whole or any part of the sum which it is liable to pay under this subsection, the applicants shall make good the deficiency up to the amount by which the security given by them under section 134 exceeds the amount, if any, which they have under this subsection been directed by the Court to pay; and

(*b*) any balance of the expenses not defrayed either by the company or the applicants shall be defrayed by the revenues of Brunei.

Power of company to appoint inspectors

136. (1) A company may by special resolution appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors appointed by the Court, except that, instead of reporting to the Court, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) If any officer or agent of the company refuses to produce to the inspectors any book or document which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspectors with respect to the affairs of the company, he shall be liable to be proceeded against in the same manner as if the inspectors had been inspectors appointed by the Court.

137. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report.

Report of inspectors to be evidence

DIRECTORS AND MANAGERS

138. (1) Every company registered after the commencement of this Act shall have at least two directors.

Number of directors

(2) One of the two directors; or where there are more than two directors, two or not less than half of the number of such directors whichever is the greater shall be nationals of Brunei.

(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

139. (1) A person shall not be capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in a prospectus issued by or on behalf of the company, or as proposed director of an intended company in a prospectus issued in relation to that intended company, or in a statement in lieu of prospectus delivered to the Registrar by or on behalf of a company, unless, before the registration of the articles or the publication of the prospectus, or the delivery of the statement in lieu of prospectus, as the case may be, he has by himself or by his agent authorised in writing —

Restrictions on appointment or advertisement of director

(*a*) signed and delivered to the Registrar for registration a consent in writing to act as such director; and

(*b*) either —

(i) signed the memorandum for a number of shares not less than his qualification, if any;

(ii) taken from the company and paid or agreed to pay for his qualification share, if any;

(iii) signed and delivered to the Registrar for registration an undertaking in writing to take from the company and pay for his qualification shares, if any; or

(iv) made and delivered to the Registrar for registration a statutory declaration to the effect that a number of shares, not less than his qualification, if any, are registered in his name.

(2) Where a person has signed and delivered as aforesaid an undertaking to take and pay for his qualification shares, he shall, as regards those shares, be in the same position as if he had signed the memorandum for that number of shares.

(3) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the Registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine of $2,000.

(4) This section shall not apply to —

(*a*) a company not having a share capital;

(*b*) a private company;

(*c*) a company which was a private company before becoming a public company; or

(*d*) a prospectus issued by or on behalf of a company after the expiration of one year from the date on which the company was entitled to commence business.

140. (1) Without prejudice to the restrictions imposed by section 139, it shall be the duty of every director who is by the articles of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within 2 months after his appointment, or such shorter time as may be fixed by the articles.

Qualification of director or manager

(2) For the purpose of any provision in the articles requiring a director or manager to hold a specified share qualification, the bearer of a share warrant shall not be deemed to be the holder of the shares specified in the warrant.

(3) The office of director of a company shall be vacated if the director does not within 2 months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of the said period or shorter time he ceases at any time to hold his qualification.

(4) A person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.

(5) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine of $50 for every day between the expiration of the said period or shorter time or the day on which he ceased to be qualified, as the case may be, and the last day on which it is proved that he acted as a director.

141. (1) If any person being an undischarged bankrupt acts as director of, or directly or indirectly takes part in or is concerned in the management of, any company except with the leave of the Court by which he was adjudged bankrupt, he shall be guilty of an offence: Penalty, imprisonment for one year and a fine of $5,000: Provided that a person shall not be guilty of an offence under this section by reason that

Provisions as to undischarged bankrupts acting as directors

he, being an undischarged bankrupt, has acted as director of, or taken part or been concerned in the management of, a company, if at the commencement of this Act he was acting as director of, or taking part or being concerned in the management of, that company and has continuously so acted, taken part, or been concerned since that date and the bankruptcy was prior to that date.

(2) The leave of the Court for the purpose of this section shall not be given unless notice of intention to apply therefor has been served on the Official Receiver and it shall be the duty of the Official Receiver, if he is of opinion that it is contrary to the public interest that any such application should be granted, to attend on the hearing of and oppose the granting of the application.

(3) In this section the expression "company" includes an unregistered company and a company incorporated outside Brunei which has an established place of business within Brunei, and the expression "Official Receiver" means the Official Receiver in Bankruptcy.

Validity of acts of directors

142. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

Register of directors

143. (1) Every company shall keep at its registered office a register of its directors or managers containing with respect to each of them the following particulars, that is to say —

(*a*) in the case of an individual, his present christian name and surname, any former christian name or surname, his usual residential address, his nationality, and, if that nationality is not the nationality of origin, his nationality of origin, and his business occupation, if any, or, if he has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some one of those directorships; and

(*b*) in the case of a corporation, its corporate name and registered or principal office.

(2) The company shall, within the periods respectively mentioned in this subsection, send to the Registrar a return in the prescribed form containing the particulars specified in the said register and a notification in the prescribed form of any change among its directors or in any of the particulars contained in the register. The period within which the said return is to be sent shall be a period of 14 days from the appointment of the first directors of the company, and the period which the said notification of a change is to be sent shall be one month from the happening thereof.

(3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than 2 hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of one dollar, or such less sum as the company may prescribe, for each inspection.

(4) If any inspection required under this section is refused or if default is made in complying with subsection (1) or (2), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

(5) In the case of any such refusal, the Court may by order compel an immediate inspection of the register.

(6) For the purposes of this section, a person in accordance with whose directions or instructions the directors of a company are accustomed to act shall be deemed to be a director and officer of the company.

Limited company may have directors with unlimited liability

144. (1) In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company, if any, and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary, if any, of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director, manager, or proposer makes default in adding such a statement, or if any promoter, director, manager, or secretary makes default in giving such a notice, he shall be guilty of an offence: Penalty, a fine of $1,000, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

Special resolution of limited company making liability of directors unlimited

145. (1) A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

(2) Upon the passing of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum.

Statement as to remuneration of directors to be furnished to shareholders

146. (1) Subject as hereinafter provided, the directors of a company shall, on a demand in that behalf made to them in writing by members of the company entitled to not less than one-fourth of the aggregate number of votes to which all the members of the company are together entitled, furnish to all the members of the company within a period of one month

from the receipt of the demand a statement, certified as correct, or with such qualifications as may be necessary, by the auditors of the company, showing as respects each of the last 3 preceding years in respect of which the accounts of the company have been made up the aggregate amount received in that year by way of remuneration or other emoluments by persons being directors of the company, whether as such directors or otherwise in connexion with the management of the affairs of the company, and there shall, in respect of any such director who is —

(*a*) a director of any other company which is in relation to the first-mentioned company a subsidiary company; or

(*b*) by virtue of the nomination, whether direct or indirect, of the company a director of any other company;

be included in the said aggregate amount any remuneration or other emoluments received by him for his own use whether as a director of, or otherwise in connexion with the management of the affairs of, that other company:

Provided that —

(*a*) a demand for a statement under this section shall be of no effect if the company within one month after the date on which the demand is made resolve that the statement shall not be furnished; and

(*b*) it shall be sufficient to state the total aggregate of all sums paid to or other emoluments received by all the directors in each year without specifying the amount received by any individual.

(2) If any director fails to comply with the requirements of this section, he shall be guilty of an offence: Penalty, a fine of $1,000.

(3) In this section the expression "emoluments" includes fees, percentages and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

Disclosure by directors of interest in contracts

147. (1) Subject to the provisions of this section, it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company.

(2) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or, if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and, in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(3) For the purposes of this section, a general notice given to the directors of a company by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

(4) Any director who fails to comply with the provisions of this section shall be guilty of an offence: Penalty, a fine of $2,000.

(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

Provisions as to payments received by directors for loss of office or on retirement

148. (1) It is hereby declared that it is not lawful in connexion with the transfer of the whole or any part of the undertaking or property of a company for any payment to be made to any director of the company by way of compensation for loss of office, or as consideration for or in connexion with his retirement from office, unless particulars with respect to the proposed payment, including the amount thereof, have been disclosed to the members of the company and the proposal approved by the company.

(2) Where a payment which is hereby declared to be illegal is made to a director of the company, the amount received shall be deemed to have been received by him in trust for the company.

(3) Where a payment is to be made as aforesaid to a director of a company in connexion with the transfer to any persons, as a result of an offer made to the general body of shareholders, of all or any of the shares in the company, it shall be the duty of that director to take all reasonable steps to secure that particulars with respect to the proposed payment, including the amount thereof, shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.

(4) If any such director fails to take reasonable steps as aforesaid, or if any person who has been properly required by any such director to include the said particulars in or send them with any such notice fails so to do, he shall be guilty of an offence: Penalty, a fine of $1,000, and if the requirements of subsection (3) are not complied with in relation to any such payment as is mentioned in the said subsection, any sum received by the director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made.

(5) If in connexion with any such transfer as aforesaid the price to be paid to a director of the company

whose office is to be abolished or who is to retire from office for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares or any valuable consideration is given to any such director, the excess of the money value of the consideration, as the case may be, shall, for the purposes of this section, be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connexion with his retirement from office.

(6) Nothing in this section shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are mentioned in this section or with respect to any other like payments made or to be made to the directors of a company.

Provisions as to assignment of office by directors

149. If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or manager of the company to assign his office as such to another person, any assignment or office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company.

AVOIDANCE OF PROVISIONS IN ARTICLES OR CONTRACTS RELIEVING OFFICERS FROM LIABILITY

Provisions as to liability of officers and auditors

150. Subject as hereinafter provided, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer of the company, or any person (whether an officer of the company or not) employed by the company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise

attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void: Provided that —

(*a*) in relation to any such provision which is in force at the date of the commencement of this Act, this section shall have effect only on the expiration of a period of 6 months from that date;

(*b*) nothing in this section shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force; and

(*c*) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such director, manager, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connexion with any application under section 321 in which relief is granted to him by the Court.

ARRANGEMENTS AND RECONSTRUCTIONS

Power to compromise with creditors and members

151. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the Court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) An order made under subsection (2) shall have no effect until an office copy of the order has been delivered to the Registrar for registration, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or, in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

(4) If a company makes default in complying with subsection (3), the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a fine of $15 for each copy in respect of which default is made.

(5) In this section the expression "company" means any company liable to be wound up under this Act, and the expression "arrangement" includes a reorganization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods.

Provisions for facilitating reconstruction and amalgamation of companies

152. (1) Where an application is made to the Court under section 151 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Court that the compromise or arrangement has been proposed for

the purposes of or in connexion with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as "a transferor company") is to be transferred to another company (in this section referred to as "the transferee company"), the Court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters —

(*a*) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;

(*b*) the allotting or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;

(*c*) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;

(*d*) the dissolution, without winding up, of any transferor company;

(*e*) the provision to be made for any persons, who within such time and in such manner as the Court may direct, dissent from the compromise or arrangement;

(*f*) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause an office copy thereof to be delivered to the Registrar for registration within 7 days after the making of the order, and if default is made in complying with this subsection, the company and every officer of the company who is in default shall be guilty of an offence: Penalty, a default fine.

(4) In this section the expression "property" includes property, rights and powers of every description, and the expression "liabilities" includes duties.

(5) Notwithstanding the provisions of subsection (5) of section 151, the expression "company" in this section does not include any company other than a company within the meaning of this Act.

Power to acquire shares of shareholders dissenting from scheme or contract approved by majority

153. (1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as the "transferor company") to another company, whether a company within the meaning of this Act or not (in this section referred to as the "transferee company") has within 4 months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine-tenths in value of the shares affected, the transferee company may, at any time within 2 months after the expiration of the said 4 months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall,

unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the Court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders are to be transferred to the transferee company.

(2) Where a notice has been given by the transferee company under this section and the Court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the Court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section the expression "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

PART V

WINDING UP

(i) PRELIMINARY

MODES OF WINDING UP

Modes of winding up

154. (1) The winding up of a company may be either —

(*a*) by the Court;

(*b*) voluntary; or

(*c*) subject to the supervision of the Court.

(2) The provisions of this Act with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of those modes.

CONTRIBUTORIES

Liability as contributories of present and past members

155. (1) In the event of a company being wound up, every present and past member shall be liable to contribute to the assets of the 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*) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;

(*b*) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;

(*c*) a past member shall not be liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contribution required to be made by them in pursuance of this Act.

(*d*) in the case of a company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;

(*e*) 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;

(*f*) nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;

(*g*) a sum due to any member of a company, in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the 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 or manager, whether past or present, whose liability is, under the provisions of this Act, 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:

Provided that —

(*a*) a past director or manager 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;

(*b*) a past director or manager 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;

(*c*) subject to the articles of the company, a director or manager 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.

(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.

Definition of contributory

156. The term "contributory" means every person liable to contribute to the assets of a 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.

157. 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.

Nature of liability of contributory

158. (1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives (and his heirs or other inheritors in countries where property does not pass to personal representatives) shall be liable in due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly.

Contributories in case of death of member

(2) Where the personal representatives are placed on the list of contributories, such heirs or inheritors need not be added, but they may be added as and when the Court thinks fit.

159. 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 thereout of the money due.

Default by personal representatives

160. If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories —

Contributories in case of bankruptcy of member

(*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 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.

(ii) WINDING UP BY THE COURT

JURISDICTION

Jurisdiction to wind up companies registered in Brunei

161. The Court shall have jurisdiction to wind up any company registered in Brunei.

CASES IN WHICH COMPANY MAY BE WOUND UP BY COURT

Circumstances in which company may be wound up by Court

162. A company may be wound up by the Court if —

(*a*) the company has by special resolution resolved that the company be wound up by the Court;

(*b*) default is made in delivering the statutory report to the Registrar or in holding the statutory meeting;

(*c*) the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

(*d*) the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven;

(*e*) the company is unable to pay its debts; or

(*f*) the Court is of opinion that it is just and equitable that the company should be wound up.

Definition of inability to pay debts

163. A company shall be deemed to be unable to pay its debts —

(*a*) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum exceeding

$500 then due, has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due, and the company has for 3 weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor;

(*b*) if execution or other process issued on a judgment, decree or order of any Court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(*c*) if it is proved to the satisfaction of the Court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the Court shall take into account the contingent and prospective liabilities of the company.

PETITION FOR WINDING UP AND EFFECTS THEREOF

Provisions as to applications for winding up

164. (1) An application to the Court for the winding up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately: Provided that —

(*a*) a contributory shall not be entitled to present a winding-up petition unless —

(i) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven; or

(ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least 6 months during the 18 months before the commencement of the winding up, or have devolved on him through the death of a former holder; and

(*b*) a winding-up petition shall not, if the ground of the petition is default in delivering the statutory report to the Registrar or in holding the statutory meeting, be presented by any person except a shareholder, nor before the expiration of 14 days after the last day on which the meeting ought to have been held; and

(*c*) the Court shall not give a hearing to a winding-up petition presented by contingent or prospective creditor until such security for costs has been given as the Court thinks reaonable and until a *prima facie* case for winding up has been established to the satisfaction of the Court.

(2) Where a company is being wound up voluntarily or subject to supervision, a winding-up petition may be presented by the Official Receiver atttached to the Court as well as by any other person authorised in that behalf under the other provisions of this section, but the Court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding up or winding up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

(3) Where under the provisions of this Part any person as being the husband of a female contributory is himself a contributory, and a share has during the whole or any part of the 6 months mentioned in proviso (*a*) (ii) to subsection (1) been held by or registered in the name of the wife, or by or in the name of a trustee for the wife or for the husband,

the share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the husband.

Powers of Court on hearing petition

165. (1) On hearing a winding-up petition the Court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it thinks fit, but the Court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(2) Where the petition is presented on the ground of default in delivering the statutory report to the Registrar or in holding the statutory meeting, the Court may —

(*a*) instead of making a winding-up order, direct that the statutory report shall be delivered or that a meeting shall be held; and

(b) order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default.

Power to stay or restrain proceedings against company

166. At any time after the presentation of a winding-up petition, and before a winding-up order has been made, the company, or any creditor or contributory, may —

(*a*) where any action or proceeding against the company is pending in any Court, apply to the Court in which the action or proceeding is pending for a stay of proceedings therein; and

(*b*) where any other action or proceeding is pending against the company, apply to the Court having jurisdiction to wind up the company to restrain further proceedings in the action or proceeding;

and the Court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

Avoidance of dispositions of property, etc, after commencement of winding up

167. In a winding up by the Court, any disposition of the property of the company, including things in action, and any transfer of shares, or alteration in the status of the members of the company, made after the commencement of the winding up, shall, unless the Court otherwise orders, be void.

Avoidance to attachments, etc.

168. Where any company is being wound up by the Court, any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

COMMENCEMENT OF WINDING UP

Commencement of winding up by the Court

169. (1) Where before the presentation of a petition for the winding up of a company by the Court a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the Court, on proof of fraud or mistake, thinks fit otherwise to direct, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up.

CONSEQUENCES OF WINDING-UP ORDER

Copy of order to be forwarded to Registrar

170. On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company, or otherwise as may be prescribed, to the Registrar, who shall make a minute thereof in his books relating to the company.

171. When a winding-up order has been made, or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose.

Actions stayed on winding-up order

172. An order for winding-up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

Effect of winding-up order

OFFICIAL RECEIVER IN WINDING UP

173. For the purposes of this Act so far as it relates to the winding up of companies by the Court the term "Official Receiver" means the Official Receiver in Bankruptcy.

Official Receiver in bankruptcy to be Official Receiver for winding-up purposes

174. If in the case of the winding up of any company by the Court it appears to the Court desirable, with a view to securing the more convenient and economical conduct of the winding up, that some officer, other than the Official Receiver in Bankruptcy, should be the Official Receiver for the purposes of that winding up, the Court may appoint that other officer to act as Official Receiver in that winding up, and the person so appointed shall be deemed to be the Official Receiver in that winding up for all the purposes of this Act.

Appointment of Official Receiver by Court in certain case

175. (1) Where the Court has made a winding-up order or appointed a provisional liquidator, there shall, unless the Court thinks fit to order otherwise and so orders, be made out and submitted to the Official Receiver a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, residences, 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 or as the Official Receiver may require.

Statement of company's affairs to be submitted to Official Receiver

(2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary or other chief officer of the company, or by such of the persons hereinafter in this subsection mentioned as the Official Receiver, subject to the direction of the Court, may require to submit and verify the statement, that is to say, persons —

(*a*) who are or have been directors or officers of the company;

(*b*) who have taken part in the formation of the company at any time within one year before the relevant date;

(*c*) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the Official 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 company to which the statement relates.

(3) The statement shall be submitted within 28 days from the relevant date, or within such extended time as the Official Receiver or the Court may for special reasons appoint.

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the Official Receiver or provisional liquidator, as the case may be, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the Official Receiver may consider reasonable, subject to an appeal to the Court.

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be guilty of an offence: Penalty, a fine of $50 for every day during which the default continues.

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself 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.

(8) In this section the expression the "relevant date" means in a case where a provisional liquidator is appointed, the date of his appointment, and, in a case where no such appointment is made, the date of the winding-up order.

Report by Official Receiver

176. (1) In a case where a winding-up order is made, the Official Receiver shall, as soon as practicable after receipt of the statement to be submitted under section 175, or, in a case where the Court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the Court —

(*a*) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities;

(*b*) if the company has failed, as to the causes of the failure; and

(*c*) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation or failure of the company, or the conduct of the business thereof.

(2) The Official Receiver may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the Court.

(3) If the Official Receiver states in any such further report as aforesaid that in his opinion a fraud has been committed as aforesaid, the Court shall have the further powers provided in sections 207 and 208.

LIQUIDATORS

Power of Court to appoint liquidators

177. For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a liquidator or liquidators.

Appointment and powers of liquidator

178. (1) Subject to the provisions of this section, the Court may appoint a liquidator provisionally at any time after the presentation of a winding-up petition.

(2) The appointment of a provisional liquidator may be made at any time before the making of a winding up order, and either the Official Receiver or any other fit person may be appointed.

(3) Where a liquidator is provisionally appointed by the Court, the Court may limit and restrict his powers by the order appointing him.

Appointment, style etc. of liquidators

179. The following provisions with respect to liquidators shall have effect on a winding-up order being made —

(*a*) the Official Receiver shall by virtue of his office become the provisional liquidator and shall

continue to act as such until he or another person becomes liquidator and is capable of acting as such;

(*b*) the Official Receiver shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the Court for appointing a liquidator in the place of the Official Receiver;

(*c*) the Court may make any appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matter aforesaid, the Court shall decide the difference and make such order thereon as the Court may think fit;

(*d*) in any case where a liquidator is not appointed by the Court, the Official Receiver shall be the liquidator of the company;

(*e*) the Official Receiver shall by virtue of his office be the liquidator during any vacancy;

(*f*) a liquidator shall be described, where a person other than the Official Receiver is liquidator, by the style of the liquidator, and, where the Official Receiver is liquidator, by the style of the Official Receiver and liquidator, of the particular company in respect of which he is appointed, and not by his individual name.

Provisions where person other than Official Receiver is appointed liquidator

180. Where in the winding up of a company by the Court a person other than the Official Receiver is appointed liquidator, that person —

(*a*) shall not be capable of acting as liquidator until he has notified his appointment to the Reg-

istrar and given security in the prescribed manner to the satisfaction of the Official Receiver;

(*b*) shall give the Official Receiver such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Act.

General provisions as to liquidators

181. (1) A liquidator appointed by the Court may resign or, on cause shown, be removed by the Court.

(2) Where a person other than the Official Receiver is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the Court may direct, and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the Court directs.

(3) A vacancy in the office of a liquidator appointed by the Court shall be filled by the Court.

(4) If more than one liquidator is appointed by the Court, the Court shall declare whether any act by this Act required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) Subject to the provisions of section 263, the acts of liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

Custody of company's property

182. Where a winding-up order has been made or where a provisional liquidator has been appointed, the liquidator, or the provisional liquidator, as the case may be, shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled.

183. Where a company is being wound up by the Court, the Court may on the application of the liquidator by order direct that all or any part of the property of whatsoever description belonging to the company or held by trustees on its behalf shall vest in the liquidator by his official name, and thereupon the property to which the order relates shall vest accordingly, and the liquidator may, after giving such indemnity, if any, as the Court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the company and recovering its property.

Vesting of property of company in liquidator

184. (1) The liquidator in a winding up by the Court shall have power with the sanction either of the Court or of the committee of inspection —

Powers of liquidator

(*a*) to bring or defend any action or other legal proceeding in the name and on behalf of the company;

(*b*) to carry on the business of the company, so far as may be necessary for the beneficial winding up thereof;

(*c*) to appoint a solicitor to assist him in the performance of his duties;

(*d*) to pay any classes of creditors in full;

(*e*) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable;

(*f*) to compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) The liquidator in a winding up by the Court shall have power —

(*a*) to sell the real and personal property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(*b*) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal;

(*c*) to prove, rank, and claim in the bankruptcy, insolvency, or sequestration of any contributory, for any balance against his estate, and to 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;

(*d*) to draw, accept, make, and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with

respect to the liability of the company as if the bill or note had been drawn, accepted, made, or endorsed by or on behalf of the company in the course of its business;

(*e*) to raise on the security of the assets of the company any money requisite;

(*f*) to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself;

(*g*) to appoint an agent to do any business which the liquidator is unable to do himself;

(*h*) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

(3) The exercise by the liquidator in a winding up by the Court of the powers conferred by this section shall be subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

Exercise and control of liquidator's powers

185. (1) Subject to the provisions of this Act, the liquidator of a company which is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the

creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories as the case may be.

(3) The liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the winding up.

(4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the Court, and the Court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

Books to be kept by liquidator

186. Every liquidator of a company which is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the Court, personally or by his agent inspect any such books.

Payments of liquidator into bank or the Treasury

187. (1) Every liquidator other than the Official Receiver of a company which is being wound up by the Court shall, in such manner and at such times as the Official Receiver directs, pay the money received by him to the Companies

Liquidation Account at the bank where such account is kept, and the Permanent Secretary shall furnish him with a certificate of receipt of the money so paid, and when the Official Receiver is the liquidator of such company he shall pay all monies received by him in such capacity into the Companies Liquidation Account: Provided that, if the committee of inspection satisfy the Official Receiver that for the purpose of carrying on the business of the company or of obtaining advances, or for any other reason, it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Official Receiver shall, on the application of the committee of inspection, authorise the liquidator to make his payments into and out of such other bank as the committee may select, and thereupon those payments shall be made in the prescribed manner.

(2) If any such liquidator at any time retains for more than 10 days a sum exceeding $500, or such other amount as the Court in any particular case may authorise him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of 20 *per cent per annum*, and shall be liable to disallowance of all or such part of his remuneration as the Court may think just, and to be removed from his office by the Court, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a company which is being wound up by the Court shall not pay any sums received by him as liquidator into his private banking account.

Audit of liquidator's accounts

188. (1) Every liquidator (other than the Official Receiver) of a company which is being wound up by the Court shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Official Receiver, an account of his receipts and payments as liquidator and where the Official Receiver is liquidator he shall cause such account to be prepared.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The Official Receiver shall cause the account to be audited and for the purpose of the audit the liquidator shall furnish the Official Receiver with such vouchers and information as the Official Receiver may require, and the Official Receiver may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited, one copy thereof shall be filed and kept by the Official Receiver, and the other copy shall be delivered to the Court for filing, and each copy shall be open to the inspection of any creditor, or of any person interested.

(5) The Official Receiver shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory.

Control of Official Receiver over liquidators

189. (1) The Official Receiver shall take cognizance of the conduct of liquidators of companies which are being wound up by the Court, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or if any complaint is made to the Official Receiver by any creditor or contributory in regard thereto, the Official Receiver shall inquire into the matter, and take such action thereon as he may think expedient.

(2) The Official Receiver may at any time require any liquidator of a company which is being wound up by the Court to answer any inquiry in relation to any winding up in which he is engaged, and may, if he think fit, apply to the Court to examine him or any other person on oath concerning the winding up.

(3) The Official Receiver may also direct a local investigation to be made of the books and vouchers of the liquidator.

Release of liquidators

190. (1) When the liquidator of a company which is being wound up by the Court has realised all the property of the company, or so much thereof as can, in his opinion, be realised without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories, or has resigned, or has been removed from his office, the Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Court, shall take into consideration the report, and any objection which may be urged by any creditor or contributory, or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

(2) Where the release of a liquidator is withheld, the Court may, on the application of any creditor or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the Court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

COMMITTEES OF INSPECTION

Meetings of creditors and contributories to determine whether committee of inspection shall be appointed

191. (1) When a winding-up order has been made by the Court, it shall be the business of the separate meetings of creditors and contributories summoned for the purpose of determining whether or not an application should be made to the Court for appointing a liquidator in place of the Official Receiver, to determine further whether or not an application is to be made to the Court for the appointment of a committee of inspection to act with the liquidator and who are to be members of the committee if appointed.

(2) The Court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matters aforesaid the Court shall decide the difference and make such order thereon as the Court may think fit.

Constitution and proceedings of committee of inspection

192. (1) A committee of inspection appointed in pursuance of this Act shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.

(2) The committee shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(4) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from 5 consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) A member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors or of contributories, if he represents contributories, of which 7 days' notice has been giving, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

Powers of Court where no committee of inspection

193. (1) Where in the case of a winding up there is no committee of inspection, the Court may, on the application of the liquidator, do any act or thing or give any direction or permission which is by this Act authorised or required to be done or given by the committee.

GENERAL POWERS OF COURT IN CASE OF WINDING UP BY COURT

Power to stay winding up

194. (1) The Court may at any time after an order for winding up, on the application either of the liquidator, or the Official Receiver, or any creditor or contributory, and on proof to the satisfaction of the Court that all proceedings

in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit.

(2) On any application under this section the Court may, before making an order, require the Official Receiver to furnish to the Court a report with respect to any facts or matters which are in his opinion relevant to the application.

Settlement of list of contributories and application of assets

195. (1) As soon as may be after making a winding-up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities: Provided that, where it appears to the Court that it will not be necessary to make calls on or adjust the rights of contributories, the Court may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

Delivery of property of liquidator

196. The Court may, at any time after making a winding-up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to the liquidator any money, property, or books and papers in his hands to which the company is *prima facie* entitled.

Payment of debts due by contributory to company and extent to which set-off allowed

197. (1) The Court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company,

exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Act —

(2) The Court in making such an order may —

(*a*) in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(*b*) in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power of Court to make calls

198. (1) The Court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses, of winding up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made.

(2) In making a call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

Payment into bank of moneys due to company

199. (1) The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the amount due into such bank as the Court may direct to the account of the liquidator instead of to the liquidator, and any such order may enforced in the same manner as if it had directed payment to the liquidator.

(2) All moneys and securities paid or delivered into such bank in the event of a winding up by the Court shall be subject in all respects to the orders of the Court.

Order on contributory conclusive evidence

200. (1) An order made by the Court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons and in all proceedings.

Appointment of special manager

201. (1) Where in proceedings the Official Receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the Court, and the Court may on such application, appoint a special manager of the said estate or business to act during such time as the Court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the Court.

(2) The special manager shall give such security and account in such manner as the Court may direct.

(3) The special manager shall receive such remuneration as may be fixed by the Court.

202. The Court may fix a time or times within which creditors are to prove their debt or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

Power to exclude creditors not proving in time

203. The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

Adjustment of rights of contributories

204. The Court may, at any time after making a winding-up order, make such order for inspection of the books and papers of the company by creditors and contributories as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.

Inspection of books by creditors and contributories

205. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges, and expenses incurred in the winding up in such order of priority as the Court thinks just.

Power to order costs of winding up to be paid out of assets

206. (1) The Court may, at any time after the appointment of a provisional liquidator or the making of a winding up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the Court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs, or property of the company.

Power to summon persons suspected of having property of company

(2) The Court may examine him on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The Court may require him to produce any books and papers in his custody or power relating to the company, but, where he claims any lien on books or papers

produced by him, the production shall be without prejudice to that lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause him to be apprehended and brought before the Court for examination.

Power to order public examination of promoters, directors &c.

207. (1) Where an order has been made for winding up a company by the Court, and the Official Receiver has made a further report under this Act stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the Court may, after consideration of the report, direct that that person, director or officer shall attend before the Court on a day appointed by the Court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

(2) The Official Receiver shall take part in the examination, and for that purpose may, if specially authorised by the Court in that behalf, employ an advocate.

(3) The liquidator, where the Official Receiver is not the liquidator, and any creditor or contributory, may also take part in the examination either personally or by an advocate.

(4) The Court may put such questions to the person examined as the Court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination be furnished with a copy of the Official Receiver's report, and may at his own cost employ an advocate, who shall be at liberty to put to him such questions as the Court may deem just for the purpose of enabling him to explain or qualify any answers given by him: Provided that, if any such person applies to the Court to be exculpated from any charges made or suggested against him, it shall be the duty of the Official Receiver to appear on the hearing of the application and call the attention of the Court to any matters which appear to the Official Receiver to be relevant, and if the Court, after hearing any evidence given or witnesses called by the Official Receiver, grants the application, the Court may allow the applicant such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

Power to restrain fraudulent persons from managing companies

208. (1) Where an order has been made for winding up a company by the Court, and the Official Receiver has made a further report in accordance with this Act stating that, in his opinion, a fraud has been committed by a person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the court may, on the application of the Official Receiver, order that that person, director or officer shall not, without the leave of the Court, be a director of or

in any way, whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding 5 years, from the date of the report as may be specified in the order.

(2) The Official Receiver shall, where he intends to make an application under subsection (1), give not less than 10 days' notice of his intention to the person charged with the fraud, and on the hearing of the application that person may appear and himself give evidence or call witnesses.

(3) It shall be the duty of the Official Receiver to appear on the hearing of an application by him for an order under this section and on an application for leave under this section and to call the attention of the Court to any matters which appear to him to be relevant, and on any such application the Official Receiver may himself give evidence or call witnesses.

(4) If any person acts in contravention of an order made under this section, he shall, in respect of each offence be guilty of an offence: Penalty, imprisonment for 2 years, and a fine of $5,000.

(5) 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 order is to be made.

Power to arrest absconding contributory

209. The Court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit Brunei, or otherwise to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and moveable personal property to be seized, and him and them to be safely kept until such time as the Court may order.

210. Any powers by this Act conferred on the Court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

Powers of Court cumulative

211. Provision may be made by general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the Court by this Act in respect of the following matters —

Delegation to liquidator of certain powers of Court

(*a*) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;

(*b*) the settling of lists of contributories and the rectifying of the register of members where required, and the collecting and applying of the assets;

(*c*) the paying, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;

(*d*) the making the calls;

(*e*) the fixing of a time within which debts and claims must be proved;

to be exercised or performed by the liquidator as an officer of the Court, and subject to the control of the Court: Provided that the liquidator shall not, without the special leave of the Court, rectify the register of members, and shall not make any call without either the special leave of the Court or the sanction of the committee of inspection.

212. (1) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

Dissolution of company

(2) The order shall within 14 days from the date thereof be reported by the liquidator to the Registrar of Companies who shall make in his books a minute of the dissolution of the company.

(3) If the liquidator makes default in complying with the requirements of this section, he shall be guilty of an offence: Penalty, a fine of $25 for every day during which he is in default.

(iii) VOLUNTARY WINDING UP

RESOLUTIONS FOR, AND COMMENCEMENT OF, VOLUNTARY WINDING UP

Circumstances in which company may be wound up voluntarily

213. (1) A company may be wound up voluntarily —

(*a*) when the period, if any, for the direction of the company by the articles expires, or the event, if any, occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;

(*b*) if the company resolves by special resolution that the company be wound up voluntarily;

(*c*) if the company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.

(2) In this Act the expression a resolution for voluntarily winding up means a resolution passed under any of the provisions of subsection (1).

214. (1) When a company has passed a resolution for voluntary winding up, it shall, within 14 days after the passing of the resolution, give notice of the resolution by advertisement in the *Gazette*.

Notice of resolution to wind up voluntarily

(2) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine, and for the purposes of this subsection the liquidator of the company shall be deemed to be an officer of the company.

215. A voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntary winding up.

Commencement of voluntary winding up

CONSEQUENCES OF VOLUNTARY WINDING UP

216. In case of a voluntary winding up, the 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 shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

Effect of voluntary winding up on business and status of company

217. 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 of the company, made after the commencement of a voluntary winding up, shall be void.

Avoidance of transfers, etc., after commencement of voluntary winding up

DECLARATION OF SOLVENCY

218. (1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the

Statutory declaration of solvency in case of proposal to wind up voluntarily

resolution for the winding up of the company is to be proposed are sent out, make a statutory declaration to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within a period, not exceeding 12 months, from the commencement of the winding up.

(2) A declaration made as aforesaid shall have no effect for the purpose of this Act unless it is delivered to the Registrar for registration before the date mentioned in subsection (1).

(3) A winding up in the case of which a declaration has been made and delivered in accordance with this section is in this Act referred to as a members' voluntary winding up, and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Act referred to as a creditors' voluntary winding up.

PROVISIONS APPLICABLE TO A MEMBERS' VOLUNTARY WINDING UP

Provisions applicable to members' winding up

219. The provisions contained in sections 220, 221, 222, 223 and 224 shall apply in relation to a members' voluntary winding up.

Power of company to appoint and fix remuneration of liquidators

220. (1) The company in general meetings shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the 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 company in general meeting, or the liquidator, sanctions the continuance thereof.

221. (1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

Power to fill vacancy in office of liquidators

(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 Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

222. (1) Where a company is proposed to be, or is in course of being, wound up altogether 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 Act 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 members of the transferor company, or may enter into any other arrangement whereby the members 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.

Power of liquidator to accept shares, etc. as consideration for sale of property of company

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any members of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the 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 in manner provided by this section.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the 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 or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

(6) For the purposes of an arbitration under this section, the provisions of the Companies Clauses Consolidation Act 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with this Act, and in the construction of those provisions and the company shall mean the transferor company, this Act shall be deemed to be the special Act, and the company shall mean the transferor company, and any appointment by the said incorporated provisions directed to be made under the hand of the secretary, or any two of the directors, may be made under the hand of the liquidator, or, if there is more than one liquidator, then of any two or more of the liquidators, and all powers given by the said Act to the Board of Trade shall be exercised by His Majesty.

Duty of liquidator to call general meeting at end of each year

223. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, 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.

(2) If the liquidator fails to comply with this section, he shall be guilty of an offence: Penalty, a fine of $500.

Final meeting and dissolution

224. (1) As soon as the affairs of the 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 has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement in the *Gazette*, specifying the time, place, and object thereof, and published one month at least before the meeting.

(3) Within 3 weeks 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 guilty of an offence: Penalty, a fine of $25 for every day during which the default continues: 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 company shall be deemed to 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 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 guilty of an offence: Penalty, a fine of $25 for every day during which the default continues.

PROVISIONS APPLICABLE TO A CREDITORS VOLUNTARY WINDING UP

Provisions applicable to creditors' winding up

225. The provisions contained in sections 226, 227, 228, 229, 230, 231, 232 and 233 shall apply in relation to a creditors' voluntary winding up.

Meeting of creditors

226. (1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised once in the *Gazette* and once at least in two local newspapers circulating in the district where the registered office or principal place of business of the company is situate.

(3) The directors of the company shall —

(*a*) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claim to be laid before the meeting of creditors to be held as aforesaid; and

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

(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 company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors held in pursuance of subsection (1) shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made —

(*a*) by the company in complying with subsections (1) and (2);

(*b*) by the directors of the company in complying with subsection (3);

(*c*) by any director of the company in complying with subsection (4),

the company, directors or director, as the case may be, shall be shall be guilty of an offence: Penalty, a fine of $1,000, and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

Appointment of liquidator

227. The creditors and the company at their respective meetings mentioned in section 226 may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the 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 company shall be liquidator: Provided that in the case of different persons being nominated any director, member, or creditor of the 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 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.

Appointment of committee of inspection

228. (1) The creditors at the meeting to be held in pursuance of section 226 or at any subsequent meeting, may, if they think fit, appoint a committee of inspection consisting of not more than 5 persons, and if such a committee is appointed the 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 such number of persons as they think fit to act as members of the committee not exceeding 5 in number: Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the 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.

(2) Subject to the provisions of this section and to general rules, the provisions of section 192 (except subsec-

tion (1)) shall 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.

Fixing of liquidators' remuneration and cesser of directors' powers

229. (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.

Power to fill vacancy in office of liquidator

230. If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the Court, the creditors may fill the vacancy.

Application of section 222 to a creditor's voluntary winding up

231. The provisions of section 222 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.

Duty of liquidator to call meetings of company and of creditors at end of each year

232. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the 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 as soon thereafter as may be convenient, 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.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine of $500.

Final meeting and dissolution

233. (1) As soon as the affairs of the 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 has been disposed of, and thereupon shall call a general meeting of the 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 one month at least before the meeting.

(3) Within 3 weeks 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 guilty of an offence: Penalty, a fine of $50 for every day during which the default continues: 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 company shall be deemed to 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 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 orders for registration, and if that person fails so to do he shall be guilty of an offence: Penalty, a fine of $25 for every day during which the default continues.

PROVISIONS APPLICABLE TO EVERY VOLUNTARY WINDING UP

Provisions applicable to every voluntary winding up

234. The provisions contained in sections 235, 236, 237 238, 239, 240, 241 and 242 shall apply to every voluntary winding up whether a members' or a creditors' winding up.

Distribution of property of company

235. Subject to the provisions of this Act as to preferential payments, the property of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu*, and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Powers and duties of liquidator in voluntary winding up

236. (1) The liquidator may —

(*a*) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and, in the case of a creditors' voluntary winding up, with the sanction of either the Court or the committee of inspection, exercise any of the powers given by paragraphs (*d*), (*e*) and (*f*) of subsection (1) of section 184 to a liquidator in a winding up by the Court;

(*b*) without sanction exercise any of the other powers by this Act given to the liquidator in a winding up by the Court;

(*c*) exercise the power of the Court under the Act 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 for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Act 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 two.

Court may appoint and remove liquidator in voluntary winding up

237. (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.

Notice by liquidator of his appointment

238. (1) The liquidator shall, within 5 weeks after his appointment, deliver to the Registrar for registration a notice of his appointment in the form prescribed.

(2) If the liquidator fails to comply with the requirements of this section he shall be guilty of an offence: Penalty, a fine of $25 for every day during which the default continues.

239. (1) Any arrangement entered into between a 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 if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

Arrangement, when binding on creditors

(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.

240. (1) The liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding up of a 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 were being wound up by the Court.

Power to apply to Court to have questions determined or powers exercised

(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.

241. 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 in priority to all other claims.

Costs of voluntary winding up

242. The winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, 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.

Saving for rights of creditors and contributories

(iv) WINDING UP SUBJECT TO SUPERVISION OF COURT

Power to order winding up subject to supervision

243. When a company has passed a resolution for voluntary winding up, the Court may make an order that the voluntary winding up shall continue but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally on such terms and conditions, as the Court thinks just.

Effect of petition for winding up subject to supervision

244. A petition for the continuance of voluntary winding up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over actions, be deemed to be a petition for winding up by the Court.

Application of sections 168 and 169 to winding up subject to supervision

245. A winding up subject to the supervision of the Court shall, for the purposes of sections 168 and 169, be deemed to be a winding up by the Court.

Power of Court to appoint or remove liquidators

246. (1) Where an order is made for winding up subject to supervision, the Court may by that or any subsequent order appoint an additional liquidator.

(2) A liquidator appointed by the Court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position, as if he had been duly appointed in accordance with the provisions of this Act with respect to the appointment of liquidators in a voluntary winding up.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation.

Effect of supervision order

247. (1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without

the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily: Provided that the powers specified in paragraphs (*d*), (*e*) and (*f*) of subsection (1) of section 184 shall not be exercised by the liquidator except with the sanction of the Court or, in a case where before the order the winding up was a creditors' voluntary winding up, with the sanction of either the Court or the committee of inspection.

(2) A winding up subject to the supervision of the Court is not a winding up by the Court for the purpose of the provisions of this Act which are set out in the Seventh Schedule, but, subject as aforesaid, an order for a winding up subject to supervision shall for all purposes be deemed to be an order for winding up by the Court: Provided that where the order for winding up subject to supervision was made in relation to a creditors' voluntary winding up in which a committee of inspection had been appointed, the order shall be deemed to be an order for winding up by the Court for the purpose of section 192 (except subsection (1) thereof), except in so far as the operation of that section is excluded in a voluntary winding up by general rules.

Seventh Schedule

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP
PROOF AND RANKING OF CLAIMS

Debts of all descriptions to be proved

248. In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the 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.

Application of bankruptcy rules in winding up of insolvent companies

249. In the winding up of an insolvent company registered in Brunei 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 in Brunei 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 company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

Preferential payments

250. (1) In a winding up there shall be paid in priority to all other debts —

(*a*) the following rates and taxes —

(i) all rates due to any Municipal Board constituted under the Municipal Boards Act.

Cap. 57

(ii) income tax and other tax assessed on the company up to the 31st of December next before that date and not exceeding in the whole one year's assessment;

(*b*) all wages, or salary of any clerk, servant, labourer or workman not exceeding $1,000 for each whether payable for time or piece work or whether or not payable wholly or in part by way of commission in respect of services rendered to the company during the period of 5 months next before the relevant date or the date of the termination of his service if the latter occurs within 12 months of and precedes the relevant date:

Provided that, without prejudice to the conditions and restrictions imposed upon contracts and agreements to labour by the Labour Act, where any clerk, servant, labourer or workman has entered into a contract for the payment of his wages or any part thereof in a lump sum at the end of the year of hiring, the priority under this section shall extend to the whole of such sum, or a part thereof as the Court may decide to be due under the contract, proportionate to the time of service up to the relevant date. Cap. 93

(2) Where any payment on account of wages or salary has been made to any clerk, servant, workman or labourer in the employment of a 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.

(3) The foregoing debts shall —

(*a*) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(*b*) in the case of a company registered in Brunei, so far as the assets of the company available for payment of general creditors are insufficent to meet them, have priority over the claims of holders of debentures under floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(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 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: Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(6) In this section the expression "the relevant date" means —

(*a*) in the case of a company order to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order; and

(*b*) in any other case, the date of the commencement of the winding up.

EFFECT OF WINDING UP ON ANTECEDENT AND OTHER TRANSACTIONS

Fraudulent preference

251. (1) Any conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property which would, if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference, shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.

(2) For the purposes of this section, the commencement of the winding up shall be deemed to correspond with the presentation of the bankruptcy petition in the case of an individual.

(3) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

Effect of floating charge

252. Where a company is being wound up, a floating charge on the undertaking or property of the company created within 6 months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of 5 *per cent per annum*.

Disclaimer of onerous property in case of company wound up

253. (1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, or 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 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 one 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 company, and the property of the company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the 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 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 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 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 Act 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 company, whether as under-lessee or as mortgagee by demise, including a chargee by way of legal mortgage, except upon the terms of making that person —

(*a*) subject to the same liabilities and obligations as those to which the 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 mortgagee or under-lessee declining 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 company who is willing to accept an order upon such terms, the Court shall have power to vest the estate and interest of the company in the property in any person liable either personally or in a representative character, and either alone or jointly with the company to perform the lessee's covenants in the lease,

freed and discharged from all estates, incumbrances and interests created therein by the company.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

Restriction of rights of creditor as to execution or attachment in case of company being wound up

254. (1) Where a creditor has issued execution against the goods or lands of a company or has attached any debt due to the company, and the 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 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 the 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 on which an execution has been levied shall in all cases acquire a good title to them against the liquidator.

(2) For the purposes of this section, an execution against goods shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against land shall be deemed to be completed by registration of the prohibitory order in the Land Office, and in the case of an equitable interest, by the appointment of a receiver.

(3) In this section the expression "goods" includes all chattels personal, and the expression "bailiff" includes any officer charged with the execution of a writ or other process.

Duties of bailiff as to goods taken in execution

255. (1) Where any goods of a 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) 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 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 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 and an order is made or a resolution is passed, as the case may be, for the winding up of the company, the bailiff shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

(3) In this section the expression "goods" includes all chattels personal, and the expression "bailiff" includes any officer charged with the execution of a writ or other process.

OFFENCES ANTECEDENT TO OR IN COURSE OF WINDING UP

Offences by officers of companies in liquidation

256. (1) If any person, being a past or present director, manager or other officer of a company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the Court or voluntarily, or is subsequently ordered to be wound up by the Court or subsequently 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 company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company;

(*b*) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the company as is in his custody or under his control, and which he is required by law to deliver up;

(*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 company and which he is required by law to deliver up;

(*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 company to the value of $100 or upwards, or conceals any debt due to or from the company;

(*e*) within 12 months next before the commencement of the winding up or at any time there-

after fraudulently removes any part of the property of the company to the value of $50 or upwards;

(*f*) makes any material omission in any statement relating to the affairs of the company;

(*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;

(*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 company;

(*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 company;

(*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 company;

(*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 company;

(*l*) after the commencement of the winding up or at any meeting of the creditors of the company

within 12 months next before the commencement of the winding up attempts to account for any part of the property of the company by fictitious losses or expenses;

(*m*) has within 12 months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for;

(*n*) within 12 months next before the commencement of the winding up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for;

(*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 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 company; or

(*p*) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up,

he shall, be guilty of an offence: Penalty, in the case of offences mentioned respectively in paragraphs (*m*), (*n*) and (*o*) imprisonment for 5 years and in any other case imprisonment for 2 years: Provided that it shall be a good defence to a charge under any of paragraphs (*a*), (*b*), (*c*), (*d*), (*f*), (*n*) 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 company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to a misdemeanor under paragraph (*o*) of subsection (1), 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: Penalty, imprisonment for 5 years.

(3) For the purposes of paragraph (*o*) of subsection (1) of this section, a person who has sent out of Brunei or purports to have sent out of Brunei any property which has been obtained by or on behalf of the company on credit and not paid for, shall be deemed, unless he proves the contrary, to have disposed of such otherwise than in the ordinary way of the business of the company, if the person to whom such property was or is purported to have been sent cannot be found or does not pay for the same within a reasonable time after being required to do so by the liquidator of the company.

(4) For the purposes of this section, the expression "director" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

Penalty for falsification of books

257. If any director, manager or other officer, or contributory of any company being wound 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 with intent to defraud or deceive any person, he shall be guilty of an offence: Penalty, imprisonment for 2 years.

Frauds by officers of companies which have gone into liquidation

258. If any person, being at the time of the commission of the alleged offence a director, manager or other officer of the company which is subsequently ordered to be wound up by the Court or subsequently passes a resolution for voluntary winding up —

(*a*) has by false pretences or by means of any other fraud induced any person to give credit to the company;

(*b*) with intent to defraud creditors of the 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; or

(*c*) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against the company;

he shall be guilty of an offence: Penalty, imprisonment for 2 years.

Liability where proper accounts not kept

259. (1) If where a company is wound up it is shown that proper books of account were not kept by the company throughout the period of 2 years immediately preceding the commencement of the winding up, every director, manager or other officer of the company who was knowingly a party to or connived at the default of the company shall, unless he shows that he acted honestly or that in the circumstances in which the business of the company was carried on the default was excusable, be guilty of an offence: Penalty, imprisonment for one year.

(2) For the purposes of this section, proper books of account shall be deemed not to have been kept in the case of

any company if there have not been kept such books or accounts as are necessary, to exhibit and explain the transactions and financial position of the trade or business of the company, including books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of the annual stocktakings and (except in the case of goods sold by way of ordinary retail trade) of all goods sold and purchased, showing the goods and the buyers and sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified.

Responsibility of directors for fraudulent trading

260. (1) If in the course of the winding up of a company it appears that any business of the company has been carried on with intent to defraud creditors of the 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, may, if it thinks proper so to do, declare that any of the directors, whether past or present, of the company 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 as the Court may direct.

(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 such director under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any company or person on his behalf, or any person claiming as assignee from or through the director, 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, the expression "assignee" includes any person to whom or in whose favour, by the directions of the director, 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 is carried on with such intent or for such purpose as is mentioned in subsection (1), every director of the company who was knowingly a party to the carrying on of the business in manner aforesaid, shall be guilty of an offence: Penalty, imprisonment for one year.

(4) The Court may, in the case of any person in respect of whom a declaration has been made under subsection (1), or who has been convicted of an offence under subsection (3), order that that person shall not, without the leave of the Court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a company for such period, not exceeding 5 years, from the date of the declaration or of the conviction, as the case may be, as may be specified in the order, and if any person acts in contravention of an order made under this subsection he shall be guilty of an offence: Penalty, imprisonment for 2 years, and a fine of $5,000. In this subsection the expression the Court in relation to making of an order, means "the Court" by which the declaration was made or the Court before which the person was convicted, as the case may be, and in relation to the granting of leave means any court having jurisdiction to wind up the company.

(5) For the purposes of this section, the expression "director" shall include any person in accordance with whose directions or instructions the directors of a company have been accustomed to act.

(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, and where the declaration under subsection (1) is made in the case of a winding up the declaration shall be deemed to be a final judgment for the purpose of any written law relating to Bankruptcy.

(7) It shall be the duty of the Official Receiver or of the liquidator to appear on the hearing of an application for leave under subsection (4), and on the hearing of an application under that subsection or under subsection (1) the Official Receiver or the liquidator, as the case may be, may himself give evidence or call witnesses.

Power of Court to assess damages against delinquent directors, etc.

261. (1) If in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, or liquidator, or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the 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 promoter, director, manager, liquidator, or officer, and compel him 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 by way of compensation in respect of the misapplication, retainer, misfeasance, or breach of trust as the Court thinks just.

(2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.

(3) Where in the case of a winding up an order for payment of money is made under this section, the order shall be deemed to be a final judgment within the meaning

of paragraph (*g*) of subsection (i) of section 3 of Bankruptcy Act.

Prosecution of delinquent officers and members of company

262. (1) If it appears to the Court in the course of a winding up by, or subject to the supervision of, the Court that any past or present director, manager or other officer, or any member, of the company has been guilty of an 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 either himself to prosecute the offender or to refer the matter to the Public Prosecutor.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter, to the Public Prosecutor, and shall furnish to him 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.

(3) Where any report is made under subsection (2) to the Public Prosecutor, he may, if he thinks fit, refer the matter to the Official Receiver for further inquiry, and he shall thereupon investigate the matter and may, if he thinks it expedient, apply to the Court for an order conferring on him or any person designated by him for the purpose with respect to the company concerned all such powers of investigating the affairs of the company as are provided by this Act in the case of a winding up by the Court.

(4) If on any report to the Public Prosecutor under subsection (2) it appears to him that the case is not one in which proceedings ought to be taken by him, he shall inform the liquidator accordingly; and thereupon, subject to the

previous sanction of the Court, the liquidator may himself take proceedings against the offender.

(5) If it appears to the Court in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the Public Prosecutor 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).

(6) If, where any matter is reported or referred to the Public Prosecutor under this section, he considers that the case is one in which a prosecution ought to be instituted and, further, that it is desirable in the public interest that the proceedings in the prosecution should be conducted by him, he shall institute proceedings accordingly, and it shall be the duty of the liquidator and of every officer and agent of the 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" in relation to a company shall be deemed to include any banker or advocate of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(7) If any person fails or neglects to give assistance in manner required by subsection (6), the Court may, on the application of the Public Prosecutor, 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 company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally.

(8) The Court may direct that the whole or part of any costs and expenses properly incurred by the liquidator in proceedings duly brought by him under this section shall be defrayed as expenses incurred by the liquidator under this Act in relation to the winding up of companies. Subject to any direction under this subsection and to any mortgages or charges on the assets of the company and any debts to which priority is given by section 250, all such costs and expresses as aforesaid shall be payable out of those assets in priority to all other liabilities payable thereout.

Disqualification for appointment as liquidator

263. (1) A body corporated shall not be qualified for appointment as liquidator of a company, whether in a winding up by or under the supervision of the Court or in a voluntary winding up, and any appointment made in contravention of this provision shall be void.

(2) Nothing in this section shall disqualify a body corporate from acting as liquidator of a company if acting under an appointment made before the commencement of this Act, but subject as aforesaid any body corporate which acts as liquidator of a company shall be guilty of an offence: Penalty, a fine of $1,000.

Enforcement of duty of liquidator to make returns, &c.

264. (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 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.

Notification that a company is in liquidation

265. (1) Where a company is being wound up, whether by or under the supervision of the Court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a liquidator of the comany, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up.

(2) If default is made in complying with this section, the company and every director, manager, secretary or other officer of the company, and every liquidator of the company and every receiver or manager, who knowingly and wilfully authorises or permits the default, shall be guilty of an offence: Penalty, a fine of $1,000.

Exemption of certain documents from stamp duty on winding up of companies

266. In the case of a winding up by the Court of a company registered in Brunei, or of a creditors' voluntary winding up ot such a company—

(*a*) every assurance relating solely to freehold or leasehold property, or to any mortgage, charge or other incumbrance on, or any estate, right or interest in, any real or personal property, which forms part of the assets of the 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; and

(*b*) every power of attorney, proxy paper, writ, order, certificate, affidavit, bond or other instru-

ment or writing relating solely to the property of any company which is being so wound up, or to any proceeding under any such winding up,

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shall be exempt from duties chargeable under the Stamp Act.

In this section the expression "assurance" includes deed, conveyance, assignment and surrender.

Books of company to be evidence

267. Where a company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Disposal of books and papers of company

268. (1) Where a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed as follows, that is to say—

(*a*) in the case of a winding up by, or subject to the supervision of, 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 by extraordinary resolution directs, and, in the case of a creditors' voluntary winding up, in such way as the committee of inspection or, if there is no such committee, as the creditors of the company, may direct.

(2) After 5 years from the dissolution of the company no responsibility shall rest on the 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.

(3) Provision may be made by general rules for enabling the Official Receiver to prevent, for such period (not exceeding 5 years from the dissolution of the company) as he thinks proper, the destruction of the books and papers of the company which has been wound up, and for enabling any creditor or contributory of the company to make representations to him, and to appeal to the Court from any direction which may be given by him in the matter.

(4) If any person acts in contravention of any general rules made for the purposes of this section or of any direction of the Official Receiver thereunder, he shall be guilty of an offence: Penalty, a fine of $1,000.

Information as to pending liquidations

269. (1) If where a company is being wound up the winding up is not concluded within one 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 shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed 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 of $25 for each day during which the default continues, 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.

Unclaimed assets to be paid to companies liquidation account

270. (1) If, where a company is being wound up it appears either from any statement sent to the Registrar under section 269 or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or indistributed for 6 months after the date of their receipt, 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) For the purpose of ascertaining and getting in any money payable into the bank in pursuance of this section, the liquidator may be called upon by the Court to account for any unclaimed or undistributed assets of the company and any failure to comply with the requisitions of the Court in this behalf may be dealt with as a contempt of Court.

(3) Any person claiming to be entitled to any money paid into the bank in pursuance of this section may apply to the Official Receiver for payment thereof, and the Offiical 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.

(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.

Resolutions passed at adjourned meetings of creditors and contributories

271. Where after the commencement of this Act a resolution is passed at an adjourned meeting of any creditors or contributories of a 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.

SUPPLEMENTARY POWERS OF COURT

Meetings to ascertain wishes of creditors or contributories

272. (1) The Court may, as to all matters relating to the winding up of a company, have regard to the wishes of the creditors or contributories of the 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 Act or the articles.

Judicial notice of signature of officers

273. In all proceedings under this Part, all Courts, judges, and persons judicially acting, and all officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of the Supreme Court, and also of the official seal or stamp of the several offices of the Supreme Court, appended to or impressed on any document made, issued, or signed under the provisions of this part, or any official copy thereof.

Affidavits, etc. in Brunei and the Commonwealth

274. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in Brunei, or elsewhere within the Commonwealth, before any Court, judge or person lawfully authorised to take and receive affidavits or before any of Brunei consuls or vice-consuls in any place outside Brunei.

(2) All Courts, judges, justices, 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, person, consul, or vice-consul attached, appended, or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part.

PROVISIONS AS TO DISSOLUTION

Power of Court to declare dissolution of company void

275. (1) Where a company has been dissolved, 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 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 had not been dissolved.

(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 shall be guilty of an offence: Penalty, a fine of $25 for every day during which the default continues.

Registrar may strike defunct company off register

276. (1) Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within 14 days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within one month from the date thereof, a notice will be

published in the *Gazette* with a view to striking the name of the company off the register.

(3) If the Registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within one month after sending the second letter receive an answer, he may publish in the *Gazette* and send to the company by post, a notice that at the expiration of 3 months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of 6 consecutive months, the Registrar shall publish in the *Gazette* and send to the company or the liquidator, if any, a like notice as is provided in subsection (3).

(5) Where the Registrar is of the opinion that the registered office of a company or the name and address of a liquidator or subscriber to the memorandum of association of a company cannot be ascertained, or the Registrar is of the opinion that a letter or notice to be sent under subsection (1), (2), (3) or (4) is unlikely to be received by the person to whom it would be directed, it shall be sufficient compliance with the provisions of the said subsections if the Registrar shall publish in the *Gazette* a notice stating that at the expiration of 3 months from the date of the publication of such notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(6) At the expiration of the time specified in any notice referred to in subsection (3), (4) or (5) the Registrar may, unless cause to the contrary is previously shown, strike

its name off the register, and shall publish notice thereof in the *Gazette* and on the publication in the *Gazette* of this notice the company shall be dissolved: Provided that —

(*a*) the liability, if any, of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved; and

(*b*) nothing in this subsection shall affect the power of the Court to wind up a company the name of which has been struck off the register.

(7) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court on an application made by the company or member or creditor before the expiration of 20 years from the publication in the *Gazette* of the notice aforesaid may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon an office copy of the order being delivered to the Registrar for registration the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(8) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director or officer of the company or, if there is no director or officer of the company whose name and address are known to the Registrar, may

be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

Property of dissolved company to be *bona vacantia*

277. Where a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property but not including property held by the company on trust for any other person) shall, subject and without prejudice to any order which may at any time be made by the Court under sections 275 and 276, be deemed to be *bona vacantia* and shall accordingly belong to the Government of Brunei, and subject to any necessary modification shall vest and may be dealt with in the same manner as other *bona vacantia* accruing to the Crown of England.

CENTRAL ACCOUNTS

Companies liquidation account

278. (1) An account, to be called the companies liquidation account, shall be kept by the Official Receiver at such bank as His Majesty may from time to time direct, and all moneys received by the Official Receiver in respect of proceedings under this Act in connexion with the winding up of companies shall be paid to that account.

(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.

Investment of surplus funds on general account

279. (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 companies' estates, he shall notify the excess to the Permanent Secretary, and shall pay over the whole or any part of that excess, as the Permanent Secretary may require, to the Permanent Secretary, to such account as the Permanent Secretary may direct, and the Permanent Secretary may

invest the sums paid over, or any part thereof, in Government securities, to be placed to the credit of the said account.

(2) When any part of the money so invested is, in the opinion of the Official Receiver, required to answer any demands in respect of companies' estates, he shall notify to the Permanent Secretary the amount so required, and the Permanent Secretary shall thereupon repay to the Official Receiver such sum as may be required to the credit of the companies liquidation account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3) The income on investments under this section, any profits realised 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 the 31st day of December 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.

Separate accounts of particular estates

280. (1) An account shall be kept by the Official Receiver of the receipts and payments in the winding up of each company, and, when the cash balance standing to the credit of the account of any company is in excess of the amount which, in the opinion of the committee of inspection, is required for the time being to answer demands in respect of that company's estate, the Official Receiver shall, on the request of the committee, invest the amount not so required in Government securities, to be placed to the credit of the said account for the benefit of the company.

(2) When any part of the money so invested is, in the opinion of the committee of inspection, required to answer any demands in respect of the estate of the company, the Official Receiver shall, on the request of the committee raise such sum as may be required by the sale of such part of the said securities as may be necessary.

(3) The dividends on investments under this section shall be paid to the credit of the company.

RULES AND FEES

General rules and fees

281. (1) The Chief Justice may, with the concurrence of His Majesty make general rules for carrying into effect the objects of this Act so far as relates to the winding up of companies, and also rules for the purposes of this Act generally, including rules as to costs.

Rules by His Majesty in Council

(2) His Majesty in Council may make rules to provide for —

(*a*) the manner in which applications by persons desirous of being placed upon the authorised list of auditors shall be made;

(*b*) the examination of such applications and if thought fit of applicants by an Advisory Board;

(*c*) the establishment of an Advisory Board to advise His Majesty in Council in relation to such applications and also as to whether the name of any person on the authorised list should be removed therefrom;

(*d*) anything which may require to be prescribed; and

(*e*) carrying this Act into effect.

(3) All rules made under this section shall be judicially noticed, and shall have effect as if enacted by this Act.

(4) There shall be paid in respect of proceedings under this Act, where no fee is otherwise fixed, such fees as the Chief Justice may, with the sanction of His Majesty

direct, and he may direct by whom and in what manner the same are to be collected and accounted for.

PART VI

RECEIVERS AND MANAGERS

Disqualification for appointment as receiver

282. (1) A body corporate shall not be qualified for appointment as receiver of the property of a company.

(2) Any body corporate which acts as receiver as aforesaid shall be liable to a fine of $1,000.

Power to appoint Official Receiver as receiver for debenture holders or creditors

283. Where an application is made to the Court to appoint a receiver on behalf of the debenture holders or other creditors of a company which is being wound up by the Court, the Official Receiver may be so appointed.

Notification that receiver or manager appointed

284. (1) Where a receiver or manager of the property of a company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the company or the receiver or manager or the liquidator of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver or manager has been appointed.

(2) If default is made in complying with requirements of this section, the company and every director, manager, secretary or other officer of the company, and every liquidator of the company, and every receiver or manager who knowingly and wilfully authorises or permits the default, shall be guilty of an offence: Penalty, a fine of $500.

Power of Court to fix remuneration on application of liquidator

285. The Court may, on an application made to the Court by the liquidator or a 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, 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.

Delivery to Registrar of accounts of receivers and managers

286. (1) Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument shall, within one 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 one month after he ceases to act as receiver or manager, deliver to the Registrar for registration an abstract in the prescribed 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.

(2) Any receiver or manager who makes default in complying with the provisions of this section shall be guilty of an offence: Penalty, a fine of $50 for every day during which the default continues.

Enforcement of duty of receiver to make returns, etc.

287. (1) If —

(*a*) any receiver of the property of a company, who has made default in filing, delivering or making any return, account or other document or in giving any notice, which a receiver 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 who has been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the com-

pany so to do, failed to render proper accounts of his receipts and payments 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.

(2) In the case of any such default as is mentioned in paragraph (*a*) of subsection (1) an application for the purposes of this section may be made by any member or creditor of the company or by the Registrar and the order may provide that all costs of and incidental to the application shall be borne by the receiver, and in the case of any such default as is mentioned in paragraph (*b*) of that subsection the application shall be made by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactments imposing penalties on receivers in respect of such default as is mentioned in paragraph (*a*) of subsection (1).

PART VII

GENERAL PROVISIONS AS TO REGISTRATION

Registration offices and appointment of officers for purposes of this Act

288. (1) For the purposes of the registration of companies under this Act, there shall be an office or offices at such place or places as the Minister directs.

(2) His Majesty may appoint such registrars, deputy and assistant registrars, clerks, and servants as he may think necessary for the purposes of this Act, and may make regulations with respect to their duties, and may remove any persons so appointed.

289. (1) There shall be paid to the Registrar in respect of the several matters mentioned in the table set out in the Eighth Schedule the several fees therein specified.

Fees

Eighth Schedule

(2) All fees paid to the Registrar in pursuance of this Act shall be paid into the Treasury.

290. (1) Any person may inspect the documents kept by the Registrar on payment of such fees as may be appointed by the Minister, and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy or extract, of such fees as the Minister may appoint.

Inspection, production and evidence of documents kept by Registrar

(2) No process for compelling the production of any document kept by the Registrar shall issue from any Court except with the leave of that Court, and any such process if issued shall bear thereon a statement that it is issued with the leave of the Court.

(3) A copy of or extract from any document kept and registered at the office for the registration of companies, certified to be a true copy under the hand of the Registrar (whose official position it shall not be necessary to prove), shall in all legal proceedings be admissible in evidence as of equal validity with the original document.

291. (1) If a company, having made default in complying with any provision of this Act which requires it to file with, deliver or send to the Registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within 14 days after the service of a notice on the company requiring it to do so, the Court may,

Enforcement of duty of company to make returns to Registrar

on an application made to the Court by any member or creditor of the company or by the Registrar make an order directing the company and any officer thereof 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 company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or its officers in respect of any such default as aforesaid.

PART VIII

WINDING UP OF UNREGISTERED COMPANIES

Meaning of unregistered company

292. For the purposes of this Part the expression "unregistered company" shall include any partnership, any association and any company except —

(*a*) a company registered under this Act; or

(*b*) a partnership, association or company which consists of less than 8 members and is not a foreign partnership, association or company.

Winding up of unregistered companies

293. (1) Subject to the provisions of this Part any unregistered company may be wound up under this Act, and all the provisions of this Act with respect to winding up shall apply to an unregistered company, with the following exceptions and additions —

(*a*) no unregistered company shall be wound up under this Act voluntarily or subject to supervision;

(*b*) the circumstances in which an unregistered company may be wound up are as follows —

(i) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

(ii) if the company is unable to pay its debts;

(iii) if the Court is of opinion that it is just and equitable that the company should be wound up;

(*c*) an unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts —

(i) if a creditor by assignment or otherwise, to whom the company is indebted in a sum exceeding $500 then due, has served on the company, by leaving at its principal place of business, or by delivering to the secretary or some director, manager, or principal officer of the company, or by otherwise serving in such manner as the Court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for 3 weeks after the service of the demand neglected to pay the sum, or to secure or compound for it to the satisfaction of the creditor;

(ii) if any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to the secretary, or some director, manager,

or principal officer of the company, or by otherwise serving the same in such manner as the Court may approve or direct, the company has not within 10 days after service of the notice paid, secured, or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same;

(iii) if execution or other process issued on a judgment, decree, or order obtained in any Court in favour of a creditor, against the company, or any member thereof as such, or any person authorised to be sued as nominal defendant on behalf of the company, is returned unsatisfied;

(iv) if it is otherwise proved to the satisfaction of the Court that the company is unable to pay its debts.

(2) Where a company incorporated outside Brunei which has been carrying on business in Brunei ceases to carry on business in Brunei, it may be wound up as an unregistered company under this Part notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated.

Contributories in winding up of unregistered company

294. (1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to

the assets of the company all sums due from him in respect of such liability as aforesaid.

(2) In the event of the death, bankruptcy, or insolvency, of any contributory, or marriage of any female contributory, the provisions of this Act with respect to the personal representatives, to the trustees of bankrupt or insolvent contributories, and to the liabilities of husbands and wives respectively, shall apply.

Power of Court to stay or restrain proceeding

295. The provisions of this Act with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

Actions stayed on winding-up order

296. Where an order has been made for winding up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the Court, and subject to such terms as the Court may impose.

Provisions of Part VIII cumulative

297. The provisions of this Part with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Act contained with respect to winding up companies by the Court, and the Court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and registered under this Act: Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this Part.

PART IX

COMPANIES INCORPORATED OUTSIDE BRUNEI CARRYING ON BUSINESS WITHIN BRUNEI

Companies to which Part IX applies

298. This Part shall apply to all companies incorporated outside Brunei which, after the commencement of this Act, establish a place of business in Brunei, and to all companies incorporated outside Brunei which have, before the commencement of this Act, established a place of business in Brunei and continue to have an established place of business within Brunei at the commencement of this Act.

Documents etc. to be delivered to Registrar by companies carrying on business in Brunei

299. Companies incorporated outside Brunei which establish or have established a place of business in Brunei shall within 3 months from the commencement of this Act or from the establishment of the place of business, whichever is the later, deliver to the Registrar for registration —

(*a*) a certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;

(*b*) a list of the directors of the company containing such particulars with respect to the directors as are by this Act required to be contained with respect to directors in the register of the directors of a company;

(*c*) the names and addresses of some one or more persons resident in Brunei authorised to accept on behalf of the company service of process and any notices required to be served on the company.

300. A company incorporated outside Brunei which shall have filed with the Registrar the documents specified in section 299, shall have the same power to acquire hold, and dispose of immovable property in Brunei as if it were a company incorporated under this Act.

Power of companies incorporated outside Brunei to hold immovable property

301. If in the case any company to which this Part applies any alteration is made in —

Return to be delivered to Registrar where documents etc. altered

(*a*) the charter, statutes, or memorandum and articles of the company or any such instrument as aforesaid;

(*b*) the directors of the company or the particulars contained in the list of the directors; or

(*c*) the names or addresses of the persons authorised to accept service on behalf of the company;

the company shall, within the prescribed time, deliver to the Registrar for registration a return containing the prescribed particulars of the alteration.

302. (1) Every company to which this Part applies shall in every calendar year make out a balance sheet in such form, and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting, and deliver a copy of that balance sheet to the Registrar for registration.

Balance sheet of company carrying on business in Brunei

(2) If any such balance sheet is not written in the English language, there shall be annexed to it a certified translation thereof.

Obligation to state name of company, whether limited and country where incorporated

303. Every company to which this Part applies shall —

(*a*) in every prospectus inviting subscriptions for its shares or debentures in Brunei state the country in which the company is incorporated;

(*b*) conspicuously exhibit on every place where it carries on business in Brunei the name of the company and the country in which the company is incorporated;

(*c*) cause the name of the company and of the country in which the company is incorporated to be stated in legible characters in all bill-heads and letter paper, and in all notices, advertisements, and other official publications of the company; and

(*d*) if the liability of the members of the company is limited, cause notice of that fact to be stated in legible characters in every such prospectus as aforesaid and in all bill-heads, letter paper, notices, advertisements and other official publications of the company in Brunei and to be affixed on every place where it carries on its business.

Service on company to which Part IX applies

304. Any process or notice required to be served on a company to which this Part applies shall be sufficiently served if addressed to any person whose name has been delivered to the Registrar under this Part and left at or sent by post to the address which has been so delivered: Provided that —

(*a*) where any such company makes default in delivering to the Registrar the name and address of a person resident in Brunei who is authorised to accept on behalf of the company service of process or notices; or

(*b*) if at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on behalf of the company, or for any reason cannot be served,

a document may be served on the company by leaving it at or sending it by post to any place of business established by the company in Brunei.

Office where documents to be filed

305. (1) Any document, which any company to which this Part applies is required to deliver to the Registrar shall be delivered to the Registrar at the registration office.

(2) If any company to which this Part applies ceases to have a place of business in Brunei, it shall forthwith give notice of the fact to the Registrar and as from the date on which notice is so given the obligation of the company to deliver any document to the Registrar shall cease.

Penalties

306. If any company to which this Part applies fails to comply with any of the foregoing provisions of this Part the company, and every officer or agent of the company, shall be guilty of an offence: Penalty, a fine of $1,000, or, in the case of a continuing offence, $25 for every day during which the default continues.

Interpretation of Part IX

307. For the purposes of this Part —

"certified" means certified in the prescribed manner to be a true copy or a correct translation;

"director" in relation to a company includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act;

"place of business" includes a share transfer or share registration office;

"prospectus" has the same meaning as when used in relation to a company incorporated under this Act.

PART X

RESTRICTIONS ON SALE OF SHARES AND OFFERS OF SHARES FOR SALE

Provisions with respect to prospectuses of foreign companies inviting subscriptions for shares or offering shares for sale

308. (1) It shall not be lawful for any person —

(*a*) to issue, circulate or distribute in Brunei any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside Brunei, whether the company has or has not established, or when formed will or will not establish, a place of business in Brunei, unless —

(i) before the issue, circulation or distribution of the prospectus in Brunei a copy thereof, certified by the chairman and two other directors of the company as having been approved by resolution of the managing body, has been delivered for registration to the Registrar;

(ii) the prospectus states on the face of it that the copy has been so delivered;

(iii) the prospectus is dated;

(iv) the prospectus otherwise complies with this Part; or

(*b*) to issue to any person in Brunei a form of application for shares in or debentures of such a company or intended company as aforesaid, unless the form is issued with a prospectus which complies with this Part: Provided that this provision

shall not apply if it is shown that the form of application was issued in connexion with an invitation made in good faith to a person to enter into an underwriting agreement with respect to the shares or debentures.

(2) This section shall not apply to the issue to existing members of debenture holders of a company of a prospectus or form of application relating to share in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(3) Where any document by which any shares in or debentures of a company incorporated outside Brunei are offered for sale to the public would, if the company concerned had been a company within the meaning of this Act, have been deemed by virtue of section 41 to be a prospectus issued by the company, that document shall be deemed to be, for the purposes of this section, a prospectus issued by the company.

(4) An offer of shares or debentures for subscription or sale to any person whose ordinary business or part of whose ordinary business it is to buy or sell shares or debentures, whether as principal or agent, shall not be deemed an offer to the public for the purposes of this section.

(5) Section 40 shall extend to every prospectus to which this section applies.

(6) Any person who is knowingly responsible for the issue, circulation or distribution of any prospectus, or for the issue of a form of application for shares or debentures, in contravention of the provisions of this section shall be guilty of an offence: Penalty, a fine of $5,000 and imprisonment for 2 years.

(7) In this section and section 309 the expressions "prospectus, shares and debentures" have the same meanings as when used in relation to a company incorporated under this Act.

Requirements as to prospectus

309. (1) In order to comply with this Part of this Act a prospectus in addition to complying with the provisions of sub-paragraphs (ii) and (iii) of paragraph (*a*) of subsection (1) of section 308 must —

(*a*) contain particulars with respect to the following matters —

(i) the objects of the company;

(ii) the instrument constituting or defining the constitution of the company;

(iii) the enactments, or provisons having the force of an enactment, by or under which the incorporation of the company was effected;

(iv) an address in Brunei where the said instrument, enactments or provisions, or copies thereof, and if the same are in a foreign language a translation thereof certified in the prescribed manner, can be inspected;

(v) the date on which and the country in which the company was incorporated;

(vi) whether the company has established a place of business in Brunei, and, if so, the address of its principal office in Brunei:

Provided that the provisions of sub-paragraphs (i), (ii), (iii) and (iv) shall not apply in the case of a prospectus issued more than 2 years after the date at which the company is entitled to commence business.

(*b*) subject to the provisions of this section, state the matters specified in Part I of the Third

Schedule (other than those specified in paragraph 1 of the said Part I) and set out the reports specified in Part II of that Schedule subject always to the provisions contained in Part III of the said Schedule:

Provided that —

(*a*) where any prospectus is published as a newspaper advertisement, it shall be a sufficient compliance with the requirement that the prospectus must specify the objects of the company if the advertisement specifies the primary object with which the company was formed; and

(*b*) in paragraph 3 of Part I of the said Third Schedule a reference to the constitution of the company shall be substituted for the reference to the articles; and

(*c*) paragraph 1 of Part III of that Schedule shall have effect as if the reference to the memorandum were omitted therefrom.

(2) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if —

(*a*) as regards any matter not disclosed, he proves that he was not cognizant thereof;

(*b*) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or

(*c*) the non-compliance or contravention was in respect of matters which, in the opinion of the Court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused;

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters contained in paragraph 15 of Part I of the Third Schedule, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(4) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act apart from this section.

Restriction on offering of shares for subscription or sale

310. (1) It shall not be lawful for any person to go from house to house offering shares for subscription or purchase to the public or any member of the public. In this subsection the expression "house" shall not include an office used for business purposes.

(2) Subject as hereinafter provided in this subsection, it shall not be lawful to make an offer in writing to any member of the public (not being a person whose ordinary business or part of whose ordinary business it is to buy or sell shares, whether as principal or agent) of any shares for purchase, unless the offer is accompanied by a statement in writing (which must be signed by the person making the offer and dated) containing such particulars as are required by this section to be included therein and otherwise complying with the requirements of this section, or, in the case of shares in a company incorporated outside Brunei,

either by such a statement as aforesaid, or by such a prospectus as complies with this Part: Provided that the provisions of this subsection shall not apply —

(*a*) where the shares to which the offer relates are shares which are quoted on, or in respect of which permission to deal has been granted by, any recognised stock exchange in Brunei and the offer so states and specifies the stock exchange;

(*b*) where the shares to which the offer relates are shares which a company has alloted or agreed to allot with a view to their being offered for sale to the public; or

(*c*) where the offer was made only to persons with whom the person making the offer has been in the habit of doing regular business in the purchase or sale of shares.

(3) The written statement aforesaid shall not contain any matter other than the particulars required by this section to be included therein, and shall not be in characters less large or less legible than any characters used in the offer or in any document sent therewith.

(4) The said statement shall contain particulars with respect to the following matters —

(*a*) whether the person making the offer is acting as principal or agent, and if as agent the name of his principal and an address in Brunei where that principal can be served with process;

(*b*) the date on which and the country in which the company was incorporated and the address of its registered or principal office in Brunei;

(*c*) the authorised share capital of the company and the amount thereof which has been issued, the classes into which it is divided and the rights of each class of shareholders in respect of capital, dividends and voting;

(*d*) the dividends, if any, paid by the company on each class of shares during each of the three financial years immediately preceding the offer, and if no dividend has been paid in respect of shares of any particular class during any of those years, a statement to that effect;

(*e*) the total amount of any debentures issued by the company and outstanding at the date of the statement, together with the rate of interest payable thereon;

(*f*) the names and addresses of the directors of the company;

(*g*) whether or not the shares offered are fully paid up, and, if not, to what extent they are paid up;

(*h*) whether or not the shares are quoted on, or permission to deal therein has been granted by, any recognised stock exchange in Brunei or elsewhere, and, if so, which, and, if not, a statement that they are not so quoted or that no such permission has been granted;

(*i*) where the offer relates to units, particulars of the names and addresses of the persons in whom the shares represented by the units are vested, the date of and the parties to any document defining the terms on which those shares are held, and an address in Brunei where that document or a copy thereof can be inspected.

In this subsection the expression "company" means the company by which the shares to which the statement relates were or are to be issued.

(5) If any person acts, or incites, or causes or procures any person to act, in contravention of this section, he shall be guilty of an offence: Penalty, a fine of $2,000 and imprisonment for 6 months, and in the case of a second or subsequent offence a fine of $5,000 and imprisonment for 12 months.

(6) Where a person convicted of an offence under this section is a company (whether a company whithin the meaning of this Act or not) every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

(7) In this section, unless the context otherwise requires, the expression "shares' means the shares of a company, whether a company within the meaning of this Act or not, and includes debentures and units, and the expression "unit" means any right or interest (by whatever name called) in a share, and for the purposes of this section a person shall not in relation to a company be regarded as not being a member of the public by reason only that he is a holder of shares in the company or a purchaser of goods from the company.

(8) Where any person is convicted of having made an offer in contravention of the provisions of this section, the Court before which he is convicted may order that any contract made as a result of the offer shall be void, and, where it makes any such order, may give such consequential directions as it thinks proper for the repayment of any money or the retransfer of any shares. Where the Court makes an order under this subsection (whether with or without consequential directions) an appeal against the order and the consequential directions, if any, shall lie to the Court of Appeal.

PART XI

PROHIBITION OF PARTNERSHIPS WITH MORE THAN TWENTY MEMBERS

Prohibition of partnerships with more than twenty members

311. No company, association, or partnership consisting of more than 20 persons shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Act.

MISCELLANEOUS OFFENCES

Penalty for false statement

Ninth Schedule

312. If any person in any return, report, certificate, balance sheet, or other document, required by or for the purposes of any of the provisions of this Act specified in the Ninth Schedule, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of an offence: Penalty, imprisonment for 2 years and a fine.

Penalty for improper use of word "*Berhad*"

313. If any person or persons trade or carry on business under any name or title of which "*Berhad*", or any contraction or imitation of that word, is the last word, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine of $50 for every day upon which that name or title has been used.

GENERAL PROVISIONS AS TO OFFENCES

Provision with respect to default fines and meaning of "officer in default"

314. (1) Where by any section of this Act it is provided that a company and every officer of the company who is in default shall be liable to a default fine, the company and every such officer shall, for every day during which the default, refusal or contravention continues, be liable to a fine of such amount as is specified in the said section, or, if the amount of the fine is not so specified, to a fine of $50.

(2) For the purpose of any section in this Act which provides that an officer of a company who is in default shall be liable to a fine or penalty, the expression "officer who is in default" means any director, manager, secretary or other officer of the company, who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the section.

Applications of fines

315. The Court or magistrate imposing any fine under this Act 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 Act shall, notwithstanding anything in any other Act, be paid into the Treasury.

Penalty for failure to pay fine

316. (1) If any company fails to pay the whole or any part of any fine or penalty imposed by a Court or magistrate under this Act within one month of the day on which the said fine or penalty was imposed, the Registrar shall publish in the *Gazette* and send to the company by post a notice that at the expiration of 2 months from the date of such notice the name of the company mentioned therein will, unless the said fine or penalty be sooner paid, be struck off the register and the company will be dissolved.

(2) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the *Gazette*, and on such publication the company shall be dissolved: Provided that the liability (if any) of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved.

(3) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court on the application of the company or

member or creditor may, if satisfied that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

(4) A letter or notice under this section may be addressed to the company at its registered office, or, if no office has been registered, to the care of some director or officer of the company, or, if there is no director of officer of the company whose name and address are known to the Registrar of Companies, may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum: Provided that nothing in this section shall affect any other legal method of enforcing fines or penalties imposed by a magistrate.

Saving as to private prosecutors

317. Nothing in this Act relating to the institution of criminal proceedings by the Public Prosecutor shall be taken to preclude any person from instituting or carrying on any such proceedings.

Saving for privileged communications

318. Where proceedings are instituted under this Act against any person by the Public Prosecutor nothing in this Act shall be taken to require any person who has acted as advocate for the defendant to disclose any privileged communication made to him in that capacity.

Service of documents on company

319. A document may be served on a company by leaving it at or sending it by post to the registered office of the company.

Costs in actions by certain limited companies

320. Where a limited company is plaintiff in any action or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is

reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

Power of Court to grant relief in certain cases

321. (1) If in any proceeding for negligence, default, breach of duty, or breach of trust against a person to whom this section applies it appears to the Court hearing the case that that person is or may be liable in respect of the negiligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negiligence, default, breach of duty or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think fit.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the Court for relief, and the Court on any such application shall have the same power to relieve him as under this section it would have had if it had been a Court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

(3) Where any case to which subsection (1) applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

(4) The persons to whom this section applies are the following —

(*a*) directors of a company;

(*b*) managers of a company;

(*c*) officers of a company;

(*d*) persons employed by a company as auditors, whether they are or are not officers of the company.

Power to enforce orders

322. Orders made by the Court under this Act may be enforced and shall be subject to appeal in the same manner as orders made in a civil proceeding pending therein.

GENERAL PROVISIONS AS TO ALTERATION OF TABLES, FORMS AND FEES, ETC

Power to alter tables and forms

323. (1) His Majesty in Council may by order specified in the *Gazette* alter Table A, the form in the Sixth Schedule and the table of fees in the Eighth Schedule, and may alter or add to Tables B, C, D and E in the First Schedule, and the forms in the Fifth Schedule.

(2) Any such order, when altered, shall be published in the *Gazette*, and thenceforth shall have the same force as if the alteration or addition authorised thereby had been included in one of the Schedules, but no alteration made in Table A shall affect any company registered before the alteration, or repeal, as respects that company, of any portion of that table.

324. The fees specified in the Tenth Schedule and the rules specified in the Eleventh and Twelfth Schedules shall remain in force until amended by any subsidiary legislation made under this Act. Rules and Fees

[ss.11, 114, 307, 323]

FIRST SCHEDULE

TABLE A

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES

PRELIMINARY

1. In these regulations —

"the Act" means the Companies Act.

1st Schedule Table A

When any provision of the Act is referred to, the reference is to that provision as modified by any statute for the time being in force.

Unless the context otherwise requires, expressions defined in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meaning so defined.

SHARES

2. Subject to the provisions, if any, in that behalf of the memorandum of association, and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine, and any preference share may, with the sanction of a special resolution, be issued on the terms that it is, or at the option of the company is liable, to be redeemed.

3. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary *quorum* shall be 2 persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

4. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the seal of the company specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

5. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding $50, and on such terms, if any, as to evidence and indemnity, as the directors think fit.

6. No part of the funds of the company shall directly or indirectly be employed in the purchase of, or in loans upon the security of, the company's shares, but nothing in this regulation shall prohibit transactions mentioned in the proviso to subsection (1) of section 48 of the Act.

LIEN

7. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share extend to all dividends payable thereon.

8. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of 14 days after a notice in writing, stating and demanding, payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

9. For giving effect to any such sale the directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

10. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

CALLS ON SHARES

11. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least 14 days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

12. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

13. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of $5 *per cent per annum* from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

14. The provisions of these regulations as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

15. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

16. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, 6 *per cent*) as may be agreed upon between the member paying the sum in advance and the directors.

TRANSFER AND TRANSMISSION OF SHARES

17. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

18. Shares shall be transferred in the following form, or in any usual or common form which the directors shall approve —

> *I, A,B., of , in consideration of the sum of $ paid to me by C.D. of (hereinafter called the said transferee) do hereby transfer to the said transferee the share [or shares] numbered in the undertaking called the Company, Berhad, to hold unto the said transferee, subject to the several conditions on which I hold the same: and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the*
> *day of*
> *Witness to the signatures of, &c.*

19. The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the 14 days immediately preceding the ordinary general meeting in each year. The directors may decline to reorganise any instrument of transfer unless —

(*a*) a fee not exceeding one dollar is paid to the company in respect thereof, and

(*b*) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of any shares, they shall within 2 months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

20. The legal personal representatives of a deceased sole holder of a share shall be the only persons recognised by the company as having any

title to the share. In the case of a share registered in the names of 2 or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

21. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be properly required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

22. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

FORFEITURE OF SHARES

23. If a member fails to pay any call or instalment or a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

24. The notice shall name a further day (not earlier than the expiration of 14 days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

25. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

26. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

27. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receive payment in full of the nominal amount of the shares.

28. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of, and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

29. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

CONVERSION OF SHARES INTO STOCK

30. The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.

31. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

32. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

33. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder".

ALTERATION OF CAPITAL

34. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

35. Subject to any direction to the contrary that may be given by the company in general meeting, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

36. The new shares shall be subject to the same provisions with reference to the payment of calls, in lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

37. The company may by ordinary resolution —

(*a*) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(*b*) sub-divide its existing shares, of any of them, into shares of smaller amount than is fixed by the memorandum of association subject, nevertheless, to the provisions of paragraph (*d*) of subsection (1) of section 53 of the Act;

(*c*) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

38. The company may by special resolution reduce its share capital and any capital redemption reserve fund in any manner and with, and subject to, any incident authorised, and consent required, by law.

GENERAL MEETINGS

39. A general meeting shall be held once in every calendar year at such time (not being more than 15 months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any 2 members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

40. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

41. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default may be convened by such requisitionists, as provided by section 113 of the Act. If at any time there are not within Brunei sufficient directors capable of acting to form a *quorum*, any director or any 2 members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

NOTICE OF GENERAL MEETINGS

42. Subject to the provisions of subsection (2) of section 116 of the Act relating to special resolutions, 7 days' notice at the least (exclusive

of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but, with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

43. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

PROCEEDINGS AT GENERAL MEETINGS

44. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officer in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

45. No business shall be transacted at any general meeting unless a *quorum* of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, 3 members personally present shall be a *quorum*.

46. If within half an hour from the time appointed for the meeting a *quorum* is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and, if at the adjourned meeting a *quorum* is not present within half an hour from the time appointed for the meeting, the members present shall be a *quorum*.

47. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

48. If there is no such chairman, or if at any meeting he is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

49. The chairman may, with the consent of any meeting at which a *quorum* is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 10 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

50. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least 3 members present in person or by proxy entitled to vote or by one member or 2 members so present and entitled, if that member or those 2 members together hold not less than 15 *per cent* of the paid up capital of the company, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number of proportion of the votes recorded in favour of, or against, that resolution.

51. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the results of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

52. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

53. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

VOTES OF MEMBERS

54. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

55. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

56. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, *curator bonis*, or other person in the nature of a committee or *curator bonis* appointed by that Court, and any such committee, *curator bonis*, or other person may, on a poll, vote by proxy.

57. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

58. On a poll votes may be given either personally or by proxy.

59. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation, either under seal, or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

60. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

61. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve —

"I, , of Company, Berhad, , being a member of the Company, Berhad, hereby appoint , of , as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on the day of

and at any adjournment thereof."
Signed this *day of*

62. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS

63. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

DIRECTORS

64. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

65. The remuneration of the directors shall from time to time be determined by the company in general meeting.

66. The qualification of a director shall be the holding of at least one share in the company.

POWERS AND DUTIES OF DIRECTORS

67. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company, as are not, by the Act, or by these articles, required to be exercised by the company in general meeting, subject, nevertheless, to any regulation of these articles, to the provisions of the Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

68. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that this tenure of the office of managing director or manager be determined.

69. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

70. The directors shall cause minutes to be made in books provided for the purposes —

(*a*) of all appointments of offices made by the directors;

(*b*) of the names of the directors present at each meeting of the directors and of any committee of the directors;

(*c*) of all resolutions and proceedings at all meetings of the company; and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

THE SEAL

71. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

DISQUALIFICATION OF DIRECTORS

72. The office of director shall be vacated, if the director —

(*a*) ceases to be a director by virtue of section 140 of the Act;

(*b*) without the consent of the company in general meeting holds any other office of profit under the company except that of managing director or manager;

(*c*) becomes bankrupt;

(*d*) becomes prohibited from being a director by reason of any order made under section 208 or 260 of the Act;

(*e*) is found lunatic or becomes of unsound mind;

(*f*) resigns his office by notice in writing to the company; or

(*g*) is directly or indirectly interested in any contract with the company or participates in the profits of any contract with the company;

Provided, however, that a director shall not vacate his office by reason of his being a member of any corporation which has entered into contracts with or done any work for the company if he shall have declared the nature of his interest in manner required by section 147 of the Act, but the director shall not vote in respect of any such contract or work or any matter arising thereout, and if he does so vote his vote shall not be counted.

ROTATION OF DIRECTORS

73. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not 3 or a multiple of 3, then the number nearest one-third, shall retire from office.

74. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

75. A retiring director shall be eligible for re-election.

76. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

77. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

78. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

79. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

80. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

PROCEEDINGS OF DIRECTORS

81. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

82. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall when the number of directors exceeds 3 be 3, and when the number of directors does not exceed 3, be 2.

83. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary *quorum* of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

84. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

85. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

86. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

87. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

88. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

DIVIDENDS AND RESERVE

89. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

90. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

91. No dividend shall be paid otherwise than out of profits.

92. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

93. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

94. If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

95. Any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled thereto or in the case of joint holders to any one of such joint holders at his registered address or to such person and such address as the member or person entitled or such joint holders as the case may be may direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the member or person entitled or such joint holders as the case may be may direct.

96. No dividend shall bear interest against the company.

97. The directors shall cause proper books of account to be kept with respect to —

all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

all sales and purchases of goods by the company; and

the assets and liabilities of the company.

98. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

99. The directors shall from time to time detemine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

100. The directors shall from time to time in accordance with section 122 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.

101. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditors' report shall not less than 7 days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

AUDIT

102. Auditors shall be appointed and their duties regulated in accordance with sections 131, 132 and 133 of the Act.

NOTICES

103. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within Brunei) to the address, if any, within Brunei supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of 24 hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

104. If a member has no registered address within Brunei and has not supplied to the company an address within Brunei for the giving of notices to him, a notice addressed to him and advertised in the *Gazette*, shall be deemed to be duly given to him at noon on the day on which the advertisement appears.

105. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register of members in respect of the share.

106. A notice may be given by the company of the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, within Brunei supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

107. Notice of every general meeting shall be given in some manner hereinbefore authorised to (*a*) every member except those members who (having no registered address within Brunei) have not supplied to the company an address within Brunei for the giving of notices to them, and also to (*b*) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B [ss. 14 and 323]

FORM OF MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

1st. The name of the company is "*Syarikat Pelayaran Timor, Berhad*".

2nd. The registered office of the company will be situate in "*Bandar Seri Begawan.*"

3rd. The objects for which the company is established are, *"the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."*

4th. The liability of the members is limited.

5th. The share capital of the company is $200,000 divided into 1,000 shares of $200 each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers		*Number of shares taken by each Subscriber*
"1. Ahmad bin Bakar	merchant	200
2. Mohammad bin Daud	merchant	25
3. Ali bin Yassin	merchant	30
4. Wong Ah Bee	merchant	40
5. Bakar bin Ali	merchant	15
6. Daud bin Ahmad	merchant	5
7. Yassin bin Mohammad	merchant	10
Total shares taken		325"

Dated the day of 19 .

Witness to the above signatures,

.....

A.B. No. 13 Jalan Sultan,
Bandar Seri Begawan

[ss. 14 and 323]

TABLE C

FORM OF MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION

1st. The name of the company is "*The Brunei School Association, Berhad*".

2nd. The registered office of the company will be situate in "*Bandar Seri Begawan.*"

3rd. The objects for which the company is established are the carrying on a school for boys in Brunei and the doing all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding $100.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers

"1. Ahmad bin Bakar ..... schoolmaster
2. Mohammad bin Daud ..... schoolmaster
3. Ali bin Yassin ..... schoolmaster
4. Wong Ah Bee ..... schoolmaster
5. Bakar bin Ali ..... schoolmaster
6. Daud bin Ahmad ..... schoolmaster
7. Yassin bin Mohammad ..... schoolmaster

Dated the day of 19 ."

Witness to the above signatures,

.....

A.B. No. 13 Jalan Sultan,
Bandar Seri Begawan

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION

PRELIMINARY

1. In these regulations —

"the Act" means the Companies Act.

When any provision of the Act is referred to the reference is to such provision as modified by any Act for the time being in force.

Unless the context otherwise requires, expressions defined in the Act or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have meanings so defined.

MEMBERS

2. The number of members with which the company proposes to be registered is 500, but the directors may from time to time register an increase of members.

3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be members of the company.

GENERAL MEETINGS

4. The first general meeting shall be held at such time, not being less than one month nor more than 3 months after the incorporation of the company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every calendar year at such time (not being more than 15 months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any 2 members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

6. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

7. The directors may, whenever they think fit, convene an extraordinary general meeting and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 113 of the Act. If at any time there are not within Brunei sufficient directors capable of acting to form a *quorum*, any director or any 2 members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

NOTICE OF GENERAL MEETINGS

8. Subject to the provisions of section 116 (2) of the Act relating to special resolutions, 7 days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but, with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

9. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

PROCEEDINGS AT GENERAL MEETINGS

10. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

11. No business shall be transacted at any general meeting unless a quorum of members is presented at the time when the meeting proceeds

to business; save as herein otherwise provided, 3 members personally present shall be a *quorum*.

12. If within half an hour from the time appointed for the meeting a *quorum* is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a *quorum* is not present within half an hour from the time appointed for the meeting the members present shall be a *quorum*.

13. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

14. If there is no such chairman, or if at any meeting he is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

15. The chairman may, with the consent of any meeting at which a *quorum* is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 10 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

16. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least 2 members present in person or by proxy entitled to vote and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

17. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

18. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting, at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

19. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

VOTES OF MEMBERS

20. Every member shall have one vote.

21. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, *curator bonis*, or other person in the nature of a committee or *curator bonis* appointed by that Court, and any such committee, *curator bonis*, or other person may, on a poll, vote by proxy.

22. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the company have been paid.

23. On a poll votes may be given either personally or by proxy.

24. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or, if the appointer is a corporation, either under the seal or under the hand of an officer or attorney so authorised. A proxy need not be a member of the company.

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

26. The instrument appointing a proxy may be in the following form, or any other form which the directors shall approve —

Company, Berhad

"I
of
being a member of the *Company,*
Berhad, hereby appoint *of*
as my proxy to vote for me and on my
behalf at the [ordinary or extraordinary, as the case may be]
general meeting of the company to be held on the
day of *and at*
any adjournment thereof."
Signed this *day of*

27. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS

28. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

DIRECTORS

29. The number of directors and the names of the first directors shall be determined in writing by a majority of the subscribers to the memorandum.

30. The remuneration of the directors shall from time to time be determined by the company in general meeting.

POWERS AND DUTIES OF DIRECTORS

31. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not by the Act, or by these articles required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the Act, and to such regulations, being not

inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

32. The directors shall cause minutes to be made in books provided for the purpose —

(*a*) of all appointments of officers made by the directors;

(*b*) of the names of the directors present at each meeting of the directors and of any committee of the directors;

(*c*) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

THE SEAL

33. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

DISQUALIFICATIONS OF DIRECTORS

34. The office of director shall be vacated, if the director —

(*a*) without the consent of the company in general meeting holds any other office or profit under the company;

(*b*) becomes bankrupt;

(*c*) becomes prohibited from being a director by reason of any order made under section 208 or 260 of the Act;

(*d*) is found lunatic or becomes of unsound mind;

(*e*) resigns his office by notice in writing to the company; or

(*f*) is directly or indirectly interested in any contract with the company and fails to declare the nature of his interest in manner required by section 147 of the Act.

A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote his vote shall not be counted.

ROTATION OF DIRECTORS

35. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not 3 or a multiple of 3, then the number nearest one-third, shall retire from office.

36. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

37. A retiring director shall be eligible for re-election.

38. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

39. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

40. Any casual vacancy occurring in the board of directors may be filled up by the directors but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

41. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from

office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

42. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

PROCEEDINGS OF DIRECTORS

43. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

44. The *quorum* necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall, when the number of directors exceeds 3, be 3 and shall, when the number of directors does not exceed 3, be 2.

45. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary *quorum* of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

46. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

47. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

48. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

49. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality for votes the chairman shall have a second or casting vote.

50. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

ACCOUNTS

51. The directors shall cause proper books of account to be kept with respect to —

all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

all sales and purchases of goods by the company; and
the assets and liabilities of the company.

52. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

53. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

54. The directors shall from time to time in accordance with section 122 of the Act, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.

55. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditors' report shall not less than 7 days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

AUDIT

56. Auditors shall be appointed and their duties regulated in accordance with sections 131, 132 and 133 of the Act.

NOTICES

57. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within Brunei) to the address, if any, within Brunei supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected at the expiration of 24 hours after the letter containing the same was posted.

58. If a member has no registered address within Brunei and has not supplied to the company an address within Brunei for the giving of notices to him, a notice addressed to him and advertised in the *Gazette*, shall be deemed to be duly given to him on the day on which the advertisement appears.

59. Notice of every general meeting shall be given in some manner hereinbefore authorised to every member except those members who (having no registered address within Brunei) have not supplied to the company an address within Brunei for the giving of notices to them. No other persons shall be entitled to receive notices of general meetings.

Names, Addresses and Descriptions of Subscribers

"1.	Ahmad bin Bakar	schoolmaster
2.	Mohammad bin Daud	schoolmaster
3.	Ali bin Yassin	schoolmaster
4.	Wong Ah Bee	schoolmaster
5.	Bakar bin Ali	schoolmaster
6.	Daud bin Ahmad	schoolmaster
7.	Yassin bin Mohammad	schoolmaster

Dated the day of 19 ."

Witness to the above signatures,

.....

A.B. No. 13 Jalan Sultan,
Bandar Seri Begawan

TABLE D [ss. 14 and 323]

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE, AND HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION

1st. The name of the company is "*Syarikat Hotel Moden, Berhad*".

2nd. The registered office of the company will be situate in "*Bandar Seri Begawan*".

3rd. The objects for which the company is established are "*the facilitating of travel in Brunei by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object.*"

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding $200.

6th. The share capital of the company shall consist of $500,000, divided into 5,000 shares of $100 each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers		*Number of Shares taken by each Subscriber*
"1. Ahmad bin Bakar	merchant	200
2. Mohammad bin Daud	merchant	25
3. Ali bin Yassin	merchant	30
4. Wong Ah Bee	merchant	40
5. Bakar bin Ali	merchant	15
6. Daud bin Ahmad	merchant	5
7. Yassin bin Mohammad	merchant	10
	Total Shares taken	325"

Dated the day of 19 .

Witness to the above signatures,

.....

A.B. No. 13 Jalan Sultan,
Bandar Seri Begawan

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION

1. The Articles of Table A set out in the First Schedule to the Companies Act, Cap. 39, shall be the articles of association of the company and apply to the company.

Names, Addresses, and Descriptions of Subscribers

"1.	Ahmad bin Bakar	merchant
2.	Mohammad bin Daud	merchant
3.	Ali bin Yassin	merchant
4.	Wong Ah Bee	merchant
5.	Bakar bin Ali	merchant
6.	Daud bin Ahmad	merchant
7.	Yassin bin Mohammad	merchant

Dated the day of 19 ."

Witness to the above signatures,

.....

A.B. No. 13 Jalan Sultan,
Bandar Seri Begawan

TABLE E [ss. 14 and 323]

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION

1st. The name of the company is "*The Patent Stereotype Company*".

2nd. The registered office of the company will be situate in "*Bandar Seri Begawan*".

3rd. The objects for which the company is established are "*the working of a patent method of founding and casting stereotype plates of which method Mohammad bin Daud of Bandar Seri Begawan, is the sole patentee, and the doing of all such things as are incidental or conducive to the attainment of the above object*".

WE, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers		*Number of Shares taken by each Subscriber*
"1. Ahmad bin Bakar	merchant	3
2. Mohammad bin Daud	merchant	2
3. Ali bin Yassin	merchant	1
4. Wong Ah Bee	merchant	2
5. Bakar bin Ali	merchant	2
6. Daud bin Ahmad	merchant	1
7. Yassin bin Mohammad	merchant	1
Total Shares taken		12"

Dated the day of 19 .

Witness to the above signatures,

.....

A.B. No. 13 Jalan Sultan,
Bandar Seri Begawan

ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION

1. The share capital of the company is $2,000 divided into 20 shares of $100 each.

2. The company may by special resolution —

(*a*) increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe;

(*b*) consolidate its shares into shares of a larger amount than its existing shares;

(*c*) sub-divide its shares into shares of a smaller amount than its existing shares;

(*d*) cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person;

(*e*) reduce its share capital in any way.

3. The Articles of Table A set out in the First Schedule to the Companies Act, Cap. 39, (other than Articles 30, 31, 32, 33, 34, 37, and 38) shall be deemed to be incorporated with these articles and shall apply to the company.

Names, Addresses, and Descriptions of Subscribers

"1. Ahmad bin Bakar ..... merchant
2. Mohammad bin Daud ..... merchant
3. Ali bin Yassin ..... merchant
4. Wong Ah Bee ..... merchant
5. Bakar bin Ali ..... merchant
6. Daud bin Ahmad ..... merchant
7. Yassin bin Mohammad ..... merchant

Dated the day of 19 ."

Witness to the above signatures,

.....

A.B. No. 13 Jalan Sultan,
Bandar Seri Begawan

SECOND SCHEDULE

[s. 30]

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A PRIVATE COMPANY ON BECOMING A PUBLIC COMPANY

COMPANIES ACT, CAP. 39

Statement in lieu of Prospectus delivered for registration by
[*Insert the name of the Company*]

Pursuant to section 30 of the Companies Act. Delivered for registration by

The nominal share capital of the Company.	$
Divided into	Shares of $ each Shares of $ each Shares of $ each Shares of $ each
Amount (if any) of above capital which consists of redeemable preference shares.	
The date on or before which these shares are, or are liable, to be redeemed.	
Names, descriptions and addresses of directors or proposed directors.	
Amount of shares issued	Shares
Amount of commissions paid in connexion therewith.	
Amount of discount, if any, allowed on the issue of any shares, or so much thereof as has not been written off at the date of the statement.	
Unless more than one year has elapsed since the date on which the company was entitled to commence business —	
Amount of preliminary expenses	$
Amount paid to any promoter	Name of promoter Amount $
Consideration for the payment	Consideration —
If the share capital of the Company is divided into different classes of shares the	

right of voting at meetings of the Company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	
Number and amount of shares and debentures issued with the 2 years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement.	1. Shares of $ fully paid 2. shares upon which $ per share credited as paid
Consideration for the issue of those shares or debentures.	3. debenture $ 4. Consideration —
Names and addresses of Vendors of Property (1) purchased or acquired by the Company within the 2 years preceding the date of this statement or (2) agreed or proposed to be purchased or acquired by the Company.	
Amount (in cash, shares or debentures) paid or payable to each separate vendor.	
Amount paid or payable in cash, shares or debentures for any such property, specifying the amount paid or payable for goodwill.	Total purchase price $ Cash $ Shares $ Debentures $ Goodwill $
Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of business or entered into more than 2 years before the delivery of this statement).	
Time and place at which the contracts or copies thereof may be inspected.	
Names and addresses of the auditors of the Company.	
Full particulars of the nature and extent of the interest of every director in any property purchased or acquired by the Company within the 2 years preceding the date of this statement or proposed to be purch-	

ased or acquired by the Company or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered or to be rendered to the Company by him or by the firm.

Rates of the dividends (if any) paid by the Company in respect of each class of shares in the Company in each of the 3 financial years immediately preceding the date of this statement or since the incorporation of the Company whichever period is the shorter.

Particulars of the cases in which no dividends have been paid in respect of any class of shares in any of these years.

If any of the unissued shares or debentures are to be applied in the purchase of any business the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the 3 financial years immediately preceding the date of this statement, provided that in the case of a business which has been carried on for less than 3 years and the accounts of which have only been made up in respect of 2 years or one year the above requirement shall have effect as if references to 2 years or one year, as the case may be, were substituted for references to 3 years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the person above-named as directors or proposed directors or of their agents authorised in writing).

Date _____

_____

NOTE:—In this Form the expression "vendor" includes a vendor as defined in Part III of the Fourth Schedule to this Act, and the expression "financial year" has the meaning assigned to it in that Part of the said Schedule.

THIRD SCHEDULE

[ss. 38 and 309]

PART I

MATTERS REQUIRED TO BE STATED IN PROSPECTUS

1. Except where the prospectus is published as a newspaper advertisement, the contents of the memorandum, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them respectively.

2. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.

3. The number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors.

4. The names, descriptions, and addresses of the directors or proposed directors.

5. Where shares are offered to the public for subscription particulars as to —

(*a*) the minimum amount which, in the opinion of the directors, must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums required to be provided in respect of each of the following matters —

(i) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;

(ii) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company;

(iii) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters;

(iv) working capital; and

(*b*) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

6. The amount payable on application and allotment on each share, and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the 2 preceding years, the amount actually allotted, and the amount, if any, paid on the shares so allotted.

7. The number and amount of shares and debentures which within the 2 preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.

8. The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares, or debentures, to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor.

9. The amount, if any, paid or payable as purchase money in cash, shares, or debentures, for any such property as aforesaid, specifying the amount, if any, payable for goodwill.

10. The amount, if any, paid within the 2 preceding years, or payable, as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission.

11. The amount or estimated amount of preliminary expenses.

12. The amount paid within the 2 preceding years or intended to be paid to any promoter, and the consideration for any such payment.

13. The dates of and parties to every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than 2 years before the date of issue of the prospectus, and a

reasonable time and place at which any such material contract or a copy thereof may be inspected.

14. The names and addresses of the auditors, if any, of the company.

15. Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as a director, or, otherwise for services rendered by him or by the firm in connexion with the promotion or formation of the company.

16. If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

17. In the case of a company which has been carrying on business, or of a business which has been carried on for less than 3 years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

PART II

REPORTS TO BE SET OUT IN PROSPECTUS

1. A report by the auditors of the company with respect to the profits of the company in respect of each of the 3 financial years immediately preceding the issue of the prospectus, and with respect to the rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the said 3 years, giving particulars of each such class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years, and, if no accounts have been made up in respect of any part of the period of 3 years ending on a date 3 months before the issue of the prospectus, containing a statement of that fact.

2. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in the

purchase of any business, a report made by accountants who shall be named in the prospectus upon the profits of the business in respect of each of the 3 financial years immediately preceding the issue of the prospectus.

PART III

PROVISIONS APPLYING TO PARTS I AND II OF SCHEDULE

1. The provisions of this Schedule with respect to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and the amount or estimated amount of the preliminary expenses, shall not apply in the case of a prospectus issued more than 2 years after the date at which the company is entitled to commence business.

2. Every person shall for the purposes of this Schedule be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where —

(*a*) the purchase money is not fully paid at the date of the issue of the prospectus;

(*b*) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus;

(*c*) the contract depends for its validity or fulfilment on the result of that issue.

3. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

4. For the purposes of paragraph 8 of Part I of this Schedule where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.

5. If in the case of a company which has been carrying on business, or of a business which has been carried on for less than 3 years, the accounts of the company or business have only been made up in respect

of 2 years or one year, Part II of this Schedlule shall have effect as if references to 2 years or one year as the case may be, were substituted for references to 3 years.

6. The expression "financial year" in Part II of this Schedule means the year in respect of which the accounts of the company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the company or business terminates the accounts of the company or business have been made up for a period greater or less than a year, that greater or less period shall for the purpose of the said Part of this Schedule be deemed to be a financial year.

[s. 43]

FOURTH SCHEDULE

FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A COMPANY WHICH DOES NOT ISSUE A PROSPECTUS OR WHICH DOES NOT GO TO ALLOTMENT ON A PROSPECTUS ISSUED

COMPANIES ACT, CAP. 39

Statement in lieu of Prospectus delivered for registration by

[*Insert the name of the Company*]

Pursuant to section 43 of the Companies Act.

Delivered for registration by	
The nominal share capital of the Company.	$
Divided into	Shares of $ each Shares of $ each Shares of $ each
Amount (if any) of above capital which consists of redeemable preference shares.	Shares of $ each
The date on or before which these shares are, or are liable, to be redeemed.	
Names, descriptions and addresses of directors or proposed directors.	
If the share capital of the Company is divided into different classes of shares, the right of voting at meetings of the Company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	1. shares of $ fully paid 2. shares upon which $ per share credited as paid
The consideration for the intended issue of those shares and debentures.	3. debenture $
Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the Company.	4. Consideration —

Amount (in cash, shares, or debentures) payable to each separate vendor.	
Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.	Total purchase price $ Cash $ Shares $ Debentures $ Goodwill $
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the Company; or	Amount paid Amount payable
Rate of the commission	Rate per cent
The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.	
Estimated amount of preliminary expenses.	$
Amount paid or intended to be paid to any promoter.	Name of promoter Amount $
Consideration for the payment.	Consideration —
Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of business intended to be carried on by the Company or entered into more than 2 years before the delivery of this statement).	
Time and place at which the contracts or copies thereof may be inspected.	
Names and addresses of the auditors of the Company (if any).	
Full particulars of the nature and extent of the interest of every director in any promotion of or in the property proposed to be acquired by the Company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or	

otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connexion with the promotion or formation of the Company.

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the 3 financial years immediately preceding the date of this statement provided that in the case of a business which has been carried on for less than 3 years and the accounts of which have only been made up in respect of 2 years or one year the above requirement shall have effect as if references to 2 years or one year, as the case may be, were substituted for references to 3 years, and in any such case the statement shall say how long the business to be acquired has been carried on.

(Signatures of the persons above-named as directors or proposed directors, or of their agents authorised in writing).

Date

NOTE:—In this Schedule the expression "vendor" includes a vendor as defined in Part III of the Third Schedule to this Act and the expression "financial year" has the meaning assigned to it in that Part of the said Schedule.

FIFTH SCHEDULE

[ss. 107 and 323]

FORM OF ANNUAL RETURN OF A COMPANY HAVING A SHARE CAPITAL

Annual Return of the Company, Berhad made up to the day of , 19 (being the date of the first or only ordinary general meeting in , 19).

The address of the registered office of the Company is as follows —

Summary of Share Capital and Shares

Nominal Share Capital $ divided into*	$ shares of $ each $ shares of $ each
Total number of shares taken up* to the day of , 19 being the date of the return (which number must agree with the total shown in the list as held by existing members).	
Number of shares issued subject to payment wholly in cash.	
Number of shares issued as fully paid up otherwise than in cash.	
Number of shares issued as partly paid up to the extent of per share otherwise than in cash.	
†Number of shares (if any) issued at a discount.	
Total amount of discount on the issue of shares which has not been written off at the date of this Return.	$

*Where there are shares of different kinds or amounts (*e.g.*, Preference and Ordinary of $100 and $10) state the number and nominal values separately.

†If the shares are of different kinds, state them separately.

§There has been called up on each of shares	$
§There has been called up on each of shares	$
§There has been called up on each of shares	$
††Total amount of calls received, including payments on application and allotment	$
Total amount (if any) agreed to be considered as paid on shares which have been issued as fully paid up otherwise than in cash.	$
Total amount (if any) agreed to be considered as paid on shares which have been issued as partly paid up to the extent of per share otherwise than in cash.	$
Total amount of calls unpaid	$
Total amount of the sums (if any) paid by way of commission in respect of any shares or debentures or allowed by way of discount in respect of any debentures since the date of the last Return.	$
Total number of shares forfeited.	
Total amount paid (if any) on shares forfeited.	$
Total amount of shares for which share warrants to bearer are outstanding.	$
Total amount of share warrants to bearer issued and surrendered respectively since the date of the last Return.	Issued $ Surrendered $
Number of shares comprised in each share warrant to bearer.	
Total amount of the indebtedness of the Company in respect of all mortgages and charges of the kind which are required to be registered with the Registrar of Companies under the Companies Act, Cap. 39.	$

§Where various amounts have been called, or there are shares of different kinds, state them separately.

††Include what has been received on forfeited as well as on existing shares.

COPY OF LAST AUDITED BALANCE SHEET OF THE COMPANY

Note.—Except where the Company is a "Private Company" within the meaning of section 29 of the Companies Act, this Return must include a written copy, certified by a Director or by the Manager or Secretary of the Company to be a true copy, of the last balance sheet which have been audited by the Company's auditors (including every document required by law to be annexed thereto) together with a copy of the report of the auditors thereon (certified as aforesaid), and if any such balance sheet is in a foreign language there must also be annexed to it a translation thereof in such language as may be prescribed by the Registrar certified in the prescribed manner to be a correct translation. If the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets there must be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended must be stated thereon.

PRIVATE COMPANY

Certificates to be given by a Private Company

A. *"I certify that the Company has not since the date of the* [1]*last Annual Return issued any invitation to the public to subscribe for any shares or debentures of the Company".*

(Signature)

(State whether Director or Secretary)

B. Should the number of members of the Company exceed 50 the following certificate is also required —

"I certify that the excess of members of the Company above 50 consists wholly of persons who are in the employment of the Company and/or of persons who, having been formerly in the employment of the Company were while in such employment, and have continued after the determination of such employment to be, members of the Company".

(Signature)

(State whether Director or Secretary)

[1]In the case of the first Annual Return strike out the words "last Annual Return" and substitute therefor the words "Incorporation of the Company".

The Return must be signed at the end by a Director or by the Manager or Secretary of the Company.

Delivered for filing by

Particulars of the *Directors of the Company, Berhad, at the date of the Annual Return.

†The present Name or Names	Any former Name or Names	Nationa-lity	Nationality of origin (if other than the present nationality)	Usual residential address	‡Other business occupation if any. If none state so

*"Director" includes any person who occupies the position of a Director by whatever name called and any person in accordance with whose directions or instructions the Directors of a Company are accustomed to act.

†In the case of a Corporation its corporate name and registered or principal office should be shown.

‡In the case of an individual who has no business occupation but holds any other directorship or directorships particulars of that directorship or of some one of those directorships must be entered.

List of Persons holding Shares in the Company, Berhad, on the day of , 19 , and of Persons who have held Shares therein at any time since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, showing their Names and Addresses, and an Account of the Shares so held.

N.B.—If the names in this list are not arranged in alphabetical order, an index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.

Folio in Register Ledger, containing Particulars	Names, Addresses, and Occupations				Account of Shares						
		Name	Address	Occupation	*Number of Shares held by existing Members at date of Return†	‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who have ceased to be Members		Remarks
						Number†	Date of Registration of Transfer	Number†	Date of Registration of Transfer	

(Signature)
(State whether Director or Manager or Secretary)

*The aggregate Number of Shares held, and not the Distinctive Numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the Summary to have been taken up.

†When the Shares are of different classes these columns may be subdivided so that the number of each class held, or transferred, may be shown separately. Where any Shares have been converted into Stock the amount of Stock held by each member must be shown.

‡The date of Registration of each Transfer should be given as well as the Number of Shares transferred on each date. The Particulars should be placed opposite the name of the Transferor, and not opposite that of the Transferee, but the name of the Transferee may be inserted in the "Remarks" column immediately opposite the particulars of each Transfer.

[s.130]

SIXTH SCHEDULE

FORM OF STATEMENT TO BE PUBLISHED BY INSURANCE COMPANIES AND DEPOSIT, PROVIDENT, OR BENEFIT SOCIETIES

*The share capital of the company is , divided into shares of each.

The number of shares issued is

Calls to the amount of $ per share have been made, under which the sum of $ has been received.

The liabilities of the company on the first day of January (*or* July) were

Debts owing to sundry persons by the company.

On judgment, $

On speciality, $

On notes or bills, $

On simple contracts, $

On estimated liabilities, $

The assets of the company on that day were —

Government securities [*stating them*]

Bills of exchange and promissory notes, $

Cash at the bankers, $

Other securities, $

*If the company has no share capital the portion of the statement relating to capital and shares must be omitted.

SEVENTH SCHEDULE

[s. 247]

PROVISIONS WHICH DO NOT APPLY IN THE CASE OF A WINDING UP SUBJECT TO SUPERVISION OF THE COURT

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EIGHTH SCHEDULE

TABLE OF FEES TO BE PAID TO THE REGISTRAR

By a Company having a Share Capital

	$ ¢
1. For registration of a company whose nominal share capital does not exceed $25,000	300.00
2. For registration of a company whose nominal share capital exceeds $25,000 the above fee of $300 with the following additional fees regulated according to the amount of nominal share capital (that is to say) —	
For every $5,000 of nominal share capital, or part of $5,000, after the first $25,000 up to $500,000	20.00
For every $5,000 of nominal share capital or part of $5,000 after the first $500,000 up to $1,000,000	10.00
For every $15,000 of nominal share capital or part of $15,000 after the first $1,000,000 up to $50,000,000	5.00
For every $20,000 of nominal share capital or part of $20,000 after the first $50,000,000	3.00
3. On lodging notice of increase of share capital—an amount equal to the difference (if any) between the amount which would have been payable under the Act on first registration by reference to its capital as increased and the amount would have been payable under the Act by reference to its capital immediately before the increase:	
Provided that no company shall be liable to pay in respect of nominal share capital on registration or thereafter any greater amount of fees than $35,000 taking into account in the case of fees payable on an increase of share capital after registration the fees paid on registration.	

By a Company having a Share Capital

4. For registration of a company whose number of members as stated in the articles of association does not exceed 20	150.00
5. For registration of a company whose number of members as stated in the articles of association exceeds 20 but does not exceed 100 the additional fee of $150 (with an additional $5 for every 50 members or less than 50 members after the first 100) but no company shall be liable to pay on the whole a greater fee than $600 in respect of its number of members taking into account the fee paid on the first registration of the company.	

	$ ¢
6. For registration of a company in which the number of members is stated in the articles of association to be unlimited	600.00
Other Fees	
7. For every application for consent of His Majesty to use of a name by a company	25.00
8. For every command of His Majesty granting consent to use of a name by a company	50.00
9. For every approval of His Majesty to the change of the name of a company (otherwise than a change of name with the Registrar's consent pursuant to the provisions of subsection 2 of section 22)	50.00
10. For perusing memorandum or articles of a company in connection with an application for a licence under section 21	100.00
11. For every licence of His Majesty to dispense with the word "Berhad" in the name of a company	100.00
12. For an approval of High Court to alter the memorandum or articles of a company	100.00
13. On the late lodging of any document under this Act after the period prescribed by law, in addition to any other fee	100.00
The Registrar, if satisfied that just cause existed for the late lodgement may waive in whole or in part the additional fee.	
14. For the registration of a foreign company —	
(*a*) subject to paragraph (*b*), one-half of the appropriate fee prescribed in respect of a company registered or incorporated under Part I of the Act; and	
(*b*) where a fee prescribed in paragraph (*a*) is not applicable	600.00
15. On lodging by a foreign company of notice of increase in share capital or in the case of a foreign company not having a share capital on the lodging of notice of increase in number of members beyond its registered number—one-half of the prescribed fee payable on the increase in share capital or on the increase in the number of members of a company incorporated or registered under Part I of the Act.	
16. For registering particulars of each series of debenture where more than one issue in the series	10.00

	$ ¢
17. On an application for the reservation of a name	15.00
18. For granting extension of time for the reservation of a name for a further period after the first reservation	5.00
19. For search as to availability of any name proposed to be adopted by a company, for every name searched	5.00
20. On lodging articles of association of a company	10.00
21. On lodging a copy of any special resolution altering the memorandum or articles of association of a company	10.00
22. On lodging any prospectus or document required under section 308	25.00
23. For registering any charge created by a company	25.00
24. For registering the appointment of a receiver or manager of the property of a company under section 87	25.00
25. For registering particulars of a series of debentures created by a company	25.00
26. For the entry in the register of charge of any memorandum of satisfaction	10.00
27. For each inspection of the register of charges	5.00
28. On lodging any application	5.00
29. For every certificate issued by the Registrar under the Act or any other Act	25.00
30. For supplying a photographic or microprint copy of, or extract from, any document	$2.00 for each page or part thereof
31. For supplying and certifying a photographic or microprint copy of, or extract from, any document	$4.00 for each page or part thereof
32. For each search for and inspection of a document filed by or in relation to a company	5.00
33. For any information concerning a company supplied by the Registrar in reply to a written application	10.00
34. For every approval of an authorised auditor granted by His Majesty in Council	100.00
35. For every appointment of a company liquidator by the High Court	100.00

	$ ¢
36. On lodging any annual return of a company	20.00
37. On lodging registering depositing or filling any other document with or by the Registrar under any Act (where the fee is not specified in any relevant Act or Regulations)	10.00
Fees payable with respect to companies formed or incorporated outside Brunei shall where appropriate be calculated after the conversion of the share capital to Brunei currency.	
38. For registering any document required to be filed in complying with the provisions of Part VII	10.00

NINTH SCHEDULE

[s. 312]

PROVISIONS REFERRED TO IN SECTION 312 OF THE ACT

Provisions relating to —	Section
Conclusiveness of certificate of incorporation;	18
Registrar may accept statutory declarations as sufficient evidence of compliance with registration requirements;	19
Specific requirements as to particulars in prospectus;	38
Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar;	43
Return as to allotments;	45
Registration of charges created by company registered in Brunei;	80
Duty of company to register charges created by company;	81 (1)
Duty of company to register charges existing on property acquired;	82
Application of Part III to companies incorporated outside Brunei;	91
Restrictions on commencement of business;	94
The particulars as to directors and indebtedness of the company;	107 (3) (n) (o)
Statutory meeting and statutory report;	112
Auditors' report and right to information and explanations;	133 (1) (2)
Restrictions on appointment or advertisement of director;	139
Notice by liquidator of his appointment;	238
Delivery to Registrar of accounts of receivers and managers;	286
Documents, &c., to be delivered to Registrar by companies carrying on business in Brunei;	299
Return to be delivered to Registrar where documents, &c., altered	301
Balance sheet of company carrying on business in Brunei;	302
Obligation to state name of company, &c.	303

TENTH SCHEDULE

(Section 324)

Winding up of Companies

SCALE OF FEES

TABLE A

	$ ¢
1. Every petition	50.00
2. Every bond with sureties	10.00
3. Every Subpoena or Summons	2.00
4. On issuing an office copy of a judgment or order made in Court (except an order upon a petition for winding up, an order adjourning a public examination, and an order appointing a shorthand writer)	
(*a*) if made in Court	25.00
(*b*) if not made in Court	15.00
5. Every order adjourning a public examination	5.00
6. Every order appointing a shorthand writer	5.00
7. Every affidavit filed other than proof of debt	10.00
8. For taking an affidavit or an affirmation in lieu of an affidavit, or a declaration, except for proof of debts, for each person making the same	10.00
And in addition thereto for each exhibit referred to therein and required to be marked	5.00
9. On every proof of debt above $10 (other than proof for workmen's wages)	5.00
10. Every other office copy, for each page on part thereof	2.00
11. On every application to the Court to approve a reconstruction or other scheme by which the affairs of the Company are to be wound-up otherwise than by the realisation and distribution of assets	100.00
12. On every order of the Court approving such reconstruction or scheme, a fee according to the following scale on the estimated value of the Company's property transferred or otherwise disposed of, viz —	
(i) On the first $500,000 or fraction thereof	½ per cent

(ii) On the next $500,000 or fraction thereof ..... ¼ per cent

(iii) Above $1,000,000 or fraction thereof ..... ⅛ per cent

13. For taxation of costs —

the same fees as those directed to be paid and collected by the order for the time being in force as to fees in the original jurisdiction of the High Court.

TABLE B

	$ ¢
1. Every inspection of any document lodged with the Official Receiver	5.00
2. Every copy of or extract from such document, for each page or part thereof	2.00
3. Every application by a committee of inspection to the Official Receiver for a special bank account	20.00
4. Every order of the Official Receiver for a special bank account	20.00
5. Every application under section 241 of the Act to the Official Receiver for payment of money out of the Companies Liquidation Account; and every application for the re-issue of a lapsed cheque or money order in respect of moneys standing to the credit of the Companies Liquidation Account —	
Where the amount applied for does not exceed $10	50
Where the amount applied for exceeds $10	1.00
Where the amount applied for exceeds $100	5.00

TABLE C

I. On the audit of the Official Receiver's or liquidator's accounts a fee according to the following scale on the amount brought to credit, including the produce of calls on contributories, but after deducting (1) money received and spent in carrying on the business of the company and (2) amounts paid by the Official Receiver or liquidator to secured creditors (other than debenture holders) —

On the first $100,000 or fraction thereof ..... 1 per cent

On the next $900,000 or fraction thereof ..... ½ per cent

On the next $4,000,000 or fraction thereof ..... ¼ per cent

On the next $5,000,000 or fraction thereof ..... ⅛ per cent

Above $10,000,000 ..... 1/16 per cent

II. Where the Official Receiver acts as provisional liquidator only —

(*a*) Where no winding-up order is made upon the petition or where a winding-up order is rescinded or all further proceedings are stayed in prior to the summoning of the statutory meetings of creditors and contributories.

Such amount as the Court may consider reasonable to be paid by the petitioner or by the company as the Court may direct in respect of the services of the Official Receiver as provisional liquidator.

(*b*) Where a winding-up order is made but the Official Receiver is not continued as liquidator after the statutory meeting of creditors and contributories.

(1) In respect of every 10 members, creditors and debtors and every fraction of 10 up to 1,000 ..... $ 5.00

For every 10 or fraction of 10 above 1,000 ..... 2.50

Provided that where the net assets of the company including uncalled capital are estimated in the statement of affairs not to exceed $5,000, three-fifths of the above fee only shall be charged.

(This fee to include cost of official stationery, printing, books, forms and postage.)

(2) On the value of the company's property as estimated in the statement of affairs after deducting (in cases where a person other than the Official Receiver has, prior to the making of a winding-up order, been appointed receiver for debenture holders) the amount due to debenture holders —

On the first $100,000 or fraction thereof ..... 1 per cent

On the next $200,000 or fraction thereof ..... ½ per cent

On the next $700,000 or fraction thereof ..... ¼ per cent

Above $1,000,000 ..... ⅛ per cent

III. Where the Official Receiver acts as liquidator of the company (including his services as provisional liquidator) —

(1) In respect of every 10 members, creditors and debtors and every fraction of 10 ..... $10.00

Provided that where net assets of the company, including uncalled capital, do not exceed $5,000, three-fifths of the above fee only shall be charged.

(This fee is to include cost of official stationery, printing, books, forms and postage.)

(2) Upon the total assets, including, produce of calls on contributories, realised or brought to credit by the Official Receiver, after deducting sums on which fees are chargeable under No. IV of this Table and not being moneys received and spent in carrying on the business of the company —

On the first $10,000 or fraction thereof ..... 5 per cent

On the next $15,000 or fraction thereof ..... 4 per cent

On the next $25,000 or fraction thereof ..... 3 per cent

On the next $50,000 or fraction thereof ..... 2 per cent

On the next $900,000 or fraction thereof ..... 1 per cent

Above $1,000,000 ..... ½ per cent

(3) On the amount distributed in dividend or paid to contributories, preferential creditors and debenture holder by the Official Receiver, half the above percentages.

IV. Where the Official Receiver collects, calls or realises property for debenture holders or other secured creditors —

The same fees as under No. III (2) and (3) of this Table, to be paid out of the proceeds of such calls or property.

V. Where the Official Receiver performs any special duties not provided for in the foregoing tables —

Such amount as the Court, on the application of the Official Receiver, may consider reasonable.

VI. Travelling, keeping possession, law costs, and other reasonable expenses of the Official Receiver —

The amount disbursed.

VII. On every payment under section 241 of the Act of money out of the Companies Liquidation Account 10 cents on each $10 or fraction of $10 to be charged as follows —

Where the money consists of unclaimed dividend, on each dividend paid out.

Where the money consists of undistributed funds or balances, on the amount paid out.

ELEVENTH SCHEDULE

COMPANIES (FORMS) RULES

[Sec 324]

1. This order may be cited as the Companies (Forms) Rules. Citation

2. In this order — Interpretation

"the Act" means the Companies Act.

3. The forms contained in the Schedule, with such variations and additions as the circumstances of the particular case may require, shall be used for the purposes of the Act and the particulars contained therein are hereby prescribed as the particulars required under the Act. Forms

4. (1) A certified copy of the charter, statutes, or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company required to be delivered to the Registrar under section 299 of the Act, in the case of a company incorporated outside Brunei in any part of the Commonwealth or in any place where Her Britannic Majesty has jurisdiction, unless incorporated under the laws of a foreign country shall be deemed to be certified as a true copy if in such part of the Commonwealth or place it is — Certified copy of Charter, etc., under section 299

(*a*) duly certified as a true copy by an official of the Government to whose custody the original is committed;

(*b*) duly certified as a true copy by a notary public in such part of the Commonwealth or place; or

(*d*) duly certified as a true copy on oath by some officer of the company before a Brunei Consul or some person having authority to administer an oath as provided by section 3 of the Commissioners for Oaths Act 1889.

(2) A certified copy of the charter, statutes, or memorandum and articles of the company or other instrument constituting or defining the constitution of the company required to be delivered to the Registrar under section 299 of the Act in the case of a company incorporated outside Brunei under the laws of a foreign country shall be deemed to be certified as a true copy if in such foreign country it is —

(*a*) duly certified as a true copy by an official of the Government to whose custody the original is committed, the

signature or seal of such official being authenticated by a Brunei Consul.

(*b*) duly certified as a true copy by a notary of such foreign country, the certificate of the notary being authenticated by a Burnei Consul; or

(*c*) duly certified as a true copy on oath by some officer of the company before a Brunei Consul.

Time for delivering particulars of alterations under section 301

5. The time within which a return containing the particulars of alterations is to be delivered to the Registrar under section 301 of the Act shall be 21 days after the date of making of such alterations or 21 days after the date on which notice thereof could in due course of post and if despatched with due diligence have been received in Bandar Seri Begawan.

Verified or certified copy of charge under sections 80 and 82

6. A copy of the instrument by which a charge is created or evidenced to be delivered to the Registrar under the provisions of subsection (3) of section 80 and subsection (1) of section 82 of the Act shall be verified or certified to be a true copy under the seal of the company, or under the hand of some person interested therein otherwise than on behalf of the company.

Translations

7. A translation of a charter, statutes of memorandum and articles of association or other instrument constituting or defining the constitution of a company or any account or document required to be delivered to the Registrar of Companies under the Act shall be certified by the person making such translation to be a correct translation and shall be deemed to be certified in the prescribed manner if the person making such translation be certified by the appropriate person hereunder mentioned to be believed by him to be competent to translate it into the English language, that is to say —

(*a*) if the translation be made in a foreign country —

a Brunei Consul;

(*b*) if the translation be made outside Brunei or in any part of the Commonwealth or in any place where Her Britannic Majesty had jurisdiction —

any person having authority to administer an oath as provided by section 3 of the Commissioner for Oaths Act 1889 of the United Kingdom;

(*c*) if the translation be made in Northern Ireland —

(i) a notary public in Northern Ireland, or

(ii) a solicitor of the Supreme Court of Judicature of Northern Ireland;

(*d*) if the translation be made in Scotland —

(i) a notary public in Scotland, or

(ii) an enrolled Law Agent;

(*e*) if the translation be made in England —

(i) a notary public in England, or

(ii) a solicitor of the Supreme Court of Judicature in England; and

(*f*) if the translation be made in Brunei —

(i) a Magistrate, or

(ii) A Commissioner of Oaths of Brunei.

Provision for particular cases

8. The Registrar may in any particular case, if he thinks fit to do so and upon such conditions as he thinks fit, permit certified copies of translations to be delivered to him though not certified in accordance with the above requirements.

List of Forms in the Schedule

FORM NUMBER	RELEVANT SECTION	NATURE OF FORM
I	45 (2)	Particulars of a contract relating to shares.
I (F)	80 & 91	Particulars of a mortgage or charge on property in Brunei created on or after 1st January, 1957, by a company incorporated outside Brunei.
II	46 (1) (*c*) (ii) & (*d*)	Statement of the amount or rate *per cent* of the commission payable in respect of shares and of the number of shares which persons have agreed for a commission to subscribe absolutely.
II (F)	82 & 91	Particulars of a mortgage or charge subject to which property in Brunei has been acquired on or after the 1st January, 1957, by a company incorporated outside Brunei.
III	55	Notice of increase in nominal capital.
III (F)	301	Return of alteration in the charter, statutes, memorandum or articles of association or other instrument constituting or defining the constitution of a company incorporated outside Brunei.
IV	80	Particulars of a mortgage or charge created by a company registered in Brunei.
IV (F)	301	Return of alteration in the list of particulars of directors of a company incorporated outside Brunei.
V	82	Particulars of a mortgage or charge subject to which property has been acquired on or after 1st January, 1957, by a company registered in Brunei.
V (F)	301	Return of alteration in the names or addresses of persons resident in Brunei authorised to accept service on behalf of a company incorporated outside Brunei.
VI	83 (1)	Register of mortgages and charges, and of memoranda of satisfaction.
VII	83 (4)	Chronological index of charges entered in the Register.
VIII	94 (1) (*c*)	Declaration that the conditions of section 94 (1) (*a*) and (*b*) of the Companies Act, have been complied with.
IX	94 (2) (*c*)	Declaration that the provisions of section 94 (2) (*b*) of the Companies Act, have been complied with.
X	143	Particulars of directors or managers and of any changes therein.
XI	153 (1)	Notice to dissenting shareholders.
XII	286	Receiver or manager's abstract of receipts and payments.

SCHEDULE

(Rule 3)

FORM I Fee $10.00

COMPANIES ACT, CAP. 39

Particulars of a contract relating to shares

PURSUANT TO SECTION 45 (2)

NOTE—*The particulars must be stamped with the same stamp duty as would have been payable if the contract had been reduced to writing.*

Presented by .....

.....

Particulars of contract relating to shares allotted as fully or partly paid up otherwise than in cash by .....

..... Berhad.

(1) The number of shares allotted as fully or partly paid up otherwise than in cash	
(2) The nominal amount of each such share	$
(3) The amount to be considered as paid up on each such share otherwise than in cash	$
(4) If the consideration for the allottment of such shares in services, or any consideration other than that mentioned below in part 5, state the nature of such consideration, and the number of shares so allotted	
(5) If the allottment is made in satisfaction or part satisfaction of the purchase price of property, give a brief description of such property, and full particulars of the manner in which the purchase price is to be satisfied	(1) Brief description of property. (2) Purchase price. $ (*a*) Total amount of consideration $ as paid on..... shares allotted otherwise than in cash. (*b*) Cash. (*c*) Amount of debt released or liabilities assumed by the purchaser (including mortgages; on property acquired). Total purchase price ..... $

FORM I—*Continued*

(6) Give full particulars, in the form of the following table, of the property which is the subject of the sale, showing in detail how the total purchase price is apportioned between the respective heads —	
Legal estates in freehold property and fixed plant and machinery and other fixtures thereon (*a*)	
Legal estates in leasehold property (*a*)	
Fixed plant and machinery on leasehold property (including tenants', trade, and other fixtures)	
Equitable interests in freehold or leasehold property (*a*)	
Loose plant and machinery, stock-in-trade, and other chattels (*b*)	
Goodwill and benefit of contracts	
Patents, designs, trade marks, licences, copyrights, etc.	
Book and other debts	
Cash in hand and at Bank on current account, bills, notes, etc.	
Cash on deposit at Bank or elsewhere	
Shares, debentures and other investments ..	
Other property, *viz*.	
	$

(*Signature*) .....

(*State whether Director or Manager or Secretary*) .....

Dated the .....day of ....., 19.....

(*a*) Where such properties are sold subject to mortgage, the gross value should be shown.

(*b*) No plant and machinery which was not in an actual state of severance on the date of the sale should be included under this head.

FORM I (F) Fee $25.00

COMPANIES ACT, CAP. 39

Particulars of a mortgage or charge on property in Brunei created on or after the 1st January, 1957, by a company incorporated outside Brunei

PURSUANT TO SECTIONS 80 AND 91

Presented by .....

.....

Particulars of a mortgage or charge created by .....

.....

a company incorporated in (*a*) ..... and which

has established a place of business in Brunei at .....

.....

Date and description of the instrument creating or evidencing the mortgage or charge (*b*)	Amount secured by mortgage or charge	Short particulars of the property mortgaged or charged	Names, addresses and descriptions of the mortgagees or persons entitled to the charge	Amount or rate *per cent* of the commission, allowance or discount (if any) paid or made either directly or indirectly by the Company to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any of the debentures included in this return (*c*)

Signature of the persons authorised under section 299 (*c*) of the Companies Act, or of some other person in Brunei duly authorised by the Company. } .....

.....

Dated the .....day of ..... 19.....

(*a*) Country or origin.

(*b*) A description of the instrument, *e.g.*, "trust deed", "mortgage", "debenture", etc., as the case may be, should be given.

(*c*) The rate of interest payable under the terms of the debentures should not be entered.

FORM II Fee $10.00

COMPANIES ACT, CAP. 39

Statement of the amount or rate per cent of the commission payable in respect of shares and of the number of shares which persons have agreed for a commission to subscribe absolutely

PURSUANT TO SECTION 46 (1) (*c*) (ii) AND (*d*)

Presented by .....

.....

Name of company ..... Berhad

Article of association authorising commission .....
..... No. .....

Particulars of amount payable as commission for subscribing, or agreeing to subscribe, or for procuring or agreeing to procure, subscriptions for any shares in the company; or ..... } $ .....

Rate of such commission ..... Rate *per cent* .....

Date of circular or notice (if any), not being a prospectus, inviting subscriptions for the shares and disclosing the amount or rate of the commission ..... } Date .....

Number of shares which persons have agreed for a commission to subscribe absolutely ..... No. .....

(*Signatures of all the directors or of their agents authorised in writing*) ..... {
.....
.....
.....
.....
.....

Dated this .....day of ....., 19.....

FORM II (F) Fee $25.00

COMPANIES ACT, CAP. 39

Particulars of a mortgage or charge subject to which property in Brunei has been acquired on or after the 1st January, 1957, by a company incorporated outside Brunei

PURSUANT TO SECTIONS 82 AND 91

Presented by .....

.....

Particulars of a mortgage or charge subject to which property in Brunei has been acquired by .....

.....

a Company incorporated in (*a*) ..... and which has established a place of business in Brunei at .....

1	2	3	4	5
Date and description of the instrument creating or evidencing the mortgage or charge (*b*)	Date of the acquisition of the property	Amount secured by the mortgage or charge	Short particulars of the property mortgaged or charged	Names, addresses and descriptions of the mortgagees or persons entitled to the charge

Signature of the persons authorised under section 299 (*c*) of the Companies Act, or of some other person in Brunei duly authorised by the Company } .....

.....

.....

Dated the .....day of ....., 19.....

(*a*) Country of origin.

(*b*) A description of the instrument, *e.g.*, "trust deed", "mortgage", "debenture", etc., as the case may be, should be given.

A copy of the instrument certified as prescribed in paragraph 5 of this order, must be delivered with these particulars.

FORM III Fee $10.00

COMPANIES ACT, CAP. 39

Notice of increase in nominal capital

PURSUANT TO SECTION 55

Presented by .....

.....

To the REGISTRAR OF COMPANIES

.....

..... Company ..... hereby gives you notice to pursuant to section 55 of the Companies Act, that by (*a*) ..... resolution of the Company dated .....day of ....., 19....., the nominal capital of the Company has been increased by the addition thereto of the sum of $ ..... beyond the registered capital of $ .....

The additional capital is divided as follows —

Number of shares	Class of share	Nominal amount of each share

The conditions (e.g., voting rights, dividends, etc.) subject to which the new shares have been or are to be issued are as follows —

(If any of the new shares are preference shares state whether they are redeemable or not).

Signature .....

(*State whether Director or Manager or Secretary*) .....

Dated the .....day of ....., 19.....

(*a*) "ordinary", "extraordinary", or "special".

FORM III (F) Fee $10.00

COMPANIES ACT, CAP. 39

Return of alteration in the charter, statutes, memorandum or articles of association or other instrument constituting or defining the constitution of a company incorporated outside Brunei

PURSUANT TO SECTION 301

Presented by .....

.....

Return of alteration in the (*a*) ..... constituting

or defining the constitution of .....

.....

a company incorporated in (*b*) .....

and which has established a place of business in Brunei at .....

.....

(*c*) Certified copy of alteration or certified copy of new deed, if one has been executed, and certified translation of alteration or deed must accompany this return and be shortly referred to here.

Signature of the persons authorised under section 299 (*c*) of the Companies Act, or of some other person in Brunei duly authorised by the Company. } .....

.....

.....

Dated the .....day of ....., 19.....

(*a*) "charter", "statutes", "memorandum or articles of association" or other instrument as the case may be.

(*b*) Country of origin.

(*c*) The copy and translation (if any) must be certified in the manner prescribed in paragraphs 3 and 6 of this order.

FORM IV Fee $25.00

COMPANIES ACT, CAP. 39

Particulars of a mortgage or charge created by a company registered in Brunei

PURSUANT TO SECTION 80

Presented by .....

.....

Particulars of a mortgage or charge created by .....

.....

..... Berhad.

1	2	3	4	5
Date and description of the instrument creating or evidencing the mortgage or charge (*a*)	Amount secured by the mortgage or charge	Short particulars of the property mortgaged or charged.	Names, addresses and descriptions of the mortgagees or persons entitled to the charge	Amount or rate *per cent* of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to the person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any of the debentures included in this return (*b*)

(*Signature*) .....

(*Designation of position in relation to the company*) .....

Dated the .....day of ....., 19.....

(*a*) A description of the instrument, e.g., "trust deed", "mortgage", "debenture", etc., as the case may be, should be given.

(*b*) The rate of interest payable under the terms of the debentures should not be entered.

FORM IV (F) Fee $10.00

COMPANIES ACT, CAP. 39

Return of alteration in the list or particulars of directors of the company incorporated outside Brunei

PURSUANT TO SECTION 309

Presented by .....

.....

Return of alteration in the list or particulars of directors (*a*) .....

..... of .....

a company incorporated in (*b*) ..... and which has

established a place of business in Brunei at .....

The present name or names (*c*)	Any former name or names	Nation-ality	Nationality of origin (if other than the present nationality)	Usual residential address	Other business occupation or director-ships if any if none, state so (*d*)	Remarks as to the alteration (*e*)

Signature of the persons authorised under section 299 (*c*) of the Companies Act, or of some other person in Brunei duly authorised by the Company. } .....

.....

.....

Dated the .....day of ....., 19.....

(*a*) "director" includes any person who occupies the position of a director by whatever name called, and any person in accordance with whose directions or instructions the directors of a company are accustomed to act.

(*b*) Country of origin.

(*c*) In the case of a corporation its corporate name and registered or principal office should be shown.

(*d*) In the case of an individual who has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some one of those directorships must be entered.

(*e*) A complete list of the directors or managers shown as existing in the last return should always be given. A note of the changes since the last list was filed should be made in this column, *e.g.*, by placing against a new director's name the words "in place of " and by writing against any former director's name the words "dead", "resigned", or as the case may be.

FORM V Fee $25.00

COMPANIES ACT, CAP. 39

Particulars of a mortgage or charge subject to which property has been acquired on or after 1st January, 1957, by a Company registered in Brunei

PURSUANT TO SECTION 82

Presented by .....

.....

Particulars of a mortgage or charge subject to which property has been acquired on or after 1st January, 1957, by .... Berhad.

1	2	3	4	5
Date and description of the instrument creating or evidencing the mortgage or charge (*a*)	Date of the acquisition of the property	Amount owing on security of the mortgage or charge	Short particulars of the property mortgaged or charged	Names, addresses and descriptions of the mortgagees or persons entitled to the charge

(*Signature*) .....

(*Designation of position in relation to the company*) .....

Dated the ..... day of ....., 19.....

(*a*) A description of the instrument, e.g., "trust deed", "mortgage", "debenture", etc., as the case may be, should be given.

A copy of the instrument, certified as prescribed in paragraph 5 of this Order, must be delivered with these particulars.

FORM V (F) Fee $10.00

COMPANIES ACT, CAP. 39

Return of alteration in the names or addresses of the persons resident in Brunei authorised to accept service on behalf of a company incorporated outside Brunei

PURSUANT TO SECTION 301

Presented by .....

.....

Return of alteration in the names or addresses of the persons resident in Brunei authorised to accept on behalf of the company service of process and any notices required to be served on .....

.....

a company incorporated in (*a*) .....

and which has established a place of business in Brunei at .....

.....

The following are the particulars of such alteration(s).
(State full name and address of any newly appointed authorised person)

.....

.....

.....

.....

Signature of the persons authorised under section 299 (*c*) of the Companies Act, or of some other person in Brunei duly authorised by the Company. } .....
.....
.....

Dated the .....day of ....., 19.....

(*a*) Country of origin.

FORM VI (Section 83 (1))

Register of Mortgages and Charges and of Memoranda of Satisfaction of .....

..... Berhad.

1	2	3	3A	4	5	6	7		8	9	10	11	12	13	14
						Particulars relating to the issues of debentures of the series									
Date of registration	Date of creation of each mortgage or charge and description thereof	Amount secured by the mortgage or charge	Existing charge. Date of the acquisition of the property	Short particulars of the property mortgaged or charged	Names of the mortgagees or persons entitled to the charge	Total amount secured by a series of debentures	Date and amounts of each issue of the series		Dates of the resolutions authorising the issue of the series	Date of the covering deed	General description of the property charged	Names of the trustees for the debenture holders	Memoranda of Satisfaction ..... Amount	Amount of rate *per cent* of the commission, allowance, or discount	REMARKS Name and date appointment of receiver or manager and date of his ceasing to act
							Date	Amount							

FORM VII

Chronological index of charges entered in the Register

(Section 83 (4))

Date of registration	Serial No. of charge in this index	Folio in register	Name of company	Amount of mortgage or charge	Date of trust deed	Debentures		By whom registered	Remarks
						First issue	Further issue		

FORM VIII Fee $10.00

COMPANIES ACT, CAP. 39

Declaration that the conditions of section 94 (1) (a) and (b) of the Companies Act, have been complied with

PURSUANT TO SECTION 94 (1) (*c*)

To be used by a company which issued a prospectus on or with reference to its formation.

Presented by .....

.....

I .....

of .....

.....

.....

being (*a*) .....

of .....

..... Berhad,

do solemnly and sincerely declare —

That the amount of the share capital of the company offered to the public for subscription is $ .....

That the amount stated in the prospectus as the minimum amount which in the opinion of the directors must be raised by the issue of share capital in order to provide for the matters specified in paragraph 5 Part I of the Third Schedule to the Companies Act, is $ .....

That shares held subject to the payment of the whole amount thereof in cash have been allotted to the amount of $ .....

That every director of the company has paid to the company on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act.

Declared at .....

.....

the ..... day of .....

....., 19.....

before me

A Magistrate (*b*)

.....

.....

(*a*) "The secretary", or "a director".

(*b*) or the Chief Registrar or a Deputy Registrar of the Supreme Court.

FORM IX Fee $10.00

COMPANIES ACT, CAP. 39

Declaration that the provisions of section 94 (2) (b), of the Companies Act, have been complied with

PURSUANT TO SECTION 94 (2) (*c*)

To be used by a company which has delivered to the Registrar of Companies a statement in lieu of prospectus.

Presented by .....

.....

I, ...

of .....

.....

being (*a*) .....

of .....

..... Berhad,

do solemnly and sincerely declare —

That every director of the company has paid to the company on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act.

Declared at .....
.....
the ..... day of .....
....., 19.....

.....
.....

before me

A Magistrate (*b*)

(*a*) "The secretary", or "a director".

(*b*) or the Chief Registrar or a Deputy Registrar of the Supreme Court.

FORM X Fee $10.00

COMPANIES ACT, CAP. 39

Particulars of directors or managers and of any changes therein

PURSUANT TO SECTION 143

Presented by .....

.....

Particulars of the directors or managers (*a*) of .....

.....

..... company, ... and of any changes therein.

The present name or names (*b*)	Any former name or names	Nation-ality	Nationality or origin (if other than the present nationality)	Usual residental address	Other business occupation or director-ships, if any. If none state so (*c*)	Changes (*d*)

(*Signature*) .....

(*State whether director or manager or secretary*) .....

Dated the ..... day of ....., 19.....

(*a*) "director" includes any person who occupies the position of a director by whatever name called, and any person in accordance with whose directions or instructions the directors of a company are accustomed to act.

(*b*) In the case of a corporation its corporate name and registered or principal office should be shown.

(*c*) In the case of an individual who has no business occupation but holds any or other directorship or directorships, particulars of that directorship or of some one of those directorships must be entered.

(*d*) A complete list of the directors or managers shown as existing in the last particulars delivered should always be given. A note of the changes since the last list should be made in this column, *e.g.*, by placing against a new director's name the words "in place of " and by writing against any former director's name the words "dead", "resigned", or as the case may be.

FORM XI

COMPANIES ACT, CAP. 39

Notice to dissenting shareholders

PURSUANT TO SECTION 153 (1)

re (*a*) .....

..... Berhad.

Notice by (*b*) .....

..... Berhad

To (*c*) .....

.....

.....

Whereas on the ..... day of ....., 19..... (*b*) .....

made an offer to all the holders of (*d*) .....

shares in (*a*) ..... (state shortly the nature of the offer) ..... and whereas up to the ..... day of ....., 19....., being a date within 4 months of the date of the making thereof such offer was approved by the holders of not less than nine-tenths in value of the (*d*) .....shares in the said company.

Now therefore the said (*b*) .....

in pursuance of the provisions of section 153 of the Companies Act, hereby gives you notice that the said (*b*) ..... desires to acquire the (*d*) .....

..... shares in the said (*a*) .....

..... held by you.

And further take notice that unless upon an application made to the Court by you the said (*c*) .....

on or before the ..... day of ....., 19.....

being one month from the date of this notice, the Court thinks fit to order otherwise, the said (*b*) .....

will be entitled and bound to acquire the (*d*) .....

shares held by you in the said (*a*) .....

on the terms of the above-mentioned offer approved by the approving (*d*) ..... shareholders in the said company.

(*Signature*) .....

for (*b*) .....

State whether director or manager or secretary) .....

Dated the ..... day of ....., 19.....

(*a*) Name of transferor company.
(*b*) Name of transferee company.
(*c*) Name and address of dissenting shareholder.
(*d*) If the offer is limited to a certain class or classes of shareholders insert particulars of the shares.

FORM XII Fee $10.00

COMPANIES ACT, CAP. 39

Receiver or manager's abstract of receipts, and payments

PURSUANT TO SECTION 286

Name of company .....

Name and address of receiver or manager .....

Date and description of security containing the powers under which receiver or manager is appointed ..... { .....

Period covered by the abstract ..... { From ..... To .....

Presented by .....

.....

ABSTRACT

RECEIPTS	PAYMENTS
Brought forward ..... $	*Brought forward* ..... $
	The receipts and payments must severally be added up at the foot of each sheet and the totals carried forward from one abstract to another without any intermediate balance so that the gross totals shall represent the total amounts received and paid by the receiver or manager since the date of appointment).
Carried forward ..... $	*Carried forward* ..... $

(*Signature*) .....

Dated the .....day of ....., 19.....

TWELFTH SCHEDULE

[sec. 324]

COMPANIES (WINDING-UP) RULES

ARRANGEMENT OF RULES

PRELIMINARY

Rule

1. Citation and application
2. Interpretation of terms
3. Use of forms in Appendix

COURT AND CHAMBERS

4. Office of Registrar in the Court
5. Matters in Court to be heard in Court and chambers
6. Applications in chambers
7. Motions and summonses
8. Times for holding Court

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9. Title of proceedings
10. Written or printed proceedings
11. Process to be sealed
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13. Orders
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15. Office copies
16. Inspection of file
17. Use of file by Official Receiver
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20. Service
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22. Form of petition
23. Presentation of petition
24. Advertisement of petition
25. Service of petition
26. Verification of petition
27. Copy of petition to be furnished to creditor or contributory

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28. Appointment of provisional liquidator

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29. Attendance before hearing to show compliance with rules
30. Notice by persons who intend to appear
31. List of names and addresses of persons who appear on the petition
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33. Substitution of creditor or contributory for withdrawing petitioner

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34. Notice that winding-up order has been pronounced to be given to Official Receiver
35. Drawing up and contents of winding-up order
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37. Appointment of special manager
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45. Appointment of liquidator on report of meetings of creditors and contributories

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51. Consideration of report
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56. (1) Default in attending
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59. Use of depositions taken at public examinations

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61. Committal of contumacious witness
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80. Mode of proof
81. Verification of proof
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84. Proof before whom sworn
85. Costs of proof
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RULES

Citation and application

1. (1) These rules may be cited as the Companies (Winding-up) Rules.

(2) Subject to the limitation hereinafter mentioned these rules shall apply to the proceedings in every winding up of a company under the Act. 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 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 whether any such

voluntary winding up is or is not being continued under the supervision of the Court.

Interpretation

2. In these rules —

"Act" means the Companies Act;

"bailiff" means the bailiff of the Court and includes an assistant bailiff;

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

"Court" means the Supreme Court for Brunei and includes any judge thereof;

"creditor" includes a corporation, and a firm of creditors in partnership;

"form" means a form in the Appendix to these rules;

"gazetted" means published in the *Gazette*;

"liquidator" includes an Official Receiver when acting as liquidator;

"Official Receiver" includes any officer appointed by the Minister to discharge the duties of Official Receiver under the Act and includes a deputy official receiver so appointed;

"proceedings" means the proceedings in the winding up of a company under the Act;

"Registrar" means the Chief Registrar of the Court and includes a deputy registrar;

"rules" means these rules, and includes the prescribed forms;

"sealed" means sealed with the seal of the Court;

"taxing officer" means the officer of the Court whose duty it is to tax costs in the proceedings of the Court under its ordinary jurisdiction.

Use of forms in Appendix

3. 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.

COURTS AND CHAMBERS

Office of Registrar in the Court

4. (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 Act and rules, under the general or special directions of a judge.

(2) In every cause or matter within the jurisdiction of a judge, whether by virtue of the Act or otherwise, the Registrar shall, in addition to his powers and duties under the rules, have all the powers and duties of a Master, Registrar, or Taxing Master.

Matters in Court to be heard in Court and chambers

5. (1) The following matters and applications in the Court shall be heard before a judge in open Court —

(*a*) petitions;

(*b*) appeals to the Court from the Official Receiver when acting as Official Receiver and not as liquidator;

(*c*) applications under section 275 of the Act;

(*d*) applications by the Official Receiver or liquidator under subsection (3) of section 269 of the Act, or an appeal thereunder;

(*e*) applications for the commital of any person to prison for contempt;

(*f*) public examinations;

(*g*) applications under subsection (1) of section 262 of the Act;

(*h*) applications to rectify the Registrar; and

(*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) Examinations of persons summoned before the Court under section 206 of the Act, shall be held in Court or in chambers as the Court shall direct.

(3) Every other matter or application in the Court under the Act to which the rules apply may be heard and determined in chambers.

6. Subject to the provisions of the Act 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 Act and rules may be heard and determined in chambers; Applications in chambers

(*b*) any matter or application before the Registrar may at any time be adjourned by him to be heard before a judge; and

(*c*) any matter or application may, if a judge thinks fit, be adjourned from chambers to Court, or from Court to chambers.

7. (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. Motions and summonses 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.

8. Subject to the provisions of the Act the times of the sitting of the Court in matters of 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. Times for holding Court

PROCEEDINGS

9. (1) Every proceeding in a winding-up matter shall be dated, and shall, with any necessary additions, be intituled as follows — Title of proceedings

IN THE SUPREME COURT OF BRUNEI DARUSSALAM.

COMPANIES (WINDING-UP). No. OF 19

In the Matter of the Companies Act, Cap. 39.

and in the matter of the company to which it relates. Numbers and dates may be denoted by figures.

(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.

Written or printed proceedings

10. All proceedings shall be written or printed, or partly written or partly printed, on paper of the size of 13 inches in length and 8 inches in breadth, 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.

Process to be sealed

11. 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.

Issue of summonses

12. 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.

Orders

13. 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.

File of proceedings in office of Registrar

14. 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.

Office copies

15. 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.

16. 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 one dollar for each inspection *per day*, at all reasonable times, to inspect the file of proceedings and to take copies or extracts from any documents therein, or to be furnished with such copies or extracts upon payment of $2.00 per page or part thereof. Inspection of file

17. Where, in the exercise of his functions under the Act 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. Use of file by Official Receiver

18. 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. Defacement of stamps

SERVICE AND EXECUTION OF PROCESS AND ENFORCEMENT OF ORDERS

19. (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. Duties of bailiff

(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 Act or rules required to be so served, unless the Court in any particular proceeding by order specially so directs.

20. (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. Service

(2) No service shall be deemed invalid by person 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.

Enforcement of orders

21. Every order of the Court made in the exercise of the powers conferred by the Act and 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.

PETITION

Form of Petition. Forms 2 and 3

22. Every petition for the winding up of a company by the Court, or subject to the supervision of the Court, shall be in Forms 2 and 3.

Presentation of petition

23. 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.

Advertisement of petition. Form 4

24. Every petition shall be advertised 7 clear days or such longer time as the Court may direct before the hearing, as follows —

(*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 Brunei once in the *Gazette*, and once at least in such newspaper or newspapers as the Court directs;

(*b*) in the case of any other company, once in the *Gazette*, and twice at least in a local newspaper 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; and

(*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.

Service of petition. Forms 5 and 6

25. 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.

Verification of petition. Forms 7 and 8

26. Every petition of the winding up of a company by the Court, or subject to the supervision of 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, 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.

Copy of petition to be furnished to creditor or contributory

27. Every contributory or creditor of the company shall be entitled to be furnished immediately by the petitioner or his solicitor with a copy of the petition, upon payment of $2.00 per page or part thereof.

PROVISIONAL LIQUIDATOR

Appointment of provisional liquidator

28. (1) After the presentation of a petition, upon the application of a creditor, or of a contributory, 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.

Form 9

(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.

(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, or if an order is made containing the voluntary winding up of the company subject to the supervision of the Court, 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.

(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 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.

HEARING OF PETITIONS AND ORDERS MADE THEREON

Attendance before hearing to show compliance with rules

29. 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.

Notice by persons who intend to appear

30. 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 inten-

tion. 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, of 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.

Form 10

31. 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.

List of names and addresses of persons who appear on the petition. Form 11

32. (1) Affidavits in opposition to a petition that a company may be wound up by or subject to the supervision of 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.

Affidavits in opposition and reply

(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.

33. 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.

Substitution of creditor or contributory for withdrawing petitioner

ORDER TO WIND UP A COMPANY

Notice that winding-up order has been pronounced to be given to Official Receiver

34. 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.

Forms 12 and 13

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

Drawing up and contents of winding-up order. Form 14

35. (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 shall not be necessary for the Registrar to make an appointment to settle the order unless in any particular case the special circumstances make an appointment necessary.

(2) An order to wind up a company or for the appointment of a provisional liquidator shall contain at the foot thereof a notice stating that it will be the duty of the person who is at the time secretary or chief officer of the company, and of such of the persons who are liable to make out or concur in making out of the company's statement of affairs as the Official Receiver may require, to attend on the Official Receiver at such time and place as he may appoint and to give him all information he may require.

Transmission and advertisement of winding-up order

36. (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 170 of the Act 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 oder to be gazetted; and — Forms 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. — Form 16

(2) An order for the winding up of a company, subject to the supervision of the Court, shall before the expiration of 12 days from the date thereof be advertised by the petitioner, once in the *Gazette*, and shall be served on such persons (if any) and in such manner as the Court shall direct. — Form 15

SPECIAL MANAGER

37. 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. — Appointment of special manager

38. Every special manager shall account to the Official Receiver, and the special manager's accounts shall be verified by affidavit, and, when approved by the Official Receiver, the totals of the receipts and payments shall be added by the Official Receiver to his accounts. — Accounting by special manager. Form 17

STATEMENT OF AFFAIRS

39. (1) Every person who under section 175 of the Act, has been required by the Official Receiver to submit and verify a statement as to the affairs of a company, shall be furnished by the Official Receiver with forms and instructions for the preparation of the statement. The statement shall be made out in duplicate, one copy of which shall be verified by affidavit. The Official Receiver shall cause to be filed with the Registrar the verified statement of affairs. — Preparation of statement of affairs. Form 23

(2) The Official Receiver may from time to time hold personal interviews with every such person for the purpose of investigating the company's affairs, and it shall be the duty of every such person to attend on the Official Receiver at such time and place as the Official Receiver may appoint and give the Official Receiver all information that he may require.

Extension of time for submitting statement of affairs

40. When any person requires any extension of time for submitting the statement of affairs, he shall apply to the Official Receiver, who may, if he thinks fit, give a written certificate extending the time, which certificate shall be filed with the proceedings in the winding up and shall render an application to the Court unnecessary.

Information subsequent to statement of affairs

41. After the statement of affairs of a company has been submitted to the Official Receiver it shall be the duty of each person who has made or concurred in making it, if and when required, to attend on the Official Receiver and answer all such questions as may be put to him, and give all such further information as may be required of him by the Official Receiver in relation to the statement of affairs.

Default

42. Any default in complying with the requirements of section 175 of the Act, may be reported by the Official Receiver to the Court.

Expenses of statement of affairs

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

Dispensing with statement of affairs

44. (1) Any application to dispense with the requirements of section 175 of the Act shall be supported by a report of the Official Receiver showing the special circumstances which in his opinion render such a course desirable.

(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.

APPOINTMENT OF LIQUIDATOR IN A WINDING UP BY THE COURT

Appointment of liquidator on report of meetings of creditors and contributories.

45. (1) As soon as possible after the first meetings of creditors and contributors 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.

(2) 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 two meetings are identical in effect, upon the application of the Official Receiver, forthwith make the appointments necessary for giving effect to such resolutions. In any other case the Court shall, on the application of the Official Receiver, 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. Form 24

(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 Official Receiver 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.

(4) Upon the consideration of the resolutions and determinations of the meetings the Court shall hear the Official Receiver and any creditor or contributory.

(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. Forms 25 and 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. 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 190 of the Act in which case the Official Receiver shall remain liquidator. Forms 103 (8) and (9)

NOTICE OF APPOINTMENT OF LIQUIDATOR

Notice of appointment of liquidator. Form 28

46. The notice of the appointment of a liquidator required by section 238 of the Act shall be in Form 28 in the Appendix.

SECURITY BY LIQUIDATOR OR SPECIAL MANAGER IN A WINDING UP BY THE COURT

Security to satisfaction of Official Receiver.

47. 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 —

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; and

(*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.

Failure to give or keep up security

48. (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.

PUBLIC EXAMINATION

Report of Official Receiver to be filed

49. A report made by the Official Receiver pursuant to subsection (2) of section 176 of the Act shall state, in a narrative form, the facts and matters which the Official Receiver desires to bring to the notice of the Court, and his opinion as required by the said section.

Appointment of time for consideration of report

50. The Official Receiver 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.

Consideration of report

51. The consideration of the report shall be before a judge personally in chambers, and the Official Receiver shall 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.

Order for public examination. Form 29

52. An order under section 207 of the Act directing any person or persons at attend for public examination shall be in Form 29.

Application for day for holding examination

53. Upon an order directing a person to attend for public examination being made, the Official Receiver shall apply for the appointment of a day on which the public examination is to be held.

Appointment of time and place for public examination. Forms 30 and 31

54. A day and place shall be appointed for holding the public examination, and notice of the day and place so appointed shall be given by the Official Receiver to the person who is to be examined by sending such notice in a registered letter addressed to his usual or last known address.

Notice of public examination to creditors and contributories. Form 103 (3)

55. (1) The Official Receiver shall give notice of the 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 thinks fit, and shall also cause notice of the appointment to be gazetted.

(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.

Default in attending. Form 38

56. If any person who has been directed by the Court to attend for public examination fails to attend at the 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 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 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.

Notes of examination to be filed. Form 34 and 35

57. The notes of every public examination shall, after being signed as required by section 207 (7) of the Act, be filed with the Registrar.

PROCEEDINGS BY OR AGAINST DIRECTORS, PROMOTERS, AND OFFICERS

Application by or against delinquent directors, officers and promoters

58. (1) An application under any of the following provisions of the Act —

(*a*) section 261;

(*b*) subsection (1), (2) or (4) of section 260;

(*c*) section 208;

(*d*) subsection (2) of section 302

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 accordance with the provisions of orders 9, 10 and 11 of the Brunei High Court (Civil Procedure) 1970 Rules 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.

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.

Use of depositions taken at public examinations

59. 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 207 of the Act, then in any proceedings subsequently instituted under any of the provisions of the Act mentioned in paragraph (1) of rule 58, the verified 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 207 of the Act, and the order for the public examination, was or had the opportunity of being present at and taking part in the examination: 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.

WITNESSES AND DEPOSITIONS

Shorthand notes. Forms 32 and 33

60. If the Court or the officer of the Court before whom any examination under the Act and rules is directed to be held shall in any case, and at any stage of the proceedings, be of opinion that it would be desirable that a person (other than the person before whom an examination is taken) should be appointed to take down the evidence of any person examined in shorthand or otherwise, it shall be competent for the Court or officer aforesaid to make such appointment, and every person so appointed, if not in the service of the Government, shall be paid a sum not exceeding $75 a day, and also a sum not exceeding $2.00 per part thereof for any transcript of the evidence that may be required and such sums 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. The shorthand writer (if any) attached to the Official Receiver's office shall be deemed to be duly appointed under this rule, and it shall not be necessary to make any application to make such appointment, and a general declaration by such shorthand writer adapted from Form 33 shall be deemed to apply to all cases in which notes are taken by him as aforesaid, but this rule shall not be construed as precluding the appointment of any other person. A transcript of any such notes, purporting to be such transcript, and purporting to be signed by a shorthand writer duly appointed under this rule or by the shorthand writer attached to the Official Receiver's office, shall until the contrary is proved be sufficient evidence that the questions and answers set forth therein were so put and answered respectively.

Committal of contumacious witness. Form 36

61. (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.

(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.

Depositions at private examinations

62. (1) The Official Receiver may attend in person, or by an assistant official receiver, or by counsel or by solicitors employed for the purpose, any examination of a witness under section 206 of the Act, on whosesoever application the same has been ordered, and may take notes of the examination for his own use, and put such question to the persons examined as the Court may allow.

(2) The notes of the depositions of a person examined under section 206 of the Act, 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 207 of the Act) 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.

DISCLAIMER

Disclaimer. Forms 39 and 40

63. (1) Any application for leave to disclaim any part of the property of a company pursuant to subsection (1) of section 253 of the Act 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.

(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 Brunei, register a notice thereof in the Land Office. 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 Brunei, a notice thereof is registered in the Land Office the disclaimer shall be inoperative. A disclaimer shall be in Form 39 and a notice of disclaimer in Form 40.

(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.

VESTING OF DISCLAIMED PROPERTY

Vesting of disclaimed property

64. (1) Any application under subsection (6) of section 253 of the Act 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 mortgage by assignment or demise or under-lessee of such property, the Court may direct that notice shall be given to such mortgagee or under-lessee 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 mortgagee or under-lessee 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 mortgagee or under-lessee fails to make such election and application, the Court may make an order vesting the property in the applicant and excluding such mortgagee or under-lessee from all interest in or security upon the property.

ARRANGEMENTS WITH CREDITORS AND CONTRIBUTORIES IN A WINDING UP BY THE COURT

Report by Official Receiver on arrangements and compromises

65. 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 to be filed.

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

Collection and distribution of company's assets by liquidator

66. (1) The duties imposed on the Court by subsection (1) of section 195 of the Act, 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 subsection (1) of section 195 of the Act, and by paragraph (1), 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.

Power of liquidator to require delivery of property. Form 41

67. The powers conferred on the Court by section 196 of the Act 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.

LIST OF CONTRIBUTORIES IN A WINDING UP BY THE COURT

Liquidator to settle list of contributories. Form 42

68. Unless the Court shall dispense with the settlement of a list of contributories the liquidator shall with all convenient speed after his appointment settle a list of contributories of the company, and shall appoint a time and place for that purpose. The list of contributories shall contain a statement of the address of, and the number of shares or extent of interest to be attributed to each contributory and the amount called up and the amount paid up in respect of such shares or interest, and shall distinguish the several classes of contributories. As regards representative contributories the liquidator shall, so far as practicable, observe the requirements of subsection (2) of section 195 of the Act.

Appointment of time and place for settlement of list. Forms 43 and 44

69. The liquidator shall give notice in writing of the time and place appointed for the settlement of the list of contributories to every person whom he proposes to include in the list, and shall state in the notice to each person in what character and for what number of shares or interest he proposes to include such person in the list, and what amount has been called up and what amount paid up in respect of such shares or interest.

Settlement of list of contributories. Form 45

70. On the day appointed for settlement of the list of contributories the liquidator shall hear any person who objects to being settled as a contributory, and after such hearing shall finally settle the list, which when so settled shall be the list of contributories of the company.

Notice to contributories. Forms 46 and 48

71. The liquidator shall forthwith give notice to every person whom he has finally placed on the list of contributories stating in what character and for what number of shares or interest he has been placed on the list and what amount has been called up and what amount paid up in respect of such shares or interest, and in the notice he shall inform such person that any application for the removal of his name from the list, or for a variation of the list, must be made to the Court by summons within 21 days from the date of the service on the contributory or alleged contributory of notice of the fact that his name is settled on the list of contributories.

Application to the Court to vary the list. Form 49

72. (1) Subject to the power of the Court to extend the time or to allow an application to be made notwithstanding the expiration of the time limited for that purpose, no application to the Court by any person who objects to the list of contributories as finally settled by the liquidator shall be entertained after the expiration of 21 days from the date of the service on such person of notice of the settlement of the list.

(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.

Variation of or addition to list of contributories. Form 47

73. 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.

CALLS

Calls by liquidator

74. The powers and duties of the Court in relation to making calls upon contributories conferred by section 199 of the Act, 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 211 of the Act, and to the following regulations —

Form 50

(*a*) where the liquidator desires to make any call on the contributories, or any of them for any purpose authorised by the Act, 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;

Form 51

(*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 Brunei 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;

(*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; and — Form 52

(*e*) where there is no committee of inspection, the liquidator shall not make a call without obtaining the leave of the Court.

Application to the Court for leave to make a call. Forms 54 to 57

75. 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 authorised by the Act, 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.

Document making the call. Form 58

76. When the liquidator is authorised by resolution or order to make a call on the contributories he shall file with the Registrar a document in Form 58 making the call.

Service of notice of a call. Forms 52, 53, 57 and 59

77. 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.

Enforcement of call. Forms 60, 61 and 62

78. 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.

PROOFS

Proof of debt

79. 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.

Mode of proof

80. A debt may be proved in any winding up by delivering or sending through the post an affidavit verifying the debt. In a winding up by the Court the affidavit shall be so sent to the Official Receiver or, if a liquidator has been appointed, to the liquidator; and in any other winding up the affidavit may be so sent to the liquidator.

Verification of proof

81. An affidavit proving a debt may be made by the creditor himself or by some person authorised by or on behalf of the creditor. If made by a person so authorised, it shall state his authority and means of knowledge.

Contents of proof Form 63

82. An affidavit proving a debt shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The Official Receiver or liquidator to whom the proof is sent may at any time call for the production of the vouchers.

Statement of security

83. An affidavit proving a debt shall state whether the creditor is or is not a secured creditor.

Proof before whom sworn

84. An affidavit proving a debt may in a winding up by the Court be sworn before the Official Receiver, or an assistant or deputy official receiver, or before any commissioner of oaths.

Costs of proof

85. A creditor shall bear the cost of proving his debt unless the Court otherwise orders.

Discount

86. 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.

Periodical payments

87. 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 therein 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.

Interest

88. 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 date of the commencement of the winding up, the creditor may prove for interest at a rate not exceeding 6 *per cent per annum* 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.

Proof for debt payable at a future time

89. 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 6 *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.

Workmen's wages Form 64

90. 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.

Production of bills of exchange and promissory notes

91. 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.

Transmission of proofs to liquidator

92. 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.

ADMISSION AND REJECTION OF PROOFS AND PREFERENTIAL CLAIMS, AND APPEAL TO THE COURT

Notice to creditors to prove

93. (1) Subject to the provisions of the Act, and unless otherwise ordered by the Court, the liquidator in any winding up may from time to time fix a certain day, which 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 250 of the Act or to be excluded from the benefit of any distribution made before such debts are proved or as the case may be from objecting to such distribution, 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 as a creditor, and who has not proved his debt, and to every person mentioned in the statement of affairs as a preferential creditor whose claim to be a preferential creditor has not been established and is not admitted, 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.

(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.

Examination of proof Form 65

94. 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.

95. 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.

Appeal by creditor

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

Expunging at instance of liquidator

97. 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.

Expunging at instance of creditor

98. 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.

Oaths

99. In a winding up by the Court the Official Receiver, 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.

Official Receiver's powers

100. 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.

Filing proofs by Official Receiver

101. 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.

Proofs to be filed Form 66

102. 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

Procedure where creditor appeals

Time for dealing with proofs by Official Receiver

proof, file such proof with the Registrar, with a memorandum thereon of his disallowance thereof.

103. 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.

Time for dealing with proofs by liquidator

104. 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.

Cost of appeals from decisions as to proofs

105. 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.

GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN RELATION TO A WINDING UP BY THE COURT

First meetings of creditors and contributories

106. Unless the Court otherwise directs, the meetings of creditors and contributories under section 179 of the Act (hereinafter referred to as the first meetings of creditors and contributories) shall be held within one month, or if a special manager has been appointed then within 6 weeks after the date of the winding-up order. The dates of such meetings shall be fixed and they shall be summoned by the Official Receiver.

Notice of first meetings

107. The Official Receiver shall forthwith give notice of the dates fixed by him for the first meetings of creditors and contributories by advertisement in the *Gazette*.

108. The first meetings of creditors and contributories shall be summoned as hereinafter provided.

Summoning of first meetings

109. The notices of first meetings of creditors and contributories may be in Forms 18 and 19, 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.

Form of notices of first meetings Forms 18 and 19

110. The Official Receiver 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 prepared 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 Official Receiver, and if any such director or officer fails to attend the Official Receiver shall report such failure to the Court.

Notice of first meetings to officers of company Form 20

111. (1) The Official Receiver shall also, as soon as practicable, send to each creditor mentioned in the company's statement of affairs, 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, including the causes of its failure, and any observations thereon which the Official Receiver 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.

Summary of statement of affairs

(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.

GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN RELATION TO WINDING UP BY THE COURT AND OF CREDITORS IN RELATION TO A CREDITORS VOLUNTARY WINDING-UP

112. (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 272 of the Act (hereinafter referred to as Court meetings of creditors and contributories), the

Liquidator's meeting of creditors and contributories

liquidator in any winding-up by the Court may himself from time to time subject to the provisions of the Act and the control of the Court summon, hold and conduct meetings of the creditors or contributories (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 Act 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).

Application of rules as to meetings

113. 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 Act and as to Court meetings subject and without prejudice to any express directions of the Court.

Summoning of meetings Form 75

114. (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.

(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, 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.

(3) In the case of meetings under section 230 of the Act the continuing liquidator or if there is no continuing liquidator any creditor may summon the meeting.

(4) This rule shall not apply to meetings under section 226 or 233 of the Act.

Proof of notice Forms 76 and 77

115. 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.

Place of meetings

116. 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.

Costs of calling meeting

117. The costs of summoning a meeting of creditors or contributories at the instance of any person other than the Official Receiver or liquidator shall be paid by the person at whose instance it is summoned who shall before the meeting is summoned deposit with the Official Receiver or liquidator (as the case may be) such sum as may be required by the Official Receiver or liquidator as security for the payment of such costs. The costs of summoning such meeting of creditors or contributories, including all disbursements for printing, stationery, postage and the hire of room, shall be calculated at the following rate for each creditor or contributory to whom notice is required to be sent, namely, $1 per creditor or contributory for the first 20 creditors or contributories, and 50 cents per creditor or contributory for the next 30 creditors or contributories, and 25 cents per creditor or contributory for any number of creditors or contributories after the first 50.

The said costs shall be repaid out of the assets of the company if the Court shall by order or if the creditors or contributories (as the case may be) shall be resolution so direct. This rule shall not apply to meetings under sections 226 and 230 of the Act.

Chairman of meeting Form 79

118. 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 226 of the Act.

Ordinary resolution of creditors and contributories

119. At a meeting of creditors a resolution shall be deemed to be passed when a majority in number and value of the creditors present personally or by proxy and voting on the resolution have voted in favour of the resolution, and at a meeting of the contributories a resolution shall be deemed to be passed when a majority in number and value of the contributories present personally or by proxy, and voting on the resolution, have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulations of the company.

Copy of resolution to be filed

120. 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.

Non-reception of notice by a creditor

121. 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.

Adjournment
Form 78

122. 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.

Quorum

123. (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 3 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.

Form 21

Creditors entitled to vote

124. 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 Official Receiver 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 Official Receiver or 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:

Provided that this and the next 4 following rules shall not apply to a Court meeting of creditors held prior to the first meeting of creditors. 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.

Cases in which creditors may not vote

125. 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 Receiving Order in bankruptcy 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.

Votes of secured creditors

126. For the purposes 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.

Creditor required to give up security

127. 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.

Admission and rejection of proofs for purpose of voting

128. 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.

Statement of security

129. 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.

Minutes of meeting

130. (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.

Form 22

(2) A list of creditors and contributories present at every meeting shall be made and kept as in Form 22.

PROXIES IN RELATION TO A WINDING-UP BY THE COURT, AND TO MEETINGS OF CREDITORS IN A CREDITORS VOLUNTARY WINDING-UP

Proxies

131. A creditor or a contributory may vote either in person or by proxy. Where a person is authorised in manner provided by section 115 of the Act to represent a corporation at any meeting of creditors or contributories such person shall produce to the Official Receiver or liquidator or other chairman of the meeting a copy of the resolution so authorising him. Such copy must either be under the seal of the corporation or must be certified to be a true copy by the 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.

Form of proxies Forms 80 and 81

132. Every instrument of proxy shall be in accordance with the form in the Appendix and every written part thereof shall be in the handwriting of the person giving the proxy or of any manager or clerk or other person in his regular employment or of the solicitor employed by him in connexion with the matter or of a commissioner to administer oaths in the Supreme Court.

133. 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.

Forms of proxy to be sent with notices

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

General proxies

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

Special proxies

(*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.

136. 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 behalf the solicitation was exercised notwithstanding any resolution of the committee of inspection or of the creditors or contributories to the contrary.

Solicitation by liquidator to obtain proxies

137. 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 by no liquidator the chairman of a meeting to act as his general or special proxy.

Proxies to Official Receiver or liquidator

138. 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:

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

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.

Lodgment of proxies

139. (1) A proxy intended to be used at the first meeting of creditors or contributories, or an adjournment thereof, shall be lodged with the Official Receiver not later than the time mentioned for that purpose in the notice convening the meeting or the adjourned meeting, which time 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.

(2) In every other case a proxy shall be lodged with the Official Receiver or liquidator in a winding up by the Court, with the company at its registered office for a meeting under section 226 of the Act and with the liquidator or if there is no liquidator with the person named in the notice convening the meeting to receive the same in a voluntary winding up not later than 4 o'clock in the afternoon of the day before the meeting or adjourned meeting at which it is to be used.

(3) No person shall be appointed a general or special proxy who is a minor.

Use of proxies by deputy

140. Where an Official Receiver who holds any proxies 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.

Filling in where creditor blind or incapable

141. 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.

DIVIDENDS IN A WINDING-UP BY THE COURT

Dividends to creditors Forms 67 and 70

142. (1) Not more than 2 months before declaring a dividend the liquidator in a winding up by the Court, shall give notice of his intention to do so to the Official Receiver in order that the same may be gazetted, and at the same time to such of the creditors mentioned in the statement of affairs 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.

(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 give notice to the Official Receiver (in order that the same may be gazetted), and shall also send a notice of dividend to each creditor whose proof has been admitted. Form 71

(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 2 months, the liquidator shall give a fresh notice of his intention to declare a dividend to the Official Receiver in order that the same may be gazetted; 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 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.

(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 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. Forms 68 and 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 Form 72 which shall be a sufficient authority for payment of the dividend to the person therein named. 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.

Return of capital to contributories Forms 73 and 74

143. Every order by which the liquidator in a winding up by the Court is authorised 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 Form 74, and the liquidator shall send a notice of return to each contributory.

ATTENDANCE AND APPEARANCE OF PARTIES

Attendance at proceedings

144. (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. Such person or persons may appoint a solicitor to represent them.

(3) No creditor or contributor 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.

Attendance of liquidator's solicitor

145. Where the liquidator's solicitor attends 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.

LIQUIDATOR AND COMMITTEE OF INSPECTION

Remuneration of liquidator

146. (1) The remuneration of a liquidator, unless the Court shall otherwise order, shall be in the nature of a commission or percentage of which one part shall be payable on the amount realised, after deducing 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) The remuneration of the liquidator shall, unless the Court shall otherwise order, be fixed by the scale of fees and percentages for the time being payable on realisations and distributions by the Official Receiver as liquidator.

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

Limit of remuneration

147. Except as provided by the Act 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, and gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration to which under the Act 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.

Dealings with assets

148. Neither the liquidator nor any member of the committee of inspection of a company shall, while acting as liquidator or 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 or 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.

Restriction on purchase of goods by liquidator

149. 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.

Committee of inspection not to make profit

150. No 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.

Costs of obtaining sanction of Court

151. In any case in which the sanction of the Court is obtained under rules 149 and 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.

Sanction of payments to committee

152. Where the sanction of the Court to a payment to a member of a committee of inspection for services rendered by him 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 of a committee for services rendered by him in the discharge of the duties attaching to his office as a member of such committee.

Discharge of costs before assets handed to liquidator

153. (1) Where a liquidator is appointed by the Court, and has notified his appointment to the Registrar of Companies, and given security to the satisfaction of the Official Receiver, the Official Receiver shall forthwith put the liquidator into possession of all property of the company of which the Official Receiver may have custody:

Provided that such liquidator shall have, before the assets are handed over to him by the Official Receiver, discharged any balance due to the

Official Receiver 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 6 *per cent per annum*; and the Liquidator shall pay all fees, costs, and charges of the Official Receiver which may not have been discharged by the liquidator before being put into possession of the property of the company, and whether incurred before or after he has been put into such possession.

(2) The Official Receiver 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, 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.

Resignation of liquidator

154. A liquidator who desires to resign his office shall summon separate meetings of the creditors and contributories of the company to decide whether or not the resignation shall be accepted. If the creditors and contributories by ordinary resolutions both agree to accept the resignation of the liquidator, he shall file with the Registrar a memorandum of his resignation, and shall send notice thereof to the Official Receiver, and the resignation shall thereupon take effect. In any other case the liquidator shall report to the Court the result of the meetings and shall send a report to the Official Receiver and thereupon the Court may, upon the application of the liquidator or the Official Receiver, determine whether or not the resignation of the liquidator shall be accepted, and may give such directions and make such orders as in the opinion of the Court shall be necessary.

Office of liquidator vacated by his insolvency

155. If a Receiving Order in bankruptcy is made against the liquidator, he shall thereby vacate his office, and for the purposes of the application of the Act and rules shall be deemed to have been removed.

PAYMENTS INTO AND OUT OF A BANK

Payments out of bank

156. All payments out of the companies liquidation account shall be made in such manner as the Permanent Secretary may from time to time direct.

Special bank account. Forms 82 and 83

157. (1) Where the liquidator in a winding up by the Court is authorised 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 at least one member of the committee of inspection, and by such other person, if any, as the committee of inspection may appoint.

(2) Where application is made to the Official Receiver to authorise 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 authorisation for such time and on such terms as he may think fit, and may at any time order the account to be closed if he is of opinion that the account is no longer required for the purposes mentioned in the application.

BOOKS

Record of proceedings

158. In a winding up by the Court the Official Receiver, until a liquidator is appointed 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.

Cash Book

159. (1) In a winding up by the Court, the Official Receiver, until a liquidator is appointed 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.

(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.

INVESTMENT OF FUNDS

Investment of assets in securities, and realisation of securities. Forms 84 and 85

160. (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 sign a certificate and request, and the liquidator shall transmit such certificate and request to the Official Receiver.

(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 they shall sign a certificate and request to that effect, and the liquidator shall transmit such certificate and request to the Official Receiver.

(3) Where there is no committee of inspection in any such winding up as is mentioned in paragraphs (1) and (2) and in every members voluntary winding up whether subject to the supervision of the Court or not, if a case has in the opinion of the liquidator arisen under section 280 of the Act for an investment of funds of the company or a sale of securities in which the company's funds have been invested, the liquidator shall sign and transmit to the Official Receiver a certificate of the facts on which his opinion is founded, and a request to the Official Receiver to make the investment or sale mentioned in the certificate, and the Official Receiver may thereupon, if he thinks fit, invest or sell the whole or any part of the said funds or securities, as provided in the said section, and the said certificate and request shall be a sufficient authority to the Official Receiver for the said investment or sale.

ACCOUNTS AND AUDIT IN A WINDING UP BY THE COURT

Audit of Cash Book. Form 86

161. 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.

Official Receiver's audit of liquidator's accounts

162. (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, showing thereon in red ink the amounts realised, and explaining the cause of the non-realisation of such assets as may be unrealised. 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.

(2) When the assets of the company have been fully realised and distributed, the liquidator shall forthwith send in his accounts to the Official Receiver, although the 6 months may not have expired.

Form 87

(3) The accounts sent in by the liquidator shall be verified by him by affidavit.

Liquidator carrying on business

163. (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.

Forms 88 and 89

(2) The trading account shall from time to time, and not less than once in every month, be verified by affidavit, 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.

Copy of accounts to be filed

164. 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.

Summary of accounts

165. (1) 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.

(2) The cost of printing and posting such copies shall be a charge upon the assets of the company.

166. 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 an affidavit of no receipts or payments.

Affidavit of no receipts

167. (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.

Proceedings on resignation, &c., of liquidator

(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.

Disposal of books

168. 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.

Expenses of sales

TAXATION OF COSTS

169. 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 to 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 Form 90.

Taxation of costs payable by or to Official Receiver or liquidator or by company

Form 90

Notice of appointment

170. 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).

Lodgment of bill

171. 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 Official Receiver, and if incurred after the appointment of a liquidator, shall be lodged with the liquidator. The Official Receiver or the liquidator, as the case may be, shall lodge the bill or charges with the taxing officer.

Copy of the bill to be furnished

172. 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 35 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.

Application for costs

173. 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 —

(*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; and

(*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.

Certificate of taxation Form 91

174. 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.

175. 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, and in the case of the bill of costs of a solicitor, a copy of the resolution or other authority sanctioning the employment of a solicitor to assist the liquidator in the performance of his duties, and the instructions given to such solicitor by the liquidator. Certificate of employment

176. All costs properly incurred in a winding up by the Court shall be allowed and shall be taxed by the Registrar. Costs and taxation

177. The procedure and practice of the Supreme Court shall be observed in all reviews of taxation. Review of taxation and appeals thereon

COSTS AND EXPENSES PAYABLE OUT OF THE ASSETS OF THE COMPANY

178. (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 Act or rules to be performed by himself. Liquidator's charges

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

179. (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, realising or getting in the assets, including where the company has previously commenced to be wound up voluntarily such remuneration, costs, and expenses as the Court may allow to a liquidator appointed in such voluntary winding up 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 — Costs payable out of the assets

First.—The taxed costs of the petitions, including the taxed costs of any person appearing on the petition whose costs are allowed by the Court.

Next.—The remuneration of the special manager (if any).

Next.—The costs and expenses of any person who makes or concurs in making, the company's statement of affairs.

Next.—The taxed charges of any shorthand writer appointed to take an examination: Provided that where the shorthand writer is appointed at the instance of the Official Receiver the cost of the shorthand notes shall be deemed to be an expense incurred by the Official Receiver in getting in and realising the assets of the company.

Next.—The necessary disbursements of any liquidator appointed in the winding up by the Court, other than expenses properly incurred in preserving, realising or getting in the assets heretofore provided for.

Next.—The costs of any person properly employed by any such liquidator.

Next.—The remuneration of any such liquidator.

Next.—The actual out-of-pocket expenses necessarily incurred by the committee of inspection, subject to the approval of the Official Receiver.

(2) No payments in respect of bills or charges of solicitors, managers, accountants, auctioneers, brokers, or other persons, other than payments for costs and expenses incurred and sanctioned under rule 43, and payments of bills which have been taxed and allowed under orders made for the taxation thereof, shall be allowed out of the assets of the company without proof that the same have been considered and allowed by the Registrar. The taxing officer shall satisfy himself before passing such bills or charges that the employment of the solicitor or other person in respect of the matters mentioned in the bills or charges has been duly sanctioned:

Provided that the Official Receiver when acting as liquidator may without taxation pay and allow the costs and charges of any person other than a solicitor employed by him where such costs and charges are within the scale usually allowed by the Court and do not exceed the sum of $100.

(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.

STATEMENTS BY LIQUIDATOR TO THE REGISTRAR OF COMPANIES

Conclusion of winding up

180. The winding up of a company shall, for the purposes of section 269 of the Act, 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 190 of the Act;

(*b*) in the case of a company wound up voluntarily, or under the supervision of the Court, at the date of the disolution of the company, unless at such date any funds or assets of the company remain unclaimed or undistributed in the hands or under the control of the liquidator, or any person who has acted as liquidator, in which case the winding up shall not be deemed to be concluded until such funds or assets have either been distributed or paid into the companies liquidation account.

Times of sending liquidator's statements, and regulations applicable thereto

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

(*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 realised and distributed before the expiration of a half-yearly interval a final statement shall be sent forthwith;

Forms 92, 94, 95 and 96

(*b*) subject to the next succeeding rule, Form 92, and where applicable Forms 94, 95 and 96, shall be used, and the directions specified in the Form shall (unless the Court otherwise directs) be observed in reference to every statement:

Form 93

(*c*) every statement shall be sent in duplicate, and shall be verified by an affidavit in Form 93.

Affidavit of no receipts or payments

Forms 92 to 93

182. Where in a voluntary winding up or a winding up under the supervision of the Court, a liquidator has not during any period for which a statement has to be sent received or paid any money on account of the company, he shall at the period when he is required to transmit his statement, send to the Registrar of Companies the prescribed statement in Form 92, in duplicate, containing the particulars therein required with respect to the proceedings in and position of the liquidation, and with such statement shall also send an affidavit of no receipts or payments in Form 93.

UNCLAIMED FUNDS AND UNDISTRIBUTED ASSETS IN THE HANDS OF A LIQUIDATOR

Payment of undistributed and unclaimed money into companies liquidation account

183. (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 or a winding up under the supervision of the Court all other money in the hands or under the control of a liquidator of a company, representing unclaimed or undistributed assets, which under subsection (1) of section 270 of the Act, 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 authorise 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.

(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.

Form 105

(5) In a voluntary winding up or a winding up under the supervision of the Court money invested or deposited at interest by a liquidator shall be deemed to be money under his control, and when such money forms part of the minimum balance payable into the companies liquidation account pursuant to paragraph (2) of this rule, the liquidator shall realise 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 realised 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 realise the securities wholly or in part and pay the proceeds of realisation into the companies liquidation account and deal with the same in the same way as other monies paid into the said account may be dealt with.

Liquidator to furnish information to Official Receiver Form 97

184. In a voluntary winding up or in a winding up under the supervision of the Court, every person who has acted as liquidator of any company, whether the liquidation has been concluded or not, shall furnish to the 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.

Official Receiver may call for verified accounts Forms 92 to 96

185. (1) In a voluntary winding up or in a winding up under the supervision of the Court, 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.

(2) For the purposes of section 270 of the Act, and the rules, the Court shall have, and, at the instance of the Official Receiver, may exercise all the powers conferred by the Bankruptcy Act with respect to the discovery and realisation of the property of a debtor, and the provi-

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sions of that Act with respect thereto shall, with any necessary modification, apply to proceedings under section 270 of the Act.

Application to the Court for enforcing an account and getting in money

186. An application by the Official Receiver for the purpose of ascertaining and getting in money payable into the bank pursuant to section 270 of the Act, shall be made by motion.

Application for payment out by person entitled

187. An application by a person claiming to be entitled to any money paid into the bank in pursuance of section 270 of the Act, 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.

Application by liquidator for payment out

188. A liquidator who requires to make payments out of money paid into the bank in pursuance of section 270 of the Act, 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 make an order for payment to the liquidator of the sum required by him for the purposes aforesaid, or may direct cheques to be issued to the liquidator or transmission to the persons to whom the payments are to be made.

RELEASE OF LIQUIDATOR IN A WINDING UP BY THE COURT

Proceedings for release of liquidator. Forms 98, 99 and 100

189. (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.

(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 their requisite payment for the *Gazette*, which he may charge against the company's assets.

Disposal of books and papers

190. (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 of 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.

OFFICIAL RECEIVERS

Appointment

191. (1) Judicial notice shall be taken of the appointment of the Official Receiver appointed by His Majesty.

(2) When His Majesty 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.

Removal

192. Where an Official Receiver is removed from his office by His Majesty, notice of the order removing him shall be published in the *Gazette*.

Personal performance of duties

193. 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.

Assistant Official Receivers

194. An assistant official receiver, appointed by His Majesty, 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.

Powers of certain officers and Official Receivers' clerks in certain cases to act for Official Receivers

195. In the absence of the Official Receiver any officer duly authorised for the purpose by His Majesty, and any clerk of the Official Receiver duly authorised 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.

Duties where no assets

196. 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.

Accounting by Official Receiver

197. (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.

Official Receiver to act as committee of inspection where no committee of inspection appointed

198. Where there is no committee of inspection in a winding up by the Court any functions of the committee of inspection which devolve on the Court may, subject to the directions of the Court, be exercised by the Official Receiver.

Appeals from Official Receiver

199. 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.

Applications under sections 189 and 262 (3) of the Act

200. (1) An application by the Official Receiver to the Court to examine on oath the liquidator or any other person pursuant to section 189 of the Act or to confer on the Official Receiver or on any person designated by him for the purpose with respect to the company concerned the powers of investigating the affairs of the company, mentioned in subsection (3) of section 262 of the Act shall be made *ex parte*, and shall be supported by a report to the Court filed with the Registrar, stating the circumstances in which the application is made.

(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.

BOOKS TO BE KEPT AND RETURNS MADE BY OFFICERS OF COURT

Books to be kept by officers of the Court

201. (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.

Forms 101 and 102

(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.

GAZETTING IN A WINDING UP BY THE COURT

Gazetting notices Forms 103 (1) to (9)

202. (1) All notices subsequent to the making by the Court of a winding up order in pursuance of the Act or the rules requiring publication in the *Gazette* shall be gazetted by the Official Receiver.

(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 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.

Filing memorandum of *Gazette* notices Form 104

203. (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.

(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 until the contrary is proved be evidence that the advertisement to which it refers was duly inserted in the issue of the *Gazette* or newspaper mentioned in it.

ARRESTS AND COMMITMENTS

To whom warrants may be addressed

204. A warrant of arrest, or any other warrant issued under the provisions of the Act and rules, may be addressed to such bailiff or officer of the Court or police officers as the Court may in each case direct.

Prison to which person arrested on warrant is to be taken

205. Where the Court issues a warrant for the arrest of a person under any of the provisions of the Act 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.

Prison to which a person arrested is to be conveyed, and production and custody of persons arrested

206. Where a person is arrested under a warrant of commitment issued under any of the provisions of the Act and rules, other than sections 206 and 209 of the Act, and rule 56 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 206 or 209 of the Act, or under rule 56, he shall be forthwith conveyed in custody of the bailiff or officer apprehending him to such prison as aforesaid; and the Superintendent of Prisons 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.

MISCELLANEOUS MATTERS

Disposal of monies received after execution

207. (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, 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 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.

Enlargement or abridgment of time

208. 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.

Formal defect not to invalidate proceedings

209. (1) No proceedings under the Act 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.

(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.

Application of existing procedure

210. In all proceedings in or before the Court, or any Registrar or officer thereof, or over which the Court has jurisdiction under the Act and rules, where no other provision is made by the Act 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.

APPENDIX

FORMS

FORM 1 (rule 7)

Form of Summons (General)

(*Title*)

(*a*) Name of Respondent

(*b*) Name and description of applicant.

(*c*) State object of application

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*)

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 Judge (or Registrar) may think just and expedient.

FORM 2 (rule 22)

Petition

(*Title*)

To the Supreme Court of Brunei Darussalam

(*a*) Insert full name, title, etc., of petitioner

The humble petition of (*a*) showeth as follows —

1. The Company, Berhad (hereinafter called the company), was in the month of , incorporated under the Companies Act.

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

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

To

and other objects set forth in the memorandum 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 Berhad may be wound up by the Court under the provisions of the Companies Act.

(*c*) (That the voluntary winding up of the Company Berhad may be continued but subject to the supervision of the Court).

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

(*c*) Add words in brackets if supervision order is asked for

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NOTE—(*d*) It is intended to serve this petition on

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

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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.

(*a*) State consideration for the debt, with particulars so as to establish that the debt claimed is due

Your petitioner, therefore, etc. [as in Form 2].

FORM 4 (rule 24)

Advertisement of Petition

(*Title*)

(*a*) If the winding up is to be subject to supervision, insert instead of "by" the words "subject to the supervision of"

Notice is hereby given that a petition for the winding up of the above-named company by (*a*) the Supreme Court of Brunei 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.

(*b*) To be signed by the solicitor to the petitioner or by the petitioner if he has no solicitor

Signed (*b*) [Name]

[Address]

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* .

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 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 the 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 is 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 secretary) of Company Berhad, the petitioner in the above matter, and am duly authorised 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.

FORM 9 (rule 28)

Order Appointing a Provisional Liquidator after Presentation of Petition, and before order to Wind Up

the day of 19

(*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 authorised to do and the property of which he is to take possession*].

NOTE—It will be the duty of the person who is at the time secretary of chief officer of the company and of such of the persons who are liable to make out or concur in making out the company's statement of affairs as the Official Receiver may require, to attend on the Official Receiver at such time and place as he may appoint and to give him all information he may require.

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 holding (*b*) shares in) the above company intends to appear on the hearing of the petition advertised to be heard on the day of , 19 , and to support (*or* oppose) such petition.

(Signed) (*c*)

[*Address*]

(*a*) State full name, or if a firm, the name of the firm and address.
(*b*) State number and class of shares held.
(*c*) To be signed by the person or his solicitor or agent

To

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	Support-ing

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 Act.

Name of company	Registered office of company	Petitioner's solicitor	Date of presentation of petition

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 , 19

(*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 19 , 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 19 , the *Gazette* of the day of 19 , 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 Act, and that the Official Receiver, or as the case may be, be constituted provisional liquidator of the affairs of the company.

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—It will be the duty of the secretary or chief officer of the company and of such of the persons who are liable to make out or concur in making out the company's statement of affairs, as the Official Receiver may require, to attend on the Official Receiver at such time and place as he may appoint and to give him all information he may require.

FORM 15 (rule 36 (2))

Order for Winding-Up Subject to Supervision

day the day of 19

(*Title*)

Upon the petition, &c., this Court doth order that the voluntary winding up of the said Company, Berhad, be continued, but subject to the supervision of this Court; and any of the proceedings under the said voluntary winding up may be adopted as the Court shall think fit; and it is ordered that the liquidator appointed in the voluntary winding up of the said company, or other the liquidator for the time being, do on the day of next, and thenceforth every 3 months file with the Registrar a report in writing as to the position of, and the progress made with, the winding up of the said company, and with the realisation of the assets thereof, and as to any other matters connected with the winding up as the Court may from time to time direct. And it is ordered that no bills of costs, charges, or expenses, or special remuneration of any solicitor employed by the liquidator of the said company, or any remuneration, charges or expenses of such liquidator, or of any manager, accountant, auctioneer, broker, or other person, be paid out of the assets of the said company, unless such costs, charges, expenses, or remuneration, shall have been taxed or allowed by the Registrar. And it is ordered that all such costs,

charges expenses, and remuneration, be taxed and ascertained accordingly. And it is ordered that the costs of the petitioner and of [*here insert any directions as to allowance of costs of petitioner and of persons appearing*]. And the creditors, contributories, and liquidator of the said company, and all other persons interested, are to be at liberty to apply generally as there may be occasion.

FORM 16 (rule 36 (1))

Notice of Order to Wind-Up (For Newspaper)

COMPANIES ACT, CAP. 39

In the matter of , Berhad.

Winding-up order made , 19

Date and place of first meetings —

Creditors , 19 , at

Contributories , 19 , at

Official Receiver and

Provisional Liquidator

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 the items and particulars therein contained, according to the best of my knowledge and belief.

Sworn &c.

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 , 19 .)

Notice is hereby given that the first meeting of creditors in the above matter will be held at on the day of 19 , 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 , 19 .

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 19 .

Official Receiver

Address

(The statement of the company's affairs (*a*))

(*a*) Here insert "has not been lodged" or "has been lodged, and summary 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 Official Receiver.

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.

Note—If a liquidator is not appointed by the Court the Official Receiver will be the liquidator.

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 19 , 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 19 .

Dated this day of , 19

Official Receiver

Address

(The company's statement of affairs (*a*)

(*a*) Here insert "has not been lodged" or "has been lodged, and summary 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 Official Receiver.

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.

Note—If a liquidator is not appointed by the Court the Official Receiver will be the liquidator.

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*) and that you are required to attend thereat, and give such information as the meeting may require.

(*a*) Here insert place where meeting will be held

Dated this day of , 19

To (*b*) *Official Receiver*

(*b*) Insert name of person required to attend

NOTE—The failure of any director or officer to attend will be reported by the Official Receiver to the Court.

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*) qualified to vote present or represented, no resolution was passed, and the meeting was not further adjourned.

(*a*) Insert "creditors" or "contributories", as the case may be

Chairman

FORM 22 (rule 130)

List of Creditors (*a*) Present to be Used at Every Meeting

(*Title*)

Meeting held at this day of , 19

Number	Names of creditors (*a*) present or represented	Amount of proof (*b*)	
1		$	c.
2			
3			
4			
5			
6			
7			
7	Total number of creditors (*a*) present or represented		

(*a*) "Or contributories"
(*b*) In case of contributories insert "number" of shares" and "number of votes according to the regulations of the company"

FORM 23 (rule 39)

Statement of Affairs

(*Title*)

STATEMENT OF AFFAIRS on the day of 19 , the date of the winding-up order (or such other date as the Official Receiver has for special reasons directed)

I.—*As regards Creditors*

Gross liabilities		Liabilities		Expected to rank		Assets		Estimated to produce	
$	c.			$	c.			c.	
		Debts and liabilities, *viz*— (*a*) ..... Unsecured creditors as per List "A" (state number).				(*a*) Property as per List "H", *viz*— (*a*) Cash at bankers ..... (*b*) Cash in hand ..... (*c*) Stock in trade			
		(*b*) ..... creditors fully secured (not including debenture holders), as per List "B" Estimated value of securities	$ c.			(Estimated cost, $) (*d*) Machinery ..... (*e*) Trade fixtures, fittings, utensils, &c. ..... (*f*) Investments in shares, &c. ..... (*g*) Loans on mortgage. (*h*) Other property, *viz*—			
		Estimated surplus $ Carried to List "C"				(*b*) Book debts (debtors), as per List "I", *viz*— Good	$ c.		
		Balance to contra (*d*) ..... $				Doubtful ..... Bad			
		(*c*) ..... creditors partly secured, as per List "C" ..... $ *Less* estimated value of securities				Estimated to produce			
		Estimated to rank for dividend	$ c.			(*c*) Bills of exchange, or other similar securities on hand, as per List "J"	$ c.		
		(*d*) Liabilities on bills discounted other than the company's own acceptances for value, as per List "D" ..... Of which it is expected will rank for dividend.....				Estimated to produce			
		(*e*) Other liabilities as per List "E" ..... Of which it is expected will rank for dividend				(*d*) Surplus from securities in the hands of creditors fully secured (per contra) (*b*)	$ c.		
		(*f*) ..... preferential creditor for rates, taxes, wages, &c., as per List "F" deducted contra ..... $	$ c.			(*e*) Unpaid calls (debtors), as per List "K" ..... Estimated to produce			
		(*g*) Loan on debenture bonds, as per List "G" deducted contra (holders) ..... $				Estimated total assets ..... *Deduct* preferential creditors as per contra (*f*)			
						Estimated amount available to meet claims of debenture holders ..... *Deduct* loans on debenture bonds secured on the assets of the company as per contra (*g*)			

The nominal amount of unpaid capital liable to be called up is $ which is [available to meet above deficiency] or [charged to debenture holders], or as the case may be.

FORM 23—*Continued*

Statement of Affairs

I.—*As regards Creditors (Continued)*

	$	c.	$	c.		$	c.
$					Estimated amount available to meet unsecured creditors, subject to cost of liquidation		
Estimated surplus (if any) after meeting liabilities of company, subject to cost of liquidation					Estimated deficiency of assets to meet liabilities of the company, subject to cost of liquidation		
$					$		

Statement of Affairs

II.—*As regards Contributories*

	$	c.	$	c.		$	c.
Capital issued and allotted, *viz*—					Estimated surplus as above (if any) subject to cost of liquidation		
Founder' Shares of $ per share (Shareholders.) (*a*) Issued as fully paid. Amount called up at $ per share, as per List "L"							
Ordinary Shares of $ per share (Shareholders.) (*a*) Issued as fully paid. Amount called up at $ per share, as per List "M"							
Preference Shares of $ per share (Shareholders.) (*a*) Issued as fully paid. Amount called up at $ per share, as per List (*b*) Amount, if any, paid in advance of call.							
$							
Less unpaid calls estimated to be irrecoverable ..... $							
Add deficiency to meet liabilities as above					Total deficiency as explained in Statement "O"		
	$				$		

(*a*) Where capital is issued as partly paid up the form should be altered accordingly

(*b*) Add particulars of any other capital

I, of make oath and say that the foregoing statement and the several lists hereunto annexed marked are, to the best of my knowledge and belief, a full, true, and complete statement of the affairs of the above-named company, on the day of 19 , the date of the winding-up order (*a*).

Sworn at

in Brunei Darussalam this day of 19

Before me.

Magistrate

Signature

Note.—The Magistrate is particularly requested, before swearing the affidavit, 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 in any of the above respects will entail its refusal by the Court, and will necessitate its being re-sworn.

(a) Where the Official Receiver has directed any date other than the date of the winding-up order substitute such other date.

LIST "A"

UNSECURED CREDITORS

The names to be arranged in alphabetical order and numbered consecutively, creditors for $100 and upwards being placed first.

Notes.—1. When there is a contra account against the creditor, less than the amount of his claim against the company, the amount of the creditor's claim and the amount of the contra account should be shown in the third column, and the balance only be inserted under the heading "Amount of Debt", thus —

$ c.

Total amount of claim .....

Less: Contra account .....

No such set-off should be included in List "I".

2. The particulars of any bills of exchange and promissory notes held by a creditor should be inserted immediately below the name and address of such creditor.

3. The names of any creditors who are also contributories, or alleged to be contributories, of the company must be shown separately, and described as such at the end of the List.

No.	Name	Address and occupation	Amount debt		Date when contracted		Considera-tion
					Month	Year	
			$	c.			

Signature

Dated 19

LIST "B"

CREDITORS FULLY SECURED (NOT INCLUDING DEBENTURE HOLDERS)

No.	Name of creditor	Address and occupation	Amount of debt		Date when contracted		Considera-tion	Particulars of securities	Date when given	Estimated value of security		Estimated surplus from security	
					Month	Year							
			$	c.						$	c.	$	c.

Signature

Dated 19

LIST "C"

CREDITORS PARTLY SECURED

(State whether also contributories of the company)

No.	Name of creditor	Address and occupation	Amount of debt		Date when contracted		Considera-tion	Particulars of securities	Month and year when given	Estimated value of security		Balance of debt unsecured	
					Month	Year							
			$	c.						$	c.	$	c.

Signature

Dated 19

LIST "D"

LIABILITIES OF COMPANY ON BILLS DISCOUNTED OTHER THAN THEIR OWN ACCEPTANCES FOR VALUE

No.	Acceptor's name address, and occupation	Whether liable as drawer or indorser	Date when due	Amount		Holder's name, address, and occupation (if known)	Amount expected to rank for dividend	
				$	c.		$	c.

Signature

Dated 19

LIST "E"—OTHER LIABILITIES

FULL PARTICULARS OF ALL LIABILITIES NOT OTHERWISE SCHEDULED TO BE GIVEN HERE

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim		Date when liability incurred		Nature of liability	Considera-tion	Amount expected to rank against assets for dividend	
					Month	Year				
			$	c.					$	c.

Signature

Dated 19

LIST "F"

PREFERENTIAL CREDITORS FOR RATES, TAXES, SALARIES AND WAGES

No.	Name of creditor	Address and occupa-tion	Nature of claim	Period during which claim accrued due	Date when due	Amount of claim		Amount payable in full		Difference ranking for dividend	
						$	c.	$	c.	$	c.

Signature

Dated 19

LIST "G"

LIST OF DEBENTURE HOLDERS

The names to be arranged in alphabetical order and numbered consecutively. *Separate Lists* must be furnished of holders of each issue of debentures, should more than one issue have been made.

No.	Name of holder	Address	Amount		Description of assets over which security extends
			$	c.	

Signature

Dated 19

LIST "H"

PROPERTY

Full particulars of every description of property not included in any other lists are to be set forth in this list.

Full statement and nature of property	Estimated cost		Estimated produce	
(*a*) Cash at Bankers	$	c.	$	c.
(*b*) Cash in hand				
(*c*) Stock in trade, at				
(*d*) Machinery, at				
(*e*) Trade fixtures, fittings, office furniture, utensils, &c.				
(*f*) Investments in stocks or shares, &c.				
(*g*) Loans for which mortgage or other security held				
(*h*) Other property, viz—				

[State particulars]

Signature

Dated 19

LIST "I"

DEBTS DUE TO THE COMPANY

The names to be arranged in alphabetical order, and numbered consecutively.

NOTE.—If any debtor to the company is also a creditor, but for a less amount than his indebtedness, the gross amount due to the company and the amount of the contra account should be shown on the 3rd column, and the balance only be inserted under the heading "Amount of Debt", thus —

$ c.

Due to company .....

Less: Contra account .....

No such claim should be included in sheet "A".

No.	Name	Residence and occupation	Amount of debt						Folio of ledger or other book where particulars to be found	When contracted		Estimated to produce		Particulars of any securities held for debt
			Good		Doubtful		Bad			Month	Year			
			$	c.	$	c.	$	c.				$	c.	

Signature

Dated 19

LIST "J"

BILLS OF EXCHANGE, PROMISSORY NOTES, &c., ON HAND AVAILABLE AS ASSETS

No.	Name of acceptor of bill or note	Address, etc.	Amount of bill or note		Date when due	Estimated to produce		Particulars of any property held as security for payment of bill or note
			$	c.		$	c.	

Signature

Dated 19

LIST "K"—UNPAID CALLS

Consecutive No.	No. in Share Register	Name of share-holder	Address and occupation	No. of shares held	Amount of call per share unpaid		Total amount due		Estimated to realise	
					$	c.	$	c.	$	c.

Signature

Dated 19

LIST "L"

LIST OF FOUNDERS' SHARES

Consecutive No.	Register No.	Name of shareholder	Address	Nominal amount of share	No. of shares held	Amount per share called up		Total amount called up	
						$	c.	$	c.

Signature

Dated 19

LIST "M"

LIST OF ORDINARY SHARES

Consecutive No.	Register No.	Name of shareholder	Address	Nominal amount of share	No. of shares held	Amount per share called up		Total amount called up	
						$	c.	$	c.

Signature

Dated 19

LIST "N"

LIST OF PREFERENCE SHARES

Consecutive No.	Register No.	Name of shareholder	Address	Nominal amount of share	No. of shares held	Amount per share called up		Total amount called up	
						$	c.	$	c.

Signature

Dated 19

LIST "O" (1)

Deficiency Account

(1) DEFICIENCY ACCOUNT WHERE WINDING-UP ORDER MADE WITHIN 3 YEARS OF FORMATION OF COMPANY

	$	c.
I. Gross profit (if any) arising from carrying on business from date of formation of company to date of winding-up order (as per Trading Account annexed)		
II. Receipts, if any, during same period from undermentioned sources — Interest on loans ..... Interest on deposits Transfers fees ..... Amount paid on shares issued and subsequently forfeited (as per list annexed)		
III. Other receipts, if any, during same period not included under any of the above headings, *viz*.		
IV. Deficiency as per statement of affairs (Part II)		
Total amount to be accounted for (2) $		

	Amount discharged $	Amount discharged c.	Due at date of winding-up order $	Due at date of winding-up order c.	$	c.
I. Expenditure in carrying on business from date of formation of company to date of winding-up order, *viz* —						
II. General Expenditure — Salaries ..... Wages not charged in Trading Account ..... Rent ..... Rates and Taxes ..... Law costs ..... Commission ..... Interest on Loans ..... Interest on Debentures ..... Miscellaneous expenditures (as per details annexed)						
III. Directors' fees from the date of formation of company to date of winding-up order						
IV. Dividends declared during same period						
V. Losses and depreciation written off in company's books (1) — Bad debts ..... Losses on investments ..... Depreciation on property ..... Preliminary expenses						
VI. Losses and depreciation not written off in company's books, now written off by directors (1) — Bad debts ..... Losses on investments ..... Depreciation on property ..... Preliminary expenses						
VII. Other losses and expenses						
Total amount accounted for (2) $						

NOTES.—(1) Where particulars are numerous they should be inserted in a separate schedule.

(2) These figures should agree.

Signature

Dated 19

LIST "O" (2)

Deficiency Account

(2) DEFICIENCY ACCOUNT WHERE WINDING-UP ORDER MADE MORE THAN 3 YEARS AFTER FORMATION OF COMPANY

	$	c.
I. Excess of assets over capital and liabilities on the (1) day of 19 (if any) as per company's Balance Sheet (This and any previous Balance Sheets to be annexed or handed to O.R.)		
II. Gross profit (if any) arising from carrying on business from the (1) day of 19 , to date of winding-up order as per Trading Account annexed		
III. Receipt, (if any) during same period from undermentioned sources — Interest on loans ..... Interest on deposits ..... Transfers fees ..... Amounts paid on shares issued and subsequently forfeited (as per lists annexed)		
IV. Other receipts, (if any) during same period not included under any of the above headings		
V. Deficiency as per statement of affairs (Part II)		
Total amount to be accounted for (3) $		

	Amount discharged $	Amount discharged c.	Due at date of winding-up order $	Due at date of winding-up order c.	$	c.
I. Excess of capital and liabilities over assets on the (1) day of 19 (if any), as per company's Balance Sheet. (This and any previous Balance Sheets to be annexed or handed to O.R.)						
II. Expenses in carrying on business from the (1) day of 19 , to date of winding-up order, *viz* —						
General Expenditure — Salaries ..... Wages not charged in Trading Account ..... Rent ..... Rates and Taxes ..... Law costs ..... Commission ..... Interest on Loans ..... Interest on Debentures ..... Miscellaneous expenditures (as per details annexed)						
III. Directors' fees from (1) of 19 , to date of winding-up order						
IV. Dividends declared during same period						
V. Losses and depreciation from the day of , 19 (1), written off in company's books *viz* (2) — Bad debts ..... Losses on investments ..... Depreciation on property ..... Preliminary expenses						
VI. Losses and depreciation not written off in company's books, now written off by Directors (2) — Bad debts ..... Losses on investments ..... Depreciation of property ..... Preliminary expenses						
VII. Other losses and expenses (2)						
Total amount accounted for (3) $						

NOTES.—(1) 3 years before date of winding-up order.
(2) Where particulars are numerous they should be inserted in a separate schedule.
(3) These figures should agree.

Signature

Dated 19

LIST "P"

IN SUBSTITUTION FOR SUCH OF THE LISTS NAMED "A" to "O" AS WILL HAVE TO BE RETURNED BLANK

List	Particulars, as per front sheet	Remarks *Where no particulars are entered on any one or more of the Lists named "A" to "O" the word "Nil" should be inserted in this column opposite the particular List or Lists left blank*
A	Unsecured creditors	
B	Creditors fully secured (not including debenture holders)	
C	Creditors partly secured	
D	Liabilities on bills discounted other than the company's own acceptances for value	
E	Other liabilities	
F	Preferential creditors for rates, taxes, wages, &c	
G	Loans on debenture bonds	
H	Property	
I	Book debts	
J	Bills of Exchange or other similar securities on hand	
K	Unpaid calls	
L	Founders' shares	
M	Ordinary shares	
N	Preference shares	
O	Deficiency Account	

Signature

Dated 19

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 —						
	No.	Shares	Votes	No.	Shares	Votes
CONTRIBUTORIES —						

Dated this day of 19

(Signed) *H.T.*

Chairman

FORM 25 (rule 45)

Order Appointing Liquidator

(*Title*)

the day of 19

Upon the application of the Official Receiver and 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 19 , and the reports of the Official Receiver of the results of the meetings of creditors and contributories made to the Court and respectively dated the , 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 struck out if no committee of inspection appointed

(*a*) It is also ordered that the following persons be appointed a committee of inspection to act with the said liquidator, namely —

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 Official Receiver as provided by the Companies (Winding-up) Rules, 1956.

(*b*) State name of newspaper (if any)

And notice of this order is to be gazetted and advertised in the (*b*).

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 , Berhad.

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 (rule 46)

Fee $3.00

Notice of Appointment of Liquidator

Members or Creditors Voluntary Winding-Up or Winding-Up by the Court

PURSUANT TO SECTION 238

Name of company or title of proceedings (as the case may be)

To The Registrar of Companies.

I, (or We) of hereby give you notice that I (or We) have been appointed liquidator(s) of Company, Berhad by (*a*)

(Signature)

(*b*)

(*a*) State whether appointed by resolution of the company or by the creditors or by order of the Court and give date of resolution or order

(*b*) To be signed by each liquidator if more than one

Dated this day of 19

Presented for filing by

FORM 29 (rules 50-52)

Order Directing a Public Examination

(*Title*)

Upon reading the reports of the Official Receiver in the above matter, dated respectively the day of 19 , the day of 19 and

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

THE SCHEDULE REFERRED TO

Name	Address	Connexion with the company

FORM 30 (rule 54)

Order Appointing a Time for Public Examination

(*Title*)

Upon the application of the Official Receiver in the above matter, it is ordered that the public examination of who, by the order of the Court dated the day of 19 , was directed to attend before the Court to be publicly examined, be held at the High Court on the day of 19 , at o'clock in the noon.

And it is ordered that the above named do attend at the place and time above-mentioned.

Dated this day of 19

NOTES—Notice is hereby given that if you, the above-named fail, without reasonable excuse, to attend at the time and place aforesaid, you will be liable to be committed to prison without further notice.

FORM 31 (rule 54)

Notice to Attend Public Examination

(*Title*)

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

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

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

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

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

Dated this day of 19

To

Official Receiver

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.

I, the Official Receiver herein, do hereby, pursuant to rule 60 of the Companies (Winding Up) Rules, 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

Before

Upon the application of the Official Receiver 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 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

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 abovementioned.]

FORM 34 (rule 57)

Notes of Public Examination where a Shorthand Writer is Appointed

(*Title*)

Public examination of (*a*)

(*a*) Mr. an officer [*or as the case may be*] of the above-named company

Before 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

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*)

Public examination of (*a*)

(*a*) Mr. an officer [*or as the case may be*] of the above-named company

Before at the Court

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 at the memorandum of public examination of , taken before me this day of 19 .

FORM 36 (rule 61)

Report to the Court Where Person Examined Refuses to Answer to Satisfaction of Registrar or Officer

(*Title*)

(*a*) *e.g.*, *A.B.*, a person ordered to attend for examination

At the examination of (*a*) held before me this day day of 19 , the following question was [allowed by me to be] put to the said [ ].

(*b*) Here state question

Q. (*b*)

(*c*) Witness

The (*c*) refused to answer the said question.

(or) The (*c*) answered the said question as follows —

(*d*) Here insert answers (if any)

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

Dated this day of 19

Registrar

[*or as the case may be*]

FORM 37 (sec. 207)

Order on Persons to Attend at Chambers to be Examined

(*Title*)

(*a*) State place of examination

A.B. of &c., and *E.F.* of &c. are hereby severally ordered to attend at (*a*) on the day of , at of the clock in the noon, to be examined on the part of the Official Receiver [*or* the liquidator] for the purpose of proceedings directed by the Court to be taken in the above matter. [And the said *A.B.* is hereby required to bring with him and produce, at the time and place aforesaid, the documents mentioned in the schedule hereto, and

all other books, papers, deeds, writings, and other documents in his custody or power in anywise relating to the above-named company].

Dated this day of 19

This order was made on the application of *Messrs. C.* and *D.*, of Solicitors for

The schedule above referred to

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 and to the Superintendent of Prisons.

WHEREAS by an order of this Court, made on the day of 19 , (*a*) was ordered to attend before the Court on a day and at a place to be named for the purpose of being publicly examined.

(*a*) Name of person required to attend

AND WHEREAS by evidence taken upon oath, it has been made to appear to the satisfaction of the Court that the day of , 19 , at o'clock in the noon before the High Court sitting at was appointed as the time and place for holding the said examination, and that notice of the said order and of the said 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 , 19 , for the purpose of being examined, according to the requirements of the said order of this Court made on the day of 19 , directing him so to attend.)
(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 of avoiding examination under the Companies Act, 1956.

THESE ARE THEREFORE to require you the said bailiff and police officers to take the said (*a*) and to deliver him to the Superintendent of Prisons, and you the said Superintendent of Prisons to receive the said (*a*) and him safely keep in prison until such time as the Court may order.

Dated the day of , 19

Judge

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 least dated the day of , 19 , whereby the premises (*a*) were demised to at a rent of $ per annum for a term of . Notice of this disclaimer has been given to

(*a*) Insert description of the property 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 , 19 , I, , the liquidator of the above-named company, by writing under my hand bearing date the day of , 19 , disclaimed all interest in the lease dated the day of , 19 , 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 and notice thereof filed in the Land Office

Dated this day of 19

Liquidator

To

(address)

FORM 41 (rule 67)

Notice by Liquidator Requiring Payment of Money or Delivery of Books, &c., to 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)

To (*b*)

Liquidator

(Address)

FORM 42 (rule 68)

Provisional List of Contributories to be Made Out by Liquidator

(*Title*)

The following is a list of members of the company liable to be placed on the list of contributories of the said company, made out by me from the books and papers of the said 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 distinguished.

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

FIRST PART—CONTRIBUTORIES IN THEIR OWN RIGHT

Serial No.	Name	Address	Description	Number of shares [*or* extent of interest]	Amount called up (*a*)	Amount paid up (*a*)
					$	$

SECOND PART—CONTRIBUTORIES AS BEING REPRESENTATIVES OF, OR LIABLE TO THE DEBTS OF, OTHERS

Serial No.	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Amount called up (*a*)	Amount paid up (*a*)
						$	$

(*a*) At date of commencement of winding up

FORM 43 (rule 69)

Notice to Contributories of Appointment to Settle List of Contributories

(*Title*)

Take notice that I, the liquidator of the above-named company, have appointed the day of 19 , at of the clock in the noon, at (*a*) , to settle the list of the contributories of the above-named company, made out by me, pursuant to the Companies Act and the rules thereunder,

(*a*) Insert place of appointment

and that you are included in such list. The character and the number of shares [*or* extent of interest] in and for which you are included and the amount called up and the amount paid up in respect of such shares (or interest) is stated below; and if no sufficient cause is shown by you to the contrary at the time and place aforesaid, the list will be settled, including you therein.

Dated this day of 19

Liquidator

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

No. on List	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Amount called up (*a*)	Amount paid up (*a*)
						$	$

(*a*) At date of commencement of winding up

FORM 44 (rule 69)

Affidavit of Postage of Notices of Appointment to Settle List of Contributories

(*Title*)

I, a (*a*) make oath and say as follows —

(*a*) State the description of the deponent

1. That I did on the day of 19 , send to each contributory mentioned in the list of contributories made out by the [Official Receiver and] liquidator on the day of 19 , and now on the file of proceedings of the above-named company, at the address appearing in such list, a notice of the time and place of the appointment to settle the list of contributories in the form hereunto annexed, marked "A", except that in the tabular

form at the foot of such copies respectively I inserted the number, name, address, description, in what character included and (*b*) the amount called up and the amount paid up in respect of the shares (or interest) of the person on whom such copy of the said notice was served.

(*b*) "Number of shares" or "extent of interest"

2. That I sent the said notices by putting the same prepaid into the post office at before the hour of o'clock in the noon on the said day .

Sworn, &c.

FORM 45 (rule 70)

Certificate of Liquidator of Final Statement of the List of Contributories

(*Title*)

Pursuant to the Companies Act and to the rules made thereunder, I, the undersigned, being the liquidator of the above-named company, hereby certify that the result of the settlement of the list of contributories of the above-named company, so far as the said list has been settled, up to the date of this certificate, is as follows —

1. The several persons whose names are set forth in the second column of the First Schedule hereto have been included in the said list of contributories as contributories of the said company in respect of the (*a*) set opposite the names of such contributories respectively in the said schedule.

(*a*) "Number of shares" *or* "extent of interest"

I have, in the first part of the said schedule, distinguished such of the said several persons included in the said list as are contributories in their own right.

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

2. The several persons whose names are set forth in the second column of the Second Schedule hereto, and were included in the provisional list of contributories, have been excluded from the said list of contributories.

3. I have, in the sixth column of the first part of the First Schedule and in the seventh column of the second part of the First Schedule and in the same column of the Second Schedule, set forth opposite the name of each of the several persons respectively the date when such person was included in or excluded from the said list of contributories.

4. I have in the seventh and eighth columns of the first part of the First Schedule hereto and in the eighth and ninth columns of the second part of the said schedule, set forth opposite the names of each of the said persons respectively the amount called up at the date of the commencement of the winding up and the amount paid at such date in respect of their shares (or interest).

5. Before settling the said list, I was satisfied by the affidavit of , clerk to , duly filed with the proceedings herein, that notice was duly sent by post to each of the persons mentioned in the said list, informing him that he was included in such list in the character and for the (*a*) stated therein and of the amount called up and the amount paid up in respect of such shares (or interest) and of the day appointed for finally settling the said list.

Dated this day of 19

In the matter of Berhad.

The FIRST SCHEDULE above referred to

FIRST PART—CONTRIBUTORIES IN THEIR OWN RIGHT

Serial No. in List	Name	Address	Description	Number of shares [*or* extent of interest]	Date when included in the List	Amount called up	Amount paid up
						$	$

In the matter of Berhad.

SECOND PART—CONTRIBUTORIES AS BEING REPRESENTATIVES OF OR LIABLE TO THE DEBTS OF OTHERS

Serial No. in List	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Date when included in the List	Amount called up	Amount paid up
							$	$

In the matter of Berhad.

The SECOND SCHEDULE above referred to

Serial No. in List	Name	Address	Description	In what character proposed to be included	Number of shares [*or* extent of interest]	Date when excluded from the List

FORM 46 (rule 71)

Notice to Contributory of Final Settlement of List of Contributories and that his Name is Included

(*Title*)

Take notice that I, , the liquidator of the above named company, have, by certificate, dated the day of 19 , under my hand, finally settled the list of contributories of the said company, and that you are included in such list. The character and the number of shares [*or* extent of interest] in and for which you are included and the amount called up and the amount paid up in respect of such shares (or interest) is stated below.

Any application by you to vary the said list of contributories or, that your name be excluded therefrom, must be made by you to the Court by summons within 21 days from the service on you of this notice, or the same will not be entertained.

The said list may be inspected by you at the chambers of the Registrar at the Courts of Justice on any day between the hours of

and

Dated this day of 19

(Signed)

Liquidator

To Mr
[*or* to Mr
his solicitor]

No. in List	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Amount called up (*a*)	Amount paid up (*a*)
						$	$

(*a*) At date of commencement of winding up

FORM 47 (rule 73)

Supplemental List of Contributories

(*Title*)

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

2. The said supplemental list contains the names of such persons together with their respective addresses and the number of shares [*or* extent of interest] and the amount called up 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 said list such of the said persons as are contributories in their own right are distinguished.

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

[*The supplemental list is to be made out in the same form as the original list.*]

FORM 48 (rule 71)

Affidavit of Service of Notice to Contributory

(*Title*)

(*a*) State full description of the deponent

I, (*a*) of , make oath and say as follows —

1. I did on the day of 19 , in the manner hereinafter mentioned, serve a true copy of the notice now produced and shown to me and marked "A", upon each of the respective persons whose names, addresses, and descriptions appear in the second, third, and fourth columns of the First Schedule to the list of contributories of the said company made out by the [Official Receiver and] liquidator of the company on the day of 19 , and now on the file of proceedings of the said company. In the tabular form at the foot of such copies respectively I inserted the number on list, name, address, description, in what character included, and (*b*) and the amount paid up and the amount called up at the date of the commencement of the winding up in respect of the shares (or interest) of the person on whom such copy of the said notice was served, in the same words and figures as the same particulars are set forth in the said schedule.

(*b*) "Number of shares" or "extent of interest"

2. I served the said respective copies of the said notice, by putting such copies respectively, duly addressed to such persons respectively, according to their respective names and addresses appearing in the said schedule, and my placing the same prepaid in the Post Office at before the hour of o'clock in the noon of the said day of 19 .

Sworn, &c.

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 19 , 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 name of the applicant therefrom [*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 name of the said *W.N.* from the said list of contributories, or by including the name of the said *W.N.* as a contributory in the said list for shares, [*or, as the case may be*] [*or* the Court 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].

FORM 50 (rule 74 (1))

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 realise 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 realise in respect of the said amounts more than $

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

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

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

(*Annex tabular statement showing amounts of debts, costs, &c., and of assets*)

FORM 51 (rule 74 (2))

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*).

(*a*) Insert address

Dated this day of 19

Liquidator

FORM 52 (rule 74 (4))

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 day of

(*a*) Insert address

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 6 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 this 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

FORM 55 (rule 75)

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 realise in respect of the said amounts more than the sum of $ or thereabouts.

3. persons have been settled by me on the list of contributories of the said company in respect of the total number of shares.

4. For the purpose of satisfying the several debts and liabilities of the said company and of paying the costs, charges, and expenses of and incidental to 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 realising the amount required as before-mentioned, it is necessary that a call of $ per share should be made.

Sworn, &c.

FORM 56 (rule 75)

Advertisement of Application for Leave to Make a Call

(*Title*)

In the matter of

Notice is hereby given that the High Court has appointed the day of 19 , at o'clock in the noon, at , to hear an application for leave to make a call on all 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 19

Liquidator

FORM 57 (rule 75)

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 any 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

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 6 *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 Act, 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	
					$	c.

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 authorised a call to be made.

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 , 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 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 .

(*a*) Insert address

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 6 *per cent per annum* on the amounts specified in the sixth column of the said schedule from day of 19 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 married women and 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	
					$	c.

NOTE.—The copy for service of the above order must be indorsed 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."

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 indorsed 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 63 (rules 79–84)

Proof of Debt. General Form

(*Title*)

(*a*) Fill in full name, address and occupation of deponent. If proof made by creditor strike out clauses (*b*) and (*c*). If made by clerk of creditor strike out (*c*). If by clerk or agent of the company strike out (*b*).
(*d*) Insert "me and to *C.D.* and *E.F.*, my co-partners in trade (if any)", or, if by clerk or agent insert name, address, and description of principal.

: :

NOTE THIS.
(*e*) State consideration [as goods sold and delivered by me (and my said partner) to the company between the dates of (or moneys advanced by me in respect of the undermentioned bill of exchange) or, (as the case may be)].
(*f*) "My said partners or any of them" *or* "the above-named creditor" [as the case may be].
(*g*) "My", or "their", *or* "his" (as the case may be).
(*h*) [Here state the particulars of all securities held, and where the securities are on the property of the company assesses the value of the same, and if any bills or other negotiable securities be held specify them in the schedule].

You should attend carefully to these directions.

I (*a*)
of , make oath and say:

(*b*) That I am in the employ of the under-mentioned creditor, and that I am duly authorised by to make this affidavit, and that it is within my own knowledge that the debt hereinafter deposed to was incurred and for the consideration stated, and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

(*c*) That I am duly authorised, under the seal of the company hereinafter named, to make the proof of debt on its behalf.

1. That the above-named company was, at the date of the order for winding up the name, viz., the day of 19 , and still is justly and truly indebted to (*d*) in the sum of dollars for (*e*) as shown by the account endorsed hereon, or by the following account, viz.—for which sum or any part thereof I say that I have not nor hath (*f*) or any person by (*g*) order to my knowledge or belief for (*g*) use had or received any manner of satisfaction or security whatsoever, save and except the following (*h*) —

Date	Drawer	Acceptor	Amount		Due date
			$	c.	

Admitted to vote for $
the day
of 19

Official Receiver
or Liquidator

Admitted to rank for dividend for
$
this day

Official Receiver
or Liquidator

Sworn at in Brunei, this day of 19 . } [Deponent's Signature]

Before me

NOTE.—The proof cannot be admitted for voting at the first meeting unless it is properly completed and lodged with the Official Receiver before the time named in the notice convening the meeting.

Bills of Exchange or other negotiable securities must be produced before the proof can be admitted.

FORM 64 (rule 90)

Proof of Debt of Workmen

(*Title*)

(*a*) Fill in full name, address, and occupation of deponent

(*b*) On behalf of the workmen and others employed by the above-named company

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.

Sworn at in Brunei this day of 19 } Deponent's Signature

Before me

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	
					$	c.

Signature of Deponent

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 words 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 Filled 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	
	$	c.		$	c.

FORM 67 (rule 142 (1))

Notice to Creditors of Intention to Declare Dividend

(*Title*)

(*a*) Insert here "first" *or* "second", *or* "final", *or as the case may be*

A (*a*) dividend is intended to be declared in the above matter. You are mentioned in the statement of affairs, but you have not yet proved your debt.

If you do not prove your debt by the day of 19 , you will be excluded from this dividend.

Dated this day of 19

Liquidator

To [Address]

FORM 68 (rule 142 (5))

Certified List of Proofs Under Rule 142 (5) Companies (Winding Up) Rules and Application for Issue of Cheques for Dividend on Companies Liquidation Account

Re No.

I hereby certify that the following list has been compared with the proofs filed, and that the names of the creditors and the amounts for which the proofs are admitted are correctly stated.

(Signature)

Dated this day of 19

I certify that by my books the sum of $ stands to the credit of the above company with the companies liquidation account at the bank and that the sum of $ is required to meet the undermentioned dividends, on proofs which have been duly made and admitted to rank for dividend upon the company, and I have to request that orders for payment may be issued to me.

The dividend is payable on the day of 19 , and notice of declaration thereof was forwarded to the Official Receiver for insertion in the *Gazette*, on the day of 19

Liquidator

Dated this day of 19

Address to which cheques and money orders should be sent

To the Official Receiver

No.	Full name	Town on which Post Office money order should be drawn	Amount of Proof		Amount of dividend			
					Sums under $20		Sums of $20 and above	
			$	c.	$	c.	$	c.

FORM 69 (rule 142 (5))

Certified List of Proofs Filed Under Rule 142 (5) Companies (Winding Up) Rules, Special Bank Case

(*Title*)

I hereby certify that the following list has been compared with the proofs filed, and that the names of the creditors and the amounts for which the proofs are admitted are correctly stated.

(Signature)

Dated this 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

Full name	Amount of proof		Amount of dividend	
	$	c.	$	c.

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

19 .

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

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 dividend payable to me/us in this matter.

Payee's Signature

To the [Official Receiver and] Liquidator

Date

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 authorise 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 and

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 in this company.

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
				$	c.	$	c.	$	c.	$	c.	$	c.	$	c.	

(*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.

FORM 75 (rule 114)

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) (*b*)

(*a*) [Here insert purpose for which meeting called]

(*b*) "Liquidator" or "Official Receiver"

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 .

FORM 76 (rule 115)

Affidavit of Postage of Notices of Meeting

(*Title*)

(*a*) State the description of the deponent

I, a (*a*) , make oath and say as follows —

1. That I did on the day of , 19 , send to each creditor mentioned in the company's statement of affairs [*or* to each contributory mentioned in the register of members of the company] a notice of the time and place of the (*b*) in the form hereunto annexed marked "A".

(*b*) Insert here "general" or "adjourned general" or "first" meeting of creditors [or contributories *as the case may be*]

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 the last known addresses of such creditors.

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.

FORM 77 (rule 115)

Certificate of Postage of Notices (General)

(*Title*)

(*a*) Each creditor mentioned in the statement of affairs, 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*

I, a clerk in the office of the Official Receiver, hereby certify —

1. That I did on the day of , 19 , send to (*a*) a notice of the time and place of the first meeting, or (*b*) in the form hereunto annexed marked "A".

Paragraphs 2, 3 and 4 as in Form 76.

Signature

Dated this day of 19

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 , 19 , or at any adjournment thereof.

Dated this day of 19

(Signed) (2)

NOTES—(1) *The person appointed general proxy may be the Official Receiver, the liquidator, or such 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 appointer is a corporation, then the form of proxy must be under its common seal or under the hand of some officer duly authorised in that behalf, and the fact that the officer is so authorised must be stated thus —*

For the Company.

J.S. (duly authorised under the seal of the company).

Certificate to be signed by person other than creditor (or contributory) filling up the above proxy.

I, of , being a (*a*) ... hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named and in his presence, before he attached his signature (or mark) thereto.

(*a*) Here state whether clerk or manager in the regular employment of the creditor or contributory or the solicitor employed by him in connexion with the matter or a commissioner to administer oaths in the Supreme Court

Dated this day of 19

(Signature)

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.

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 credi-

tors (*or* contributories) to be held on the day of , 19 , or at any adjournment thereof, to vote (*a*) the resolution numbered in the

Dated this day of 19

(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 appointer is a corporation, then the form of proxy must be under its common seal or under the hand of some officer duly authorised in that behalf, and the fact that he is so authorised must be stated.*

Certificate to be signed by person other than creditor or contributory filling up the above proxy.

I, of , being a (*b*) hereby certify that all insertions in the above proxy are in my own hand-writing, and have been made by me at the request of the above-named and in his presence before he attached his signature (or mark) thereto.

Dated this day of 19

(Signature)

(*b*) Here state whether clerk or manager in the regular employment or the creditor or contributory or solicitor employed by him in connexion with the matter or a commissioner to administer oaths in the Supreme Court

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.

FORM 82 (rule 157)

Application to Official Receiver to Authorise a Special Bank Account

(*Title*)

We, the committee of inspection, being of opinion that Mr. of , the liquidator in the above matter, should have a special bank account for the purpose of (*a*) hereby apply to the Official Receiver to authorise him to make his payments into and out of the bank.

(*a*) Here insert grounds of application

All cheques to be countersigned by , a member of the committee of inspection, and by of

Dated this day of 19

_____
_____ } Committee of Inspection
_____

FORM 83 (rule 157)

Order of Official Receiver for Special Bank Account

(*Title*)

You are hereby authorised to make your payments in the above matter into, and out of, the bank.

[*Here insert any special terms.*]

All cheques to be countersigned by , a member of the committee of inspection, and by

Dated this day of 19

To

Liquidator Official Receiver

FORM 84 (rule 160)

Certificate and Request by Committee of Inspection as to Investment of Funds

(*Title*)

We, the committee of inspection in the above matter, hereby certify that in our opinion the cash balance standing to the credit of the above-named company is in excess of the amount which is required for the time being to answer demands in respect of such company's estate, and request that the Official Receiver will invest the sum of $ by placing the same upon fixed deposit for the space of months with the —— Bank of —— (or as may be recommended) for the benefit of the said company.

Dated this day of 19

_____
_____ } Committee of Inspection
_____

FORM 85 (rule 160)

Request by Committee of Inspection to the Official Receiver to Realise Investment

(*Title*)

We, the committee of inspection in the above matter, hereby certify that a sum of $, forming part of the assets of the above-named company, has been invested by placing the same on fixed deposit with the —— Bank of —— (or as the case may be) and that the sum of $ is now required to answer demands in respect of the said company. And we request that so much of the said investment as may be necessary for the purpose of answering such demands may be realised by the Official Receiver and placed to the credit of the said company.

Dated this day of 19

_____
_____ } Committee of Inspection
_____

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 (rule 162)

Statutory Declaration Verifying Liquidator's Account Under Section 196

(*Title*)

I, *G.H.*, of , the liquidator of the above-named company, do solemnly and sincerely declare —

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 any moneys on account of the said company **other than and except the items mentioned and specified in the said account.*

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, Cap. 12.

Declared at, &c. {

Liquidator

**Note—If no receipts or payments strike out the words in italics.*

FORM 88 (rule 163)

Liquidator's Trading Account Under Section 188

(*Title*)

G.H. the liquidator of the above-named company in account with the estate.

RECEIPTS *Dr.*				PAYMENTS *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 (rule 163)

Statutory Declaration Verifying Liquidator's Trading Account Under Section 188

(*Title*)

I, the liquidator of the above-named company, do solemnly and sincerely declare that the account hereto annexed is a full, true, and complete account of all money received and paid by me or by

any person on my behalf in respect of the carrying on of the trade or business of the company, and that the sums paid by me as set out in such account have, as I believe, been necessarily expended in carrying on such trade or business.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, Cap. 12.

Declared, &c.

Liquidator

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 Act, 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

Official Receiver

FORM 91 (rule 174)

Certificate of Taxation

(*Title*)

I hereby certifying that I have taxed the bill of costs [*or* charges] [*or* expenses] of Mr. *C.D.* [*here state capacity in which employed or engaged*] [*where necessary add* "pursuant to an order of the Court dated the day of 19 ,"], and have allowed the same at

the sum of dollars [*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

$

FORM 92 (rules 181 and 182)

[*Re*

This is the Exhibit marked "B" referred to in the affidavit of ; sworn before me this day of 19 .

Magistrate

Statement of Receipts and Payments and General Direction as to Statements

(*Name of company*)

(1) Every statement must be on sheets 13 inches by 16 inches. Size of sheets

(2) Every statement must contain a detailed account of all the liquidator's realisations and disbursements in respect of the company. the statement of realisations should contain a record of all receipts derived from assets existing at the date of the winding-up order or resolution and subsequently realised, 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 realised, the gross proceeds of sale must be entered under realisations, 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 dividends—*see* para. 5) or payments into or out of bank, or temporary investments by the liquidator, or the proceeds of such investments when realised, which should be shown separately — 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 realised.

Interest allowed or charged by the bank, bank commission, &c. and profit or loss upon the realisation of temporary investments, should however, be inserted in the accounts of realisations 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.*

Trading account

(3) When the liquidator carries on a business, a trading account must be forwarded as a distinct account, and the totals of receipts and payments on the trading account must alone be set out in the statement.

Dividends, etc.

(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 or surplus assets actually paid and those remaining unclaimed. Each list must be on sheets 13 inches by 18 inches.

(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 269 of the Companies Act

Name of company

Nature of proceedings (whether would up by the Court, or under the supervision of the Court, or voluntarily) }

Date of commencement of winding up,

Date to which statement is brought down

Name and address of liquidator

This statement is required in duplicate

Liquidator's Statement of Account pursuant to section 269 of the Companies Act

REALISATIONS					DISBURSEMENTS				
Date	Of whom received	Nature of assets realised	Amount		Date	Of whom paid	Nature of disburse-ments	Amount	
			$	c.				$	c.
		Brought forward...					*Brought forward...*		
		Carried forward...					*Carried forward...*		

* *NOTE*—No balance should be shown on this account, but only the total realisations and disbursements, which should be carried forward to the next account.

Analysis of Balance

	$	c.
Total realisations		
Total disbursements		
Balance ...	$	
	$	c.

The Balance is made up as follows —

1. Cash in hands of liquidator .....

	$ c.
2. Total payments into Bank, including balance at date of commencement of winding up (*as per Bank Book*)	
Total withdrawals from Bank	
Balance at Bank	
3. Amount in companies liquidation account	...
	$ c.
4. Amount invested by liquidator *Less* amounts realised 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 commencement of the winding up	Assets (after deducting amounts charged to secured creditors and debenture holders) ..... $	
	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		

FORM 93 (rules 181 and 182)

Affidavit Verifying Statement of Liquidator's Account Under Section 269

(*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.*

The affidavit is *not* required in duplicate, but it must in every case be accompanied by a statement on Form 92 in duplicate.

FORM 94 (rules 181 and 185)

Liquidator's Trading Account Under Section 269

(*Name of Company*)

the liquidator of the above-named company in account with the estate.

Insert here the name of the company. Insert here the name of the liquidator

This account is required in duplicate in addition to Form 92.

RECEIPTS *Dr.*				PAYMENTS *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 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 this day of 19

To the Official Receiver

Full name	Amount of proof		Amount of dividend for composition			
			Paid		Unclaimed	
	$	c.	$	c.	$	c.

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.

Liquidator

Dated this day of 19

To the Official Receiver

Full name	No. of shares	Amount returned on shares			
		Paid		Unpaid	
		$	c.	$	c.

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 19

Liquidator

To

Note.—Section 190(3) of the Companies Act, Cap. 39, enacts that "An order of the Court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact."

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 realised 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 realised without needlessly protracting the liquidation, has been realised, a 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*)

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

2. I have caused a report on my accounts to be prepared, and I request this Honourable Court to grant me a certificate of release on being satisfied therewith.

Dated this day of 19

Liquidator

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.*

	Estimated to produce as per company's statement of affairs	Receipts			Payments
		$ c.			$ c.
				By court fees (including stationery, printing and postages in respect of contributorie creditors, and debtor and fee for audit)	
				Law costs of petition ..... $ c. Law costs of solicitor to liquidator Other law costs	
				Liquidator's remuneration, *viz* —	
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	$ c.			*per cent on* $ assets realised ..... $ c. *per cent on* $ assets distributed in dividend	
Total				Shorthand writer's charges ..... Special manager's charges ..... Person appointed to assist in preparation of statement of affairs ..... Auctioneer's charges as taxed ..... Other taxed costs ..... Costs of possession and maintenance of estate ..... Costs of notices in *Gazette* and local papers ... Incidental outlay	
	$ c.				
Less —				Total costs and charges ..... $	
Payments to redeem securities ..... Costs of execution ..... Payments per trading account				*Creditors, viz* —	
				(*a*) Preferential ..... $ c. (*a*) Unsecured dividend of $ *per cent* ..... *The estimate of amount expected to rank for* ..... Amount returned to contributories	
	$				
Net realisations					
Amounts received from calls on contributories made by the liquidator				Balance	
	$				

(*a*) State number of creditors

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

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

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

Dated this day of 19

(*Signature of Liquidator*)

(*Address*)

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)	Liquid-ator

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 order

Date of presentation of petition*

(*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		Address of registered office
	Number of matter	Creditors, Date
Hour	Place	Contributories, Date
Hour	Place	

(3) NOTICE OF DAY APPOINTED FOR PUBLIC EXAMINATION

(rule 55 (1))

Name of company	Address of registered office
Number of matter	Date fixed for examination
Name 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 *per cent*
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	Liquidators'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	Liquidators'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	Liquidators's name
Liquidator's address	Date of release

FORM 104 (rule 203)

Memorandum of Advertisement or Gazetting

(*Title*)

Name of paper	Date of issue	Date of filing	Nature of order, &c.

(Signed)

FORM 105 (rule 183 (4) and section 270 (1))

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.

Date this day of 19

Official Receiver

SUBSIDIARY LEGISLATION

Rules under section 281

S.107/81

COMPANIES (AUTHORISED AUDITORS) RULES

Commencement: 1st January 1981

Citation

1. These Rules may be cited as the Companies (Authorised Auditors) Rules.

Application to be made to the State Financial Officer

2. Any qualified person may apply to the Permanent Secretary for authorisation by His Majesty the Sultan and Yang Di-Pertuan in Council to perform the duties required by the Companies Act to be performed by an auditor.

Minimum qualifications

3. A person shall be deemed to be a qualified person for the purposes of these Rules if he possesses the following minimum qualifications —

A. FOR ACCOUNTS KEPT IN ENGLISH

Associate membership of one of the following bodies —

(*a*) The Institute of Chartered Accountants of —

(i) Australia

(ii) Canada

(iii) England and Wales

(iv) Ireland

(v) New Zealand

(vi) Scotland;

(*b*) The Association of Certified Accountants;

(*c*) The Australian Society of Accountants;

(*d*) The New Zealand Society of Accountants.

B. FOR ACCOUNTS KEPT IN A LANGUAGE OTHER THAN ENGLISH

(*a*) Associate membership of one of the bodies set out in A (*a*) above; and

(*b*) Evidence of competency in the language concerned.

Permanent Secretary to examine applications

4. (1) The Permanent Secretary shall examine such application and if satisfied as to the qualifications of the applicant may refer the application for consideration of His Majesty in Council who shall not order the insertion of the name of the applicant in any part of the list required to be kept under section 131 (3) of the Companies Act by the Clerk of Council unless he deems him in all respects fit and suitable to be authorised.

(2) Where His Majesty in Council orders the insertion of the name of the applicant in any part of such list, the applicant shall not be entitled to perform the duties required to be performed by an auditor unless the Permanent Secretary has upon receipt of the fee prescribed in the Schedule issued to him a Letter of Authorisation.

(3) Every Letter of Authorisation issued under paragraph (2) shall be in force until the 31st December in the year in which it is given and may be renewed for each subsequent calendar year upon payment to the Permanent Secretary of the fee prescribed in the Schedule to these Rules.

Removal from list

5. His Majesty in Council may on the recommendation of the Permanent Secretary remove the name of any person from the authorised list on the ground that such person has failed within 2 months from the date of expiry of any Letter of Authorisation to apply to the Permanent Secretary for the renewal thereof.

Change of address to be notified to the Permanent Secretary

6. (1) Any person whose name has been inserted in the authorised list shall notify the Permanent Secretary in writing of any change of address or of his employer or of his partnership.

(2) Where a person fails to comply with the requirements of paragraph (1), the Permanent Secretary may report such failure to His Majesty in Council with the view to the removal of the name of such person from the authorised list.

SCHEDULE

The fee payable under Rule 4 (2) and Rule 4 (3) in respect of the year or part of the year	$100

Direction under section 288

S.18/57 For the purposes of the registration of companies under the Act there shall be an office, to be styled the Office of the Registrar of Companies, at Bandar Seri Begawan.