

**CAYMAN ISLANDS**



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**THE COMPANIES LAW (2009 REVISION)  
COMPANIES WINDING UP (AMENDMENT) RULES, 2010**

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**These Rules are made by the Insolvency Rules Committee pursuant to Section 155 of the Companies Law (2009 Revision)**

**1. Citation, Commencement and Interpretation**

- (1) These Rules shall be cited as the Companies Winding Up (Amendment) Rules 2010.
- (2) These Rules shall come in operation on the 1st day of March 2010.
- (3) Words and expressions used in these Rules which are also used in the Companies Winding Up Rules 2008 (referred to as "the principal rules") shall have the same meaning in these Rules as in the principal rules.

**2. Amendment of Order 9**

Order 9 of the principal rules is hereby revoked and replaced by the new Order 9 contained in Part I of the Schedule to these Rules.

**3. Amendment of Order 12**

Order 12 of the principal rules is hereby revoked and replaced by the new Order 12 contained in Part I of the Schedule to these Rules.

**4. Amendment of Order 13**

Order 13 of the principal rules is hereby revoked and replaced by the new Order 13 contained in Part I of the Schedule to these Rules.

MADE by the Insolvency Rules Committee on the 28th day of January 2010

The Honourable Anthony Smellie QC, Chief Justice

The Honourable Sam Bulgin QC, Attorney General

Graham Ritchie QC, Legal Practitioner

Simon Whicker FCA, Insolvency Practitioner

Jude Scott CPA, Public Accountant

## **SCHEDULE**

### **Part I – Amended Orders**

#### **ORDER 9**

#### **LIQUIDATION COMMITTEES**

##### **Establishment of Liquidation Committee (O.9, r.1)**

1. (1) A liquidation committee shall be established in respect of every company which is being wound up by the Court.
- (2) The provisions of this Order shall also apply to a liquidation committee required to be established pursuant to an order made under Order 4, rule 7(3)(f).
- (3) The liquidation committee shall comprise not less than three nor more than five creditors (if the official liquidator has determined that the company should be regarded as insolvent) or contributories (if the official liquidator has determined that the company should be regarded as solvent).
- (4) The liquidation committee of an insolvent company shall be elected at the first meeting of creditors convened in accordance with Order 8, rule 2.
- (5) The liquidation committee of a solvent company shall be elected at the first meeting of the contributories convened in accordance with Order 8, rule 2.
- (6) In the case of a company determined by its official liquidator to be of doubtful solvency, the liquidation committee shall comprise not less than three nor more than six members, of whom a majority shall be creditors elected at a meeting of creditors and at least one of whom shall be a contributory elected at a meeting of contributories.
- (7) If the official liquidator is satisfied, for whatever reason, that it will be practically impossible to establish a liquidation committee in accordance with the foregoing rules, he shall apply to the Court for –
  - (a) a direction dispensing with the need to establish any liquidation committee; or
  - (b) a direction permitting the establishment of a liquidation committee with a fewer number of members or a different combination of creditors and contributories.
- (8) After the liquidation committee has been established, the official liquidator may, with the consent of a majority of the remaining members of the committee, appoint a creditor or contributory (as the case may be) to fill any vacancy.
- (9) The liquidation committee does not come into being, and accordingly cannot act, until the official liquidator has issued a certificate in CWR Form No. 15 of its due constitution, which shall state the name, address and contact details of each member.

- (10) The official liquidator's certificate shall be filed in Court.

### **Membership of Liquidation Committee (O.9, r.2)**

2. (1) A liquidation committee cannot be established unless and until it has the minimum number of members required by Rule 1 or by virtue of a direction made under Rule 1(7)(b).
- (2) Any creditor of the company (other than one whose debt is fully secured) is eligible to be a member of a liquidation committee, so long as –
- (a) he has lodged a proof of his debt; and
  - (b) his proof has neither been wholly disallowed for voting purposes nor wholly rejected for purposes of distribution or dividend.
- (3) If some or all of the shares of a company are registered in the name of a custodian or clearing house, a beneficial owner of the shares may be elected as a member of the liquidation committee provided that the custodian or clearing house certifies in writing that it is holding the shares (the number of which must be specified) as custodian or nominee on behalf of such person.
- (4) A corporate member of the liquidation committee must be represented by an individual who is duly authorised in writing by a letter sent to the official liquidator at least 2 days before any meeting in which he intends to participate unless the official liquidator agrees to dispense with notice.
- (5) If an individual member of the liquidation committee becomes bankrupt, his trustee in bankruptcy shall be recognised as a member of the committee in his place.
- (6) If a corporate member of the liquidation committee is put into liquidation under this Law or made the subject of a bankruptcy or reorganisation proceeding under the law of a foreign country, it shall continue to be a member of the committee if and so long as its official liquidator, trustee, receiver or administrator or other appointee consents to act as its representative.

### **Official Liquidator's Duty to Report (O.9, r.3)**

3. (1) It is the duty of the official liquidator to report to the members of the liquidation committee on all such matters as appear to him to be, or such matters as the members have indicated to him as being, of concern to them with respect to the winding up.
- (2) The official liquidator need not comply with a request for information where it appears to him that –
- (a) the request is frivolous or unreasonable;
  - (b) the cost of complying would be excessive, having regard to the relative importance of the information; or
  - (c) there are not sufficient assets to enable him to comply.

- (3) The official liquidator shall communicate information to members of the liquidation committee in whatever way may be agreed between them, including –
  - (a) orally by telephone;
  - (b) in writing, transmitted by facsimile or e-mail; or
  - (c) by accessing a website.
- (4) The official liquidator shall provide each member of the liquidation committee with a written report and accounts and convene a first meeting within 3 months of the committee's establishment and thereafter he shall convene a meeting –
  - (a) on such dates or at such intervals as may be resolved by the committee; or
  - (b) if so requested in writing by any two members of the committee; and
  - (c) in any event, not less than once every six months.
- (5) A "meeting" of the liquidation committee may take the form of –
  - (a) a physical meeting at the official liquidator's office or such other place as may be resolved upon by the committee, in which case the official liquidator must give at least 10 business day's notice of the meeting and any member who cannot attend in person must be allowed to participate by telephone; or
  - (b) a telephone conference call, in which case the official liquidator must give at least 5 business day's notice of meeting;

#### **Proceedings of Liquidation Committee (O.9, r.4)**

4. (1) The official liquidator shall attend every meeting of the liquidation committee, either in person or by a duly authorised representative who must be a partner or employee of the official liquidator's firm having experience in insolvency matters.
- (2) The quorum for a meeting of the liquidation committee shall be the official liquidator (or his representative) and at least two members.
- (3) The chairman of the meeting shall be the official liquidator (or his representative) unless the members resolve that one of their number should act as chairman.
- (4) The chairman at any meeting may call upon a person claiming to act as a committee-member's representative to produce his letter of authority and may exclude him if it appears that his authority is defective.
- (5) The official liquidator shall prepare an agenda for each meeting including –
  - (a) all the matters which the official liquidator intends to put before the meeting;
  - (b) any matter which a committee-member intends to put before the meeting; and
  - (c) any resolutions which the official liquidator or any committee member intends to put to a vote.

- (6) The official liquidator shall be responsible for taking the minutes of the meeting, a draft of which shall be prepared and circulated to all the members within 14 days after the meeting.
- (7) Each committee member shall have one vote and a resolution is passed when a majority of members present or represented (either in person or by telephone) have voted in favour of it.
- (8) If the liquidation committee comprises both creditors and contributories, a resolution is passed only when a majority of the creditor members and a majority of contributory members present or represented (either in person or by telephone) have voted in favour of it.
- (9) Whenever the official liquidator considers that it would be impractical or unnecessary to convene a meeting of the liquidation committee for the purpose of considering any resolution, he may send a copy of it to each member, inviting them to deal with it as a written resolution, and it shall be treated as passed if every member of the committee signs it within 14 days.

#### **Counsel to the Liquidation Committee (O.9, r.5)**

5. (1) The liquidation committee may resolve to appoint an attorney to give legal advice to the committee, either generally or in respect of any specific matter arising in connection with the liquidation.
- (2) The attorney appointed in accordance with this Rule is referred to as "counsel to the liquidation committee".
- (3) The legal fees and expenses reasonably and properly incurred by the liquidation committee shall be paid out of the assets of the company as an expense of the liquidation.
- (4) If the official liquidator or any committee member considers that the amount of the fees and expenses charged by counsel to the liquidation committee is excessive, he may require that such fees and expenses be taxed on the indemnity basis in accordance with Order 25.
- (5) Conversely, if counsel to the liquidation committee considers that the amount which the official liquidator offers to pay is inadequate, he may require that his bill of costs be taxed on the indemnity basis in accordance with Order 25.
- (6) Counsel to the liquidation committee shall be entitled to be paid out of the assets of the company as an expense of the liquidation the amount(s) stated in the costs certificate and the official liquidator shall have no authority to pay more than that amount.

### **Travel and Other Expenses of Committee Members (O.9, r.6)**

6. (1) Travelling expenses and/or telephone charges reasonably and properly incurred by committee members or their representatives in attending meetings of the liquidation committee shall be reimbursed by the official liquidator out of the assets of the company.
- (2) No other expenses incurred by any committee member in connection with the liquidation shall be reimbursed unless such expense was incurred –
  - (a) pursuant to a resolution of the liquidation committee; and
  - (b) with the prior approval of the liquidator.

### **Resignation and Removal of Committee Members (O.9, r.7)**

7. (1) A committee member may resign by notice in writing delivered to the official liquidator.
- (2) A creditor's membership of the liquidation committee is automatically terminated if he ceases to be a creditor by reason of the fact that –
  - (a) his proof of debt has been wholly rejected; or
  - (b) his claim has been paid in full.
- (3) A contributory's membership of the liquidation committee is automatically terminated if –
  - (a) he ceases to be a registered member of the company; or
  - (b) the custodian or clearing house withdraws the certificate issued pursuant to Rule 1(2).
- (4) Any person's membership of the liquidation committee is automatically terminated if he (or his representative) fails to attend three successive committee meetings either in person or by telephone.
- (5) Any member of the liquidation committee may be removed by a resolution passed at a meeting of which the member in question has been given at least 14 day's prior notice (referred to in this Rule as a "removal resolution").
- (6) A removal resolution may be proposed by the official liquidator or any committee member.
- (7) It shall not be necessary to give any reasons for proposing a removal resolution, nor shall the liquidation committee or the official liquidator be required to give the former member any reasons for passing a removal resolution.



## **ORDER 12**

### **SETTLING LIST OF CONTRIBUTORIES**

#### **Introduction (O.12, r.1)**

1. (1) The official liquidator is required by section 112 of the Law to settle a list of contributories for the purposes of –
  - (a) identifying those members who are liable to contribute to the assets of the company and ascertaining the amount of their respective contributions; and
  - (b) identifying those members who are entitled to participate in the distribution of surplus assets available after the company's creditors have been paid in full and ascertaining the amount of their respective entitlements.
- (2) The official liquidator need not settle any list for the purpose stated in Rule 1(1)(a) unless the company was incorporated on the basis that its members' liability is unlimited or is limited by guarantee or it appears to him that the company has issued partly paid shares.
- (3) The official liquidator shall not settle any list for the purpose stated in Rule 1(1)(b) unless and until he is satisfied that the company is or will become solvent.

#### **Rectification of the Register of Members (O.12, r.2)**

2. (1) The official liquidator shall exercise his power to rectify the company's register of members under section 112(2) if he is satisfied that –
  - (a) the company is or will become solvent;
  - (b) the company has from time to time issued redeemable shares at prices based upon a mis-stated net asset value which is not binding upon the company and its members by reason of fraud or default, with the result that the company has issued an excessive or inadequate number of shares in consideration for the prices paid by one or more subscribers; and/or
  - (c) the company has redeemed shares at prices based upon a mis-stated net asset value which is not binding upon the company and its members by reason of fraud or default, with the result that the company has paid out excessive or inadequate amounts to former members in consideration for the redemption of their shares.
- (2) Subject to paragraph (3), for the purposes of rectifying the register of members in accordance with this Rule, the official liquidator shall determine the true net asset value of the company as at each relevant redemption date.
- (3) The true net asset value of the company shall be determined in accordance with the accounting principles specified for this purpose in its articles of association or, if none

are specified, in accordance with whatever generally accepted accounting principles are adopted by the official liquidator .

- (4) The register of members, when rectified by the official liquidator in accordance with section 112(2) of the Law, shall state, as at each relevant redemption date –
- (a) the identity of each subscriber, the amount of money subscribed and the number of shares which ought to have been issued to him (applying the true net asset value per share);
  - (b) the identity of each member who redeemed shares, the number of shares redeemed and the amount of redemption proceeds which ought to have been paid to him (applying the true net asset value per share);
  - (c) the identity of the company's members and the number of shares which ought to have been held by each member, had the subscriptions and redemptions been done at the true net asset value per share,

and the company's share register shall be rectified accordingly.

- (5) If the official liquidator considers that it will be impractical or not cost effective to rectify the company's register of members in accordance with paragraphs (2) and (3) of this Rule, he shall nevertheless rectify the register in such manner which is both cost effective and fair and equitable as between the shareholders.

### **Notification of Rectification (O.12, r.3)**

3. (1) When the official liquidator rectifies the register of members of a company in accordance with Rule 2, a notice of rectification in CWR Form No. 17 and a copy of the rectified register of members shall be filed in Court and served upon every person who is or was a member of the company at any relevant time.
- (2) The official liquidator's notice shall be served together with an explanatory report which shall –
- (a) state the grounds upon which the official liquidator exercised his powers;
  - (b) explain how the official liquidator's determination of the company's true net asset value differs from that published from time to time by authority of the company's directors;
  - (c) contain the rectified register of members; and
  - (d) explain the methodology adopted by the official liquidator for the purpose of rectifying the register of members.

### **Appeal Against Rectification (O.12, r.4)**

4. (1) Any member or former member of the company who is dissatisfied with the official liquidator's decision to exercise his powers under section 112(2) of the Law and/or the manner in which he has rectified the register of members may appeal to the Court.

- (2) An appeal under this Rule shall take the form of a sanction application made by summons in CWR Form No. 18.
- (3) Every summons under this Rule shall be served on the official liquidator within 90 days of the date upon which the rectification notice is filed in Court and, unless the Court otherwise directs, the official liquidator shall serve the summons upon every member or former member identified in the rectified register.
- (4) If the appeal is put on the basis that the official liquidator was not properly entitled to exercise his power under section 112(2), it must be supported by an affidavit containing all the facts and matters upon which the appellant relies.
- (5) If the appeal is put on the basis that the official liquidator was admittedly entitled to exercise his power, but he exercised it in a manner in which no liquidator could reasonably have exercised it in all the circumstances, it must be supported by an expert report which addresses the valuation and/or methodology issues raised in the summons.
- (6) It shall be the duty of the official liquidator to swear an affidavit in reply or make a report which states whether he –
  - (a) supports any aspect of the appeal;
  - (b) opposes the appeal, in which case his affidavit or report must contain the evidence, analysis and statements of opinion upon which he relies in opposition to the appeal;
  - (c) adopts a neutral position, in which case his affidavit or report must contain any evidence, analysis or opinion, not already before the Court, which he considers to be relevant to the Court's decision.
- (7) Order 11, rule 2(5) and rule 3 shall apply to an appeal under this Rule as they apply to a sanction application.

## **ORDER 13**

### **VOLUNTARY (SOLVENT) LIQUIDATIONS**

#### **Introduction (O.13, r.1)**

1. (1) The liquidation of a company is referred to as a "voluntary liquidation" or "voluntary winding up" if it was commenced in accordance with one or other of the methods stated in section 116 of the Law.
- (2) The liquidator appointed by the company in accordance with section 119 of the law is referred to as the "voluntary liquidator" unless and until he is appointed as an official liquidator pursuant to a supervision order.
- (3) The liquidation of a company which has commenced voluntarily may continue as a voluntary liquidation if, and only if, a declaration of solvency has been made by all its directors and filed with the Registrar of Companies in accordance with Order 14.
- (4) If the company's directors have failed to make a declaration of solvency within 28 days from the commencement of the liquidation, the voluntary liquidator must apply to the Court for a supervision order within 7 days thereafter.

#### **Notice of Voluntary Winding Up (O.13, r.2)**

2. (1) Within 28 days of the commencement of a voluntary liquidation, the voluntary liquidator or, in the absence of any liquidator, the directors shall –
  - (a) file with the Registrar of Companies a notice of the winding up in CWR Form No. 19;
  - (b) file with the Registrar of Companies the voluntary liquidator's consent to act in CWR Form No. 20;
  - (c) in the case of a company carrying on a regulated business, send to the Authority copies of the notices and any declaration registered with the Registrar of Companies pursuant to paragraphs (a), (b) and (c) of this sub-rule; and
  - (d) publish notice of the voluntary winding up (in CWR Form No. 19) in the Gazette.
- (2) Within 28 days of the commencement of a voluntary liquidation, the voluntary liquidator shall file with the Registrar of Companies the directors' declaration(s) of solvency or, in the absence of any declaration of solvency, a notice in CWR Form No. 22 stating that a supervision petition has been presented to the Court.
- (3) The voluntary liquidator shall provide copies of the documents specified in sub-rules (1) and (2) on request to any member or creditor of the company and any person who was a director or professional service provider of the company immediately prior to the commencement of the liquidation.

### **Appointment of Voluntary Liquidator (O.13, r.3)**

3. (1) A voluntary liquidator –
  - (a) may be appointed by a resolution of the company; or
  - (b) assume office automatically pursuant to section 119(2)(a).
- (2) The appointment of a voluntary liquidator by resolution of the company shall not take effect unless and until a consent to act in CWR Form No. 20 has been signed by the person appointed and filed with the Registrar of Companies.
- (3) If two or more persons have been appointed as voluntary liquidators jointly, the consent to act must be signed by all of them.
- (4) If two or more persons have been appointed as voluntary liquidators with power to act either jointly or severally, any one whose consent to act has been filed with the Registrar of Companies may act alone unless and until the others have consented to act.
- (5) If, for whatever reason, the office of voluntary liquidator is vacant and the directors fail to convene a general meeting or the members fail to pass a resolution appointing a voluntary liquidator, any contributory or creditor of the company may apply to the Court for an order appointing a voluntary liquidator.
- (6) Upon the appointment of a voluntary liquidator becoming effective in accordance with sub-rule (2), the powers of the directors shall cease automatically except to the extent that
  - (a) any power has been expressly reserved to the directors by a resolution passed at a general meeting of the company; or
  - (b) the voluntary liquidator has delegated any power to the directors or otherwise sanctioned the continuance of any power of the directors.
- (7) Except to the extent that any power has been reserved to the directors, a voluntary liquidator shall have all the powers of an official liquidator (as stated in the Third Schedule to the Law) and may exercise those powers without the sanction of a resolution of the company's members.

### **Resignation of Voluntary Liquidator (O.13, r.4)**

4. (1) A voluntary liquidator who wishes to resign shall –
  - (a) prepare a report and accounts complying with the requirements of Rule 8; and
  - (b) convene a general meeting of the company for the purpose of approving his report and accounts, accepting his resignation, releasing him from the performance of any further duties and appointing a successor.
- (2) In the event that the company fails to pass any resolution (either because there is no quorum or the resolution is voted upon but not passed), the voluntary liquidator may

apply to the Court for an order that he be released from the performance of any further duties.

- (3) Where two or more persons have been appointed as joint voluntary liquidators (whether empowered to act only jointly or jointly and severally) one may resign by filing a notice of resignation with the Registrar of Companies (without the need to prepare any report and accounts) and the remaining liquidator(s) shall continue in office, whether or not the outgoing liquidator is replaced.

#### **Death of Voluntary Liquidator (O.13, r.5)**

5. (1) Where the voluntary liquidator dies in office, it is the duty of his personal representative to give notice of his death (including the date of death) to the company's directors and to the Registrar of Companies.
- (2) Alternatively, if the voluntary liquidator was a partner or employee of a firm, his firm may give notice of his death.
- (3) Following the death of the voluntary liquidator (where he was acting as sole liquidator), the directors shall, within 28 days of the notification of his death, convene a meeting of the company for the purpose of appointing a new liquidator, failing which any director or member of the company may apply to the Court for an order appointing a new liquidator.
- (4) If a deceased liquidator was appointed jointly, the survivor shall continue to act as sole liquidator unless and until the company resolves to appoint an additional person to act jointly with him.

#### **Removal of Voluntary Liquidator (O.13, r.6)**

6. (1) A voluntary liquidator may be removed from office by an ordinary resolution passed at a general meeting of the company convened especially for the purpose by any member or members holding not less than one fifth of the company's issued share capital or entitled to not less than one fifth of the votes if the company does not have a share capital.
- (2) The voluntary liquidator shall be entitled to receive notice of any meeting convened in accordance with sub-rule (1).
- (3) At a meeting convened in accordance with sub-rule (1) the company shall also consider and resolve upon –
  - (a) whether the outgoing voluntary liquidator should be released from the performance of any further duties without the need to prepare and distribute any further report or accounts; and
  - (b) the appointment of a successor liquidator.
- (4) If the company fails to pass a resolution that the outgoing voluntary liquidator be released from the performance of any further duties, he shall prepare a report and

accounts within 28 days from the date of his removal and may apply to the Court for an order that he be released from the performance of any further duties.

### **Voluntary Liquidator's Reporting Obligations (O.13, r.7)**

7. (1) The voluntary liquidator shall prepare reports and accounts with respect to his conduct of the liquidation and the state of the company's affairs.
- (2) In addition to preparing annual reports and accounts (in compliance with section 126) and the final report and accounts (in compliance with section 127), the voluntary liquidator shall prepare and send to the company's members such other reports and accounts as he considers appropriate.
- (3) The voluntary liquidator's reports and accounts shall be sent to the company's members (by whatever means is authorised by its articles of association) together with notice of a general meeting convened for the purpose of considering and, if thought fit, approving such report and accounts.
- (4) The voluntary liquidator shall, on request, send copies of his reports and accounts to any creditor of the company whose debt has not been paid in full.

### **Form and Content of Reports and Accounts(O.13, r.8)**

8. (1) The voluntary liquidator's report shall constitute a narrative description and analysis of the steps taken and, the case of an interim report, the further steps intended to be taken in the liquidation.
- (2) The voluntary liquidator's report and accounts shall provide the company's members with all the information necessary to enable them to make an informed decision about the company's financial condition.
- (3) The voluntary liquidator's accounts shall be presented in the company's functional currency and include details of :-
  - (a) the nature of the company's assets;
  - (b) any security over the company's assets;
  - (c) the amount realized upon sale of the company's assets and the estimated realizable value of any unsold assets;
  - (d) the nature of the company's liabilities including contingent liabilities, the amounts paid in satisfaction of the liabilities and the amount remaining unpaid;
  - (e) the nature and amount of the company's income;
  - (f) the expenses of the liquidation;
  - (g) the amount of the liquidator's remuneration; and
  - (h) the amount distributed and the amount available for distribution to members.

### **Voluntary Liquidator's Remuneration (O.13, r.9)**

9. (1) The basis of the voluntary liquidator's remuneration and the amount of his remuneration shall be authorised by resolution of the company.
- (2) The company may resolve to remunerate the voluntary liquidator on the basis of –
- (a) an hourly rate (or scale of rates) for the time reasonably and properly devoted to the liquidation;
  - (b) a fixed sum;
  - (c) a commission or percentage of the assets distributed or realised; or
  - (d) a combination of these methods.
- (3) The voluntary liquidator shall not be entitled to receive payment of any remuneration out of the company's assets without the prior approval of a resolution passed at a general meeting of the company except that –
- (a) the amount of remuneration specified in the voluntary liquidator's final report and accounts may be paid if the final general meeting has been duly convened but no member attends and votes either in person or by proxy; and
  - (b) any remuneration may be paid with the Court's approval.

### **Applications to Court (O.13, r.10)**

10. (1) Every originating application made to the Court by a voluntary liquidator or any contributory or creditor of a company in voluntary liquidation, whether pursuant to Part V of the Law and/or pursuant to this Order, shall be made by petition.
- (2) A petition by which the voluntary liquidator or any contributory seeks an order for directions pursuant to section 129 shall be served –
- (a) in the case of a liquidator's petition, upon every member of the company unless the Court directs otherwise or directs that the petition be advertised;
  - (b) in the case of a contributory's petition, upon the voluntary liquidator who shall serve it upon every member unless the Court directs otherwise or directs that the petition be advertised.
- (3) A petition by a liquidator or former liquidator for his release (under Rules 4 or 6) shall be served upon –
- (a) the successor liquidator; and
  - (b) the members of the liquidation committee (if any);
  - (c) every member of the company, unless the Court directs otherwise.
- (4) A petition pursuant to section 121(3) for an order that a voluntary liquidator be removed from office shall contain full particulars of all the facts and matters relied



upon in support of the allegation that he is not a fit and proper person to hold such office and shall be served upon –

- (a) the voluntary liquidator; and
  - (b) the liquidation committee (if any);
  - (c) every member of the company, unless the Court directs otherwise.
- (5) A petition pursuant to section 119(4)(b) and Rule 3(5) for an order appointing a voluntary liquidator (when the office has been left vacant) need not be served on any members of the company.
- (6) Every petition under this Rule must be supported by an affidavit unless all the facts and matters relied upon in support of the petition are contained in a liquidator's report.
- (7) Every petition under paragraphs (4) or (5) must be supported by an affidavit sworn by the person nominated for appointment as voluntary liquidator stating that –
- (a) he is a qualified insolvency practitioner;
  - (b) having made due enquiry, he believes that he and his firm meet the criteria for independence contained in Regulation 6;
  - (c) he and/or his firm are in compliance with the requirements of Regulation 7 relating to insurance; and
  - (d) he is willing to act as official liquidator if so appointed by the Court.
- (8) Any petition under this Rule may be heard in chambers unless the Court has directed that it be advertised, in which case it must be heard in open court.

### **General Meetings of the Company (O.13, r.11)**

- 11.** (1) In the event of a voluntary winding up continuing for more than one year, the voluntary liquidator shall convene an annual general meeting of the company no later than the end of the first year from the commencement of the winding up and annually thereafter for the purpose of considering and, if thought fit –
- (a) approving the voluntary liquidator's interim report and accounts;
  - (b) approving the voluntary liquidator's remuneration for the period up to the date of his interim accounts; and
  - (c) resolving upon any other matters upon which the voluntary liquidator considers that it is necessary or appropriate for the company to resolve.
- (2) Notice of every general meeting of the company convened by its voluntary liquidator shall be given in accordance with its articles of association, except that -
- (a) every notice of a general meeting must be accompanied by the voluntary liquidator's report and accounts;
  - (b) at least 21 days notice must be given of the final general meeting; and

- (c) notice of the final general meeting shall be published in the Gazette.
- (3) Notice of a general meeting convened by the voluntary liquidator may be given by any method authorised by the company's articles of association. Notice ....

**Voluntary Liquidator's Final Return (O.13, r.12)**

- 12.** (1) As soon as the company's affairs are fully wound up, the voluntary liquidator shall convene a final meeting of the company for the purpose of considering and, if thought fit –
- (a) approving the voluntary liquidator's final report and accounts (including the provisions for any unpaid expenses);
  - (b) approving the voluntary liquidator's remuneration (including provision for work still to be done);
  - (c) resolving upon the retention and destruction of the company's books and records;
  - (d) resolving upon the method of dealing with the proceeds of any dividend cheques which remain uncleared for more than six months,
- referred to in this Rule as "the final resolutions".
- (2) In the event that –
- (a) the final resolutions are passed; or
  - (b) no quorum is present (in person or by proxy),
- the voluntary liquidator shall file a Final Return with the Registrar in CWR Form No.37 with the result that the company is deemed to be dissolved after the expiry of three months from the date upon which the Final Return is registered.
- (3) In the event that a quorum is present at the final general meeting of the company and the final resolutions are not passed, the liquidation shall continue.

**CWR Form No. 21**  
**Declaration of Solvency (O.14, r.1)**

THE COMPANIES LAW

DECLARATION OF SOLVENCY

[Name of company] (In voluntary liquidation)

Registration No \_\_\_\_

I/we, [state the name or names of the directors], being [a] director[s] of the Company do solemnly and sincerely declare that I/we have made a full inquiry into the affairs of the Company and that, having done so, we believe that the Company will be able to pay its debts in full, together with interest at the prescribed rate within a period of twelve (12) months from the commencement of the winding up [or state a shorter period].

1 \_\_\_\_\_

[Signature of Director]  
[Full Name and Address of Director]  
Date of signature : [insert date]  
Date of appointment as director: [insert date]

2 \_\_\_\_\_

[Signature of Director]  
[Full Name and Address of Director]  
Date of signature : [insert date]  
Date of appointment as director : [insert date]

3 etc.

**Explanatory Notes:**

1. A Declaration of Solvency must be signed by all the Directors. They may all sign a single document. Alternatively, they may each sign separate documents in identical terms, in which case the Declaration of Solvency will become effective only when the last Director has signed his copy.
2. The Declaration of Solvency must be filed with the Registrar of Companies within 28 days of the commencement of the liquidation, failing which the voluntary liquidator will be obliged to make an application to the Court for an order that the liquidation continue under the supervision of the Court.

**CWR Form No. 22**

**Advertisement (Application for Supervision Order) (O.15, r.5)**

THE COMPANIES LAW

[*Name of company*] (In voluntary liquidation)

Grand Court Cause No \_\_\_\_

TAKE NOTICE that: -

1. The above-named Company was put in to voluntary liquidation on [*state commencement date*].
2. A petition has been presented to the Grand Court of the Cayman Islands by the Voluntary Liquidator [*or as the case may be*] for an order that the liquidation continue under the supervision of the Court.
3. The hearing of the petition will take place at the Law Courts, George Town, Grand Cayman on [*state date*] at [*state time*].
4. Any member or creditor of the Company is entitled to appear at the hearing of the petition for the purpose of being heard upon the question of who should be appointed as official liquidator of the Company. Any member or creditor wishing to be heard must serve a notice of appearance upon the Voluntary Liquidator not less than three (3) days prior to the hearing date.

Dated this            day of            20\_\_.

\_\_\_\_\_  
[*Signature of Voluntary Liquidator*]

**CWR Form No. 37**

**Voluntary Liquidator's Final Return to the Registrar**

THE COMPANIES LAW

VOLUNTARY LIQUIDATOR'S FINAL RETURN

[*Name of company*] (In voluntary liquidation)

Registration No \_\_\_\_

To: The Registrar of Companies

TAKE NOTICE that the Final General Meeting of the above-named Company was duly convened in accordance with Section 127(3) of the Law and held on [*state date*]

AND FURTHER TAKE NOTICE that a quorum was present (in person or by proxy) and that the final resolutions were passed with the result that the Company is deemed to be dissolved upon the expiration of three months from the date upon which this Final Return is registered.

*OR*

[AND FURTHER TAKE NOTICE that a quorum was not present with the result that the Company is deemed to be dissolved upon the expiration of three months from the date upon which this Final Return is registered.]

Dated this            day of            20\_\_.

\_\_\_\_\_

[*Signature of Voluntary Liquidator*]