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**FOUNDATIONS (WINDING UP) RULES****ARRANGEMENT OF SECTIONS**

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**CHAPTER 369D****FOUNDATIONS****FOUNDATIONS (WINDING UP) RULES  
(SECTION 75)***SI 46/2007**[Commencement 4th June, 2007]***PRELIMINARY**

**1.** These Rules may be cited as the Foundations (Winding up) Rules. Citation.

**2.** In these Rules — Interpretation.

“the Act” means the Foundations Act; Ch. 369D.

“the foundation” means a foundation which is being wound-up;

“the Court” means the Supreme Court;

“Form” means the Form prescribed in the Schedule;

“judge” means a Justice of the Supreme Court;

“liquidator” means the official liquidator as referred to in the Act;

“prescribed” in relation to fees or charges means prescribed by the Rules of the Supreme Court;

“proceedings” means the proceedings in the winding up of a foundation under the Act;

“Registrar” means the Registrar of the Supreme Court;

“the Rules” means these Rules, and includes the Forms prescribed in the Schedule to these Rules;

“sealed” means sealed with the seal of the Supreme Court;

“Taxing Master” means the taxing masters referred to in section 69 of the Supreme Court Act. Ch. 53.

**3.** Subject to the limitations hereinafter mentioned, these Rules shall apply to the proceedings in every winding Application of Rules.

up by the Court and also (unless the context or subject matter otherwise requires) to every winding up subject to the supervision of the Court which shall commence on and after the date on which these Rules come into operation, and they shall also, so far as practicable, and subject to any general or special order of the Court, apply to the proceedings in every winding up by the Court and also to every winding up subject to the supervision of the Court which shall have commenced before the date on which these Rules came into operation.

### COURTS AND CHAMBERS

Matters in Court  
to be heard in  
Court and  
Chambers.

**4.** (1) The following matters and applications in the Court shall be heard in open court —

- (a) petitions;
- (b) applications for the committal of any person to prison for contempt;
- (c) such matters and applications as the judge may from time to time by any general or special order direct to be heard in open court.

(2) Examinations of persons summoned before the Court under 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.

Applications in  
Chambers.

**5.** Subject to the provisions of the Act and the Rules —

- (a) the Registrar may under the general or special directions of the judge hear and determine any application or matter which under the Act and the Rules may be heard and determined in Chambers;
- (b) any matter or application before the Registrar may at any time be adjourned by him to be heard before the judge either in Chambers or in Court;
- (c) any matter or application may, if the judge or, as the case may be, the Registrar thinks fit, be adjourned from Chambers to Court or from Court to Chambers.

**6.** (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 two clear days before the day named in the notice for hearing the motion.

Motions and summonses

(2) Every application in Chambers shall be made by summons in Form 1 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.

Form 1

## PROCEEDINGS

**7.** Every proceeding shall be dated and shall, with any necessary additions, be instituted in the matter of the foundation to which it relates and in the matter of the Act and otherwise as in Form 2 and numbers and dates may be denoted by figures.

Title of proceedings

Form 2

**8.** All proceedings shall be written or printed, or partly written or partly printed on paper of the size of 11 inches in length and 8 1/2 inches in breadth, or thereabouts but no objection shall be allowed to any proof of affidavit on account only of its being written or printed on paper of other size.

Written or printed proceedings

**9.** All orders, summonses, petitions, warrants, process of any kind (including notices when issued by the Court) and office copies in any proceedings shall be sealed.

Process to be sealed

**10.** (1) Every summons in proceedings in the Court shall be prepared by the applicant or his counsel and attorney and issued from the Registry of the Court.

Issue of summonses

(2) A summons, when sealed, shall be deemed to be issued.

(3) The person obtaining the summons shall leave in the Registry of the Court a duplicate which shall be stamped with the appropriate stamp and filed.

**11.** (1) Every order, whether made in Court or in Chambers, shall be drawn up by the applicant, 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.

Orders

(2) 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.

Certified copies.

**12.** All certified copies of petitions, affidavits, depositions, papers and writings, or any parts thereof, required by any liquidator, creditor, officer of a foundation, 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 stamped or sealed and delivered out without any unnecessary delay, and in the order in which they have been denoted.

Inspection of file.

**13.** Every person who has been a founder or a member of a foundation council or other governing body or a protector, beneficiary or officer of a foundation which is being wound up shall be entitled, free of charge, and every creditor whose claim or proof has been admitted, shall be entitled on payment of the prescribed fee, at all reasonable times, to inspect the file of proceedings and to take copies or extracts from any document therein, or be furnished with such copies or extracts on payment of the prescribed fee.

### **SERVICE OF PROCESS AND ENFORCEMENT OF ORDERS**

Service by post.

**14.** (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 or post office box of the person to be served therewith.

(2) Any such notice, summons or document shall be considered as served at the time that the same ought to be delivered in the ordinary course of post by the post office, and notwithstanding the same may be returned to the post office.

Validity of service.

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

Enforcement of orders.

**16.** Every order of the Court made in the exercise of the powers conferred by the Act and the Rules, may be



enforced by the Court as if it were a judgment or order of the Court made in the exercise of its ordinary jurisdiction.

### PETITION

**17.** Every petition shall be in Form 3 or Form 4.

Form of petition.  
Forms 3 or 4.  
Presentation of  
petition.

**18.** (1) A petition shall be presented at the Registry of the Court and the Registrar shall appoint the time and place at which the petition is to be heard.

(2) 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.

**19.** Every petition shall be advertised in Form 5 seven clear days before the hearing as follows —

Advertisement of  
petition. Form 5.

- (a) at least once in the Gazette and at least once in one newspaper of general circulation published in New Providence and in such other newspaper (if any) as the Court may direct;
- (b) the advertisement shall state the day on which the petition was presented, the name and address of the petitioner and of his counsel and attorney 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 counsel and attorney within the time and manner prescribed by rule 25 and an advertisement of a petition for the winding up of a foundation by the Court which does not contain such a notice shall be deemed irregular;
- (c) if the petitioner or his counsel and attorney does not within the time appointed under rule 25 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 date, 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 the judge or the Registrar shall otherwise direct.

**20.** (1) Every petition shall, unless presented by the foundation be served upon the foundation at the registered

Service of  
petition.

office, if any, of the foundation and if there is no registered office, then at the principal or last known principal place of business of the foundation, if any such can be found, by leaving a copy with the secretary of the foundation there or if no such secretary can be found there, then by leaving a copy at such registered office or principal place of business or by serving it on such other officer of the foundation as the court may direct.

Verification of  
petition.  
Form 7.  
Petitioner.

**21.** Every petition shall be verified by an affidavit in Form 7.

**22.** The 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 person who has been concerned in the matter on behalf of the corporation and shall be sworn after and filed within four days after the petition is presented. The affidavit shall be sufficient prima facie evidence of the statements in the petition. An affidavit of service of the petition shall be in Form 6.

Form 6.

Copy of petition  
to be furnished to  
creditor.

**23.** Every creditor of a foundation shall be entitled to be furnished by the counsel and attorney of the petitioner with a copy of the petition within twenty-four hours after requiring same on paying the prescribed charge for such copy.

### PROVISIONAL LIQUIDATOR

Appointment of  
provisional  
liquidator.

**24.** (1) After the presentation of a petition for the winding up of a foundation by the Court, upon the application of a creditor of the foundation and upon proof by affidavit of sufficient ground 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 an order of appointment in Form 8 and such order may be made *ex parte* in cases of urgency.

Form 8.

(2) The order appointing the provisional liquidator shall —

- (a) bear the number of the petition;
- (b) state the nature and a short description of the property of which the provisional liquidator is ordered to take possession; and
- (c) state 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 foundation is made upon the petition or if an order for the winding up of the foundation on the petition is rescinded, or if all proceedings on the petition are stayed or if an order is made continuing the voluntary winding up of the foundation, subject to the supervision of the Court, the provisional liquidator shall be entitled to be paid, out of the property of the foundation, all the costs, charges and expenses properly incurred by him as provisional liquidator and may retain out of such property the amounts of such costs, charges and expenses.

### **HEARING OF PETITION AND ORDERS MADE THEREON**

**25.** (1) After a petition has been presented, the petitioner or his counsel and attorney shall, on a date and time to be appointed by the Registrar, attend before the Registrar and satisfy him that —

Attendance before hearing to show compliance with Rules.

- (a) the petition has been duly advertised;
- (b) the prescribed affidavit verifying the statements therein and the affidavit of service (if any) have been duly filed; and
- (c) the provisions of the rules as to petitions have been duly complied with by the petitioner.

(2) No order shall be made on the petition of any petitioner who has not, prior to the hearing of the petition, attended before the Registrar on the date and time appointed and satisfied him in the manner required by this rule.

**26.** (1) Every person who intends to appear on the hearing of a petition shall give to the petitioner notice of his intention in accordance with this Rule.

Notice by persons who intend to appear.

- (2) The notice shall —
  - (a) contain the address of the person intending to appear;
  - (b) be signed by him (or by the counsel and attorney); and
  - (c) otherwise be in Form 9 with such variations as circumstances may require.

Form 9.

(3) The notice shall be served on or sent by post to the petitioner or his counsel and attorney at the address stated in the advertisement of the petition.

(4) The notice 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 4:00 p.m. on the day before the hearing.

(5) 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.

(6) For the purposes of this rule, “the day before the hearing” means the day before the day appointed for the hearing of the petition, and a Friday shall be regarded as the day before the following Monday.

List of names and addresses of persons who appear on the petition. Form 10.

**27.** (1) The petitioner or his counsel and attorney shall prepare a list in Form 10 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 counsel and attorneys.

(2) 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 counsel and attorney to the Court prior to the hearing of the petition.

Affidavits in opposition and reply.

**28.** (1) Affidavits in opposition to a petition shall be filed within seven days 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 counsel and attorney on the day on which the affidavit is filed.

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

Substitution of creditor for withdrawing petitioner.

**29.** (1) When a petitioner for an order that a foundation be wound up by the Court or subject to the supervision of the Court is not entitled to present a petition, or whether so entitled or not, where he —

(a) fails to advertise his petition within the time prescribed by these Rules or such extended time as the Registrar may allow;

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- (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 who in the opinion of the Court would have a right to present a petition and who is desirous of prosecuting the petition.

(2) 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.

### **ORDER TO WIND UP A FOUNDATION**

**30.** (1) A copy of every order in Form 11 for winding up a foundation certified to be a true copy thereof as passed and entered, shall be left by the petitioner at the Chambers of the judge within ten days after the same has been passed and entered and in default thereof the judge may, if he thinks fit, give the carriage and prosecution of the order to such petitioner.

Proceedings on  
Order  
Form 11

(2) Upon such copy being left a summons shall be taken out to proceed with the winding up of the foundation and be served upon all parties who may have appeared upon the hearing of the petition.

(3) Upon the return of such summons, a time shall, if the judge thinks fit, be fixed for the appointment of a liquidator if not appointed, and for the proof of debts, and directions may be given as to the advertisements to be issued for all or any of such purposes and generally as to the proceedings and the parties to attend thereon.

(4) The proceedings under the order shall be continued by adjournment and when necessary by further summons and any such direction as aforesaid may be given, added to or varied, at any subsequent time as may be found necessary.

Transmission and advertisement of winding-up order.

**31.** (1) When an order that a foundation be wound up or for the appointment of a provisional liquidator has been made, the petitioner or his counsel and attorney shall cause a sealed copy of the order to be served upon the foundation —

- (a) by prepaid letter addressed to it at its registered office (if any) or post office box;
- (b) if there is no registered office, at its principal place of business or post office box; or
- (c) upon such other person or persons, or in such other manner as the Court may direct,

and if the order is that the foundation be wound up by the Court, shall within twelve days forward to the Registrar a copy of the order and shall within twenty-one days cause notice of the order to be gazetted in Form 36(1).

Form 36(1).

Form 12.

(2) An order in Form 12 for the winding up of a foundation subject to the supervision of the Court shall before the expiration of twelve 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.

### **APPOINTMENT OF LIQUIDATOR IN A WINDING UP BY THE COURT**

Appointment of liquidator.

**32.** (1) The judge may appoint a person to the office of liquidator who is nominated in the petition or without previous advertisement or notice to any party or he may fix a time and place for the appointment of a liquidator and may appoint or reject any person nominated at such time and place and appoint any person not so nominated.

(2) When a time and place are fixed for the appointment of a liquidator such time and place shall be advertised in such manner as the judge shall direct, so that the first or only advertisement shall be published within fourteen days and not less than seven days before the date so fixed.

(3) Every appointment of a liquidator shall be advertised, in such manner as the judge shall direct, immediately after he has been appointed and has given security if required to do so.

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(4) When the judge shall direct a meeting of the creditors of the foundation to be summoned, the Registrar shall give notice in writing seven clear days before the day appointed for such meeting, to every creditor, of the time and place appointed for such meeting, and of the matter upon which the judge desires to ascertain the wishes of the creditors or, if the judge shall so direct, such notice may be given by advertisement, in which case the object of the meeting need not be stated, and it shall not be necessary to insert such advertisement in the Gazette.

(5) The votes of the creditors of the foundation at any meeting summoned by the direction of the judge, may be given either personally or by proxy; but no creditor shall appoint a proxy who is not a creditor of the foundation whose debt or claim has been allowed.

(6) The direction of the judge for any meeting of creditors and the appointment of a person to act as chairman of any such meeting, shall be testified by a memorandum signed by the Registrar.

(7) As soon as practicable after the first meetings of creditors have been held, the chairman of the meeting shall in Form 13 report the result of each meeting to the Court.

Form 13

(8) Upon the result of the meetings of creditors being reported to the Court, if there is a difference between the determinations of the meetings of the creditors the Court shall fix a time and place for considering the resolutions and determinations (if any) of the meetings, deciding differences and making such order as shall be necessary.

(9) 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 Registrar in such manner as the Court shall direct, but so that the first or only advertisement shall be published not less than seven days before the time so fixed.

(10) Upon the consideration of the resolutions and determinations of the meetings the Court shall hear the Registrar and any creditor and may make an order in Form 14 appointing a liquidator.

Form 14

(11) If a liquidator is appointed, the Registrar shall, as soon as the liquidator has given security if required to do so, cause notice of the appointment to be gazetted in Form 36(2) and 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 foundation.

Form 36(2)

Form 15 (12) Each appointment of a liquidator shall be advertised in Form 15 by the liquidator in such manner as the Court directs immediately after the appointment has been made, and the liquidator has given security if required to do so.

Form 36(3) (13) In case of the death, removal or resignation of a liquidator notice of which shall be published in the Gazette in Form 36(3), another shall be appointed in his stead, in the same manner as directed in the case of a first appointment, and the proceedings for that purpose may be taken by such party interested as may be authorized by the judge to take the same.

### **DIRECTION OR SANCTION OF THE JUDGE**

Compromise **33.** Every application for the sanction of the judge to a foundation with any person indebted to the foundation, shall be supported by the affidavit of the liquidator that he has investigated the affairs of such person, and stating his belief that the proposed compromise will be beneficial to the foundation, and his reasons for such belief and the sanction of the judge thereto shall be testified by a memorandum, signed by the Registrar, on the agreement of compromise, unless any party shall desire to appeal from the decision of the judge, in which case an order shall be drawn up for that purpose.

Other cases **34.** The direction or sanction of the judge for any other proceeding or act to be taken or done by the liquidator shall be obtained upon summons, and an order shall be drawn up thereon, unless the judge shall otherwise direct.

### **SECURITY BY LIQUIDATOR IN A WINDING UP BY THE COURT**

Standing security to Registrar **35.** Where a liquidator is required to give security, the following provisions shall have effect, namely —

Form 16 (a) the security shall be given to such officers or persons and in such manner as the Registrar may from time to time direct and a certificate in Form 16 shall be issued by the Registrar;

(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



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winding up, or generally, to be available for any winding up in which the person giving security may be appointed as liquidator;

- (c) the Registrar 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 cost of furnishing the required security by the liquidator, including any premiums which he may pay to a bank or other such institution, shall be borne by him personally, or if the Court so determines, shall be charged against the assets of the foundation as an expense incurred in the winding up.

**36.** (1) If a liquidator fails to give the required security within the time stated for that purpose in the order appointing him or any extension thereof, the Registrar shall report such failure to the Court and the Court may thereupon rescind the order appointing the liquidator.

Failure to keep or give up security.

(2) If a liquidator fails to keep up his security the Registrar shall report such failure to the Court and the Court may thereupon remove the liquidator and make such order as to costs as the Court thinks fit.

(3) Where an order is made under this rule rescinding an order for the appointment or the removal of a liquidator, the Court may direct that meetings shall be held for the purpose of determining whether an application shall be made to the Court for another liquidator 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.

### **COLLECTION AND DISTRIBUTION OF ASSETS IN A WINDING UP BY THE COURT**

**37.** (1) The duties of the Court in a winding up by the Court with regard to the collection of the assets of the foundation, and the application of the assets in discharge of the foundation's liabilities, shall be discharged by the liquidator as an officer of the Court, subject to the control of the Court.

Collection and distribution of foundation's assets by liquidator.

(2) For the purpose of the discharge by the liquidator of such duties, the liquidator in a winding up by the Court shall, for the purpose of acquiring or retaining possession of the property of the foundation, 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 17

**38.** Any trustee, receiver, banker, agent or officer of a foundation which is being wound up under order of the Court shall, on notice from the liquidator in Form 17 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 money, property, books or papers, which happen to be in his hands for the time being and to which the foundation is prima facie entitled.

### PROOFS

Proof of debt

**39.** In a winding up by the Court every creditor shall, subject as hereinafter provided, prove his debt, unless the judge in any particular winding up shall give directions that any creditor or class of creditors shall be admitted without proof.

Mode of proof

**40.** A debt may be proved in any winding up by delivering or sending through the post to the liquidator an affidavit verifying the debt.

Verification of  
proof

**41.** 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 18

**42.** An affidavit proving a debt shall be in Form 18 and 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 liquidator to whom the proof is sent may at any time call for the production of the vouchers.

Statement of  
security

**43.** An affidavit proving a debt shall state whether the creditor is or is not a secured creditor.

Proof before  
whom sworn

**44.** An affidavit proving a debt may in a winding up by the Court be sworn before the Registrar.

Costs of proof

**45.** A creditor shall bear the cost of proving his debt unless the Court otherwise orders.

**46.** A creditor proving his debt shall deduct therefrom — Discount.

- (a) any discount which he may have agreed to allow for payment in cash in excess of five per centum on the net amount of his claim; and
- (b) all trade discounts.

**47.** When any rent or other payment falls due at stated periods and the order 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 the proportionate part thereof up to the date of the winding up order as if the rent or payment grew due from day to day: Periodical payments.

Provided that where the liquidator remains in occupation of premises demised to a foundation which is being wound up, nothing herein contained shall prejudice or affect the right of the landlord of such premises to claim —

- (a) payment by the foundation or the liquidator; or
- (b) rent during the period of the foundation's or the liquidator's occupation.

**48.** Where a creditor seeks to prove in respect of a bill of exchange, promissory note, or other negotiable instrument or security on which the foundation is liable, such bill of exchange, note, instrument or security shall, subject to any special order of the Court made to the contrary, be produced to the liquidator and be marked by him before the proof can be admitted either for voting or for any purpose. Production of bills of exchange and promissory notes.

### **ADMISSION AND REJECTION OF PROOFS AND PREFERENTIAL CLAIMS AND APPEAL TO THE COURT**

**49.** (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 twenty-eight days from the date of the notice, on or before which the creditors of the foundation are to prove their debts or claims and to establish any title they may have to priority under the Act 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. Notice to creditors to prove.

(2) The liquidator shall give notice in writing of the day so fixed by advertisement in such newspaper as he shall consider convenient, and to any person who to his knowledge claims to be a creditor of the foundation and whose claim has been admitted, by sending the notice to the last known address or place of abode of such person.

(3) All the rules hereinafter set out as to admission and rejection of proofs shall apply with the necessary variations to any such claim to priority as aforesaid.

Examination of  
proof.  
Form 19.

**50.** 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 and if he rejects a proof he shall state in Form 19 to the creditor the grounds of rejection.

Appeal by  
creditor.

**51.** If a creditor is dissatisfied with the decision of the liquidator in respect of a proof, the court may, on the application of the creditor, 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 twenty-eight days from the date of the service of the notice of rejection.

Expunging at  
instance of  
liquidator.

**52.** 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  
creditor.

**53.** The Court may also expunge or vary a proof upon the application of a creditor or contributory if the liquidator declines to interfere in the matter.

Proofs to be  
filed.  
Form 20.

**54.** Every liquidator in a winding up shall on the first day of every six-month period file with the Registrar a certified list of all proofs, if any, in Form 20 received by him during the six months 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.

Procedure where  
creditor appeals.

**55.** The liquidator in a winding up shall, within three days after receiving notice from a creditor of his intention to appeal against a decision rejecting proof, file such proof

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with the Registrar, with a memorandum thereon of his disallowance thereof.

**56.** Subject to the power of the Court to extend the time, the liquidator in a winding up, within twenty-eight 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:

Time for dealing with proofs by liquidator.

Provided that where the liquidator has given notice of his intention to declare a dividend, he shall within fourteen 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 sufficient notification of the admission.

### **DIVIDENDS IN A WINDING UP BY THE COURT**

**57.** (1) Not more than two months before declaring a dividend, the liquidator in a winding up shall give notice in Form 21 of his intention to do so to the Registrar and shall cause such notice in Form 36(4) to be gazetted, and shall at the same time give notice in Form 22 to such of the creditors known to him as have not proved their debts, and such notice shall specify the latest date up to which proofs must be lodged, which shall not be less than twenty-eight days from the date of such notice.

Dividends to creditors.  
Forms 21, 36(4) and 22.

(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 proof, notice of appeal shall, subject to the power of the court to extend the time in special cases, be given within twenty-eight 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 cost 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

Form 23

Form 36(5)

liquidator he shall proceed to declare a dividend, and shall give notice in Form 23 to the Registrar (and shall cause the same to be gazetted in Form 36(5)) and sent to each creditor whose proof has been admitted.

(4) If it becomes necessary, in the opinion of the liquidator to postpone the declaration of the dividend beyond the limit of two months, the liquidator shall give a fresh notice of his intention to declare a dividend to the Registrar and shall cause the same to be gazetted but it shall not be necessary for the liquidator to give a fresh notice to such of the creditors known to him 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.

Forms 24 and 25

(5) Upon the declaration of a dividend the liquidator shall forthwith transmit to the Registrar a list of the proofs filed with the Registrar under rule 54, which list shall be in Form 24 or 25 as the case may be.

(6) Dividends may at the request and risk of the person to whom they are payable be transmitted to him by post.

Form 26

(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 26 which shall be a sufficient authority for payment of the dividend to the person therein named.

### PROXIES IN RELATION TO A WINDING UP

Proxies

**58.** (1) A creditor may vote either in person or by proxy.

(2) Where a person is authorised to represent a corporation at any meeting of creditors such person shall produce to the liquidator a copy of the resolution so authorising him.

(3) 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.

(4) The succeeding Rules as to proxies shall not (unless otherwise directed by the Court) apply to a Court meeting of creditors prior to the first meeting.

Form of proxies

**59.** Every instrument of proxy shall be in accordance with the appropriate form in the Schedule.

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- 60.** General and special forms of proxy shall be sent to the creditors with the notice summoning the meeting, and neither the name nor description of the liquidator or any 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.
- 61.** A creditor may give a general proxy in Form 27 to any person. General proxies. Form 27.
- 62.** A creditor may give a special proxy in Form 28 to any person to vote at any specified meeting or adjournment thereof — Special proxies. Form 28.
- (a) for or against the appointment or continuance in office of any specified person as liquidator; and
- (b) on all questions relating to any matter other than those above referred to and arising at the meeting or on adjournment thereof.
- 63.** 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 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 creditors to the contrary. Solicitation by liquidator to obtain proxies.
- 64.** A creditor in a winding up may appoint the liquidator as his general or special proxy. Liquidator as proxy.
- 65.** (1) In every case a proxy shall be lodged with the liquidator in a winding up not later than four o'clock in the afternoon of the day before the meeting or adjourned meeting at which it is to be used. Lodgement of proxy.
- (2) No person who is a minor shall be appointed as a general or a special proxy.
- 66.** Where a liquidator who holds any proxies cannot attend the meeting for which they are given, he may, in Form 29, depute some person under his official control to use the proxies on his behalf and in such manner as he may direct. Use of proxies by deputy. Form 29.
- 67.** 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: Filling in where creditor blind or incapable.
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Provided that such witness shall have certified at the foot of the proxy that all insertions have been made at the request and in the presence of the creditor before he attached his signature or mark.

### **ATTENDANCE AND APPEARANCE OF PARTIES**

Attendance at proceedings.

**68.** (1) 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 cost occasioned thereby to have notice of all such proceedings as he shall by written request desire to have notice of. If the Court shall be of the opinion that the attendance of any such person upon any proceedings has occasioned any additional cost which ought not to be borne by the funds of the foundation, it may direct such costs, or a gross sum in lieu thereof, to be paid by such person who 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 to represent before the Court, at the expense of the foundation all or any class of the creditors, upon any question or in relation to any proceedings before the court, and may remove the person appointed. If more than one person is appointed under this rule to represent one class, the persons appointed shall employ the same counsel and attorney to represent them.

### **LIQUIDATOR**

Dealings with assets.

**69.** (1) The liquidator shall not, while acting as liquidator, except by leave of the Court, either directly or indirectly, by himself or any employee, partner, clerk, agent, or servant, become purchaser of any part of the foundation's assets.

(2) Any such purchase made contrary to the provisions of this Rule may be set aside by the Court on the application of any creditor in any winding up, and the Court may make such order as to costs as the Court thinks fit.

Restriction on purchase of goods by liquidator.

**70.** Where the liquidator carries on the business of the foundation he shall not, without the express sanction of the Court, purchase goods for the carrying on of such business from any person whose connection with him is of



such a nature as would result in his obtaining any portion of the profit (if any) arising out of the transaction.

**71.** In any case in which the sanction of the Court is obtained under rule 70, 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 foundation's assets.

Cost of obtaining sanction of court.

### INVESTMENTS OF FUND

**72.** In any winding up, if a case has in the opinion of the liquidator arisen for an investment of funds of the foundation or a sale of securities in which the foundation's funds have been invested, the liquidator may invest the funds on deposit at interest with a bank or otherwise, or sell the whole or any part of the said funds and securities.

Investment of assets in securities and realisation of securities.

### ACCOUNTS AND AUDIT IN A WINDING UP BY THE COURT

**73.** (1) Where a liquidator carries on the business of the foundation, he shall keep a distinct account of the trading, and shall incorporate in the cash book the total monthly amounts of the receipts and payments on such trading account.

Liquidator carrying on business.

(2) The trading account shall, from time to time and not less than once in every six months, be verified by affidavit in Form 30 and the liquidator shall thereupon submit such account to the Registrar.

Form 30.

**74.** (1) The liquidator shall prepare a summary of the accounts of a foundation at the expiration of six months from the date of the winding up order, and at the expiration of every succeeding six months until his release, and shall, subject to any dispensation granted by the Court send a printed copy of that summary by post to every creditor.

Summary of accounts.

(2) The cost of printing and posting such copy shall be a charge upon the assets of the foundation.

**75.** Where property forming part of a foundation'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

Expenses of sales.

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.

### TAXATION OF COSTS

Taxation of costs payable by or to Registrar or liquidator or by foundation.

**76.** Every counsel and attorney, manager, accountant, auctioneer, broker or other person employed by a liquidator in a winding up shall, on request by the liquidator (to be made a sufficient time before the declaration of a dividend), deliver his bill of costs or charges to the liquidator for the purpose of taxation and, if he fails to do so within the time stated in the request or such extended time as the Court may allow, the liquidator shall declare and distribute the dividend without regard to such person's claim and subject to any order of the Court the claim shall be forfeited. The request by the liquidator shall be in Form 31.

Form 31.

Notice of appointment.

**77.** Where a bill of costs or charges in any winding up has been lodged with the Taxing Master, he shall give notice of an appointment to take the same to the person to or by whom the bill or charges is or are to be paid, as the case may be.

Lodgement of bill.

**78.** 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 Registrar, and if incurred after the appointment of a liquidator, shall be lodged with the liquidator. The liquidator shall lodge the bill or charges with the Taxing Master.

Copy of the bill to be furnished.

**79.** Every person whose bill or charges is or are to be taxed shall, on application either of the Registrar or the liquidator, furnish a copy of his bill or charges so to be taxed.

Application for costs.

**80.** Where any party to, or person affected by, any proceeding desires to make application for an order that he be allowed his costs, or any part of them, incidental to such proceedings, and such application is not made at the time of the proceeding —

- (a) such party or person shall serve notice of his intended application to the liquidator;
- (b) the liquidator may appear on such application and object thereto;

- (c) no costs of or incidental 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.

**81.** (1) Except as otherwise provided in the Rules, every bill of costs, charges or expenses shall be taxed as if it were a bill of costs arising out of proceedings in or before the Court under its ordinary jurisdiction:

Taxation

Provided that, if the judge sees fit he may fix a gross sum in lieu of taxed costs.

(2) Upon taxation being completed the Registrar shall issue to the person presenting the bill for taxation a certificate of taxation in Form 32.

Form 32

**82.** Where the bill or charges of any counsel and attorney, manager, accountant, auctioneer, broker or other person employed by a liquidator is or are payable out of the assets of the foundation, a certificate in writing, signed by the liquidator, shall on the taxation be produced to the Taxing Master setting forth whether any, and if so what, special terms of remuneration have been agreed to.

Certificate of employment

**83.** (1) The assets of a foundation 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 foundation 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

- (a) the taxed costs of the petition, including the taxed costs of any person appearing on the petition whose costs are allowed by the Court;
- (b) 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;
- (c) the costs of any person properly employed by any such liquidator;
- (d) the remuneration of any such liquidator.

(2) No payments in respect of bills of costs, charges or expenses of counsel and attorneys, managers, accountants, auctioneers, brokers or other persons, other than payments for costs, charges or expenses fixed or allowed by the Court under the Rules, shall be allowed out of the assets of the foundation unless they have been duly taxed and allowed by the Taxing Master. The Taxing Master shall, before passing the bill of costs, charges or expenses of a counsel and attorney, satisfy himself that the appointment of a counsel and attorney has been duly sanctioned.

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

Proceedings for  
release of  
liquidator.  
Form 33.

**84.** A liquidator in a winding up by the Court, before making application to the Court for his release, shall give notice in Form 33 of his intention so to do to all the creditors who have proved their debts, and shall send with the notice a summary of all receipts and payments in the winding up.

#### **RELEASE AND RESIGNATION OF LIQUIDATOR IN A WINDING UP BY THE COURT**

Release of  
liquidator.

**85.** (1) When the liquidator of a foundation which is being wound up has realised all the property of the foundation, 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 made a final return, if any, to the Court, or has resigned, or has been removed from his office, the Court shall, on his application in Form 34 accompanied by a statement in Form 35, take into consideration the report and any objection which may be urged by any creditor or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

Form 34.  
Form 35.

(2) Where the release of a liquidator is withheld, the Court may, on the application of any creditor 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 foundation 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.

(5) When the Court has granted to a liquidator his release, a notice in Form 36(6) of the order granting the release shall be gazetted.

Form 36(6).

**86.** (1) Upon a liquidator resigning or being released or removed from his office, he shall deliver over to the Registrar 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.

Proceedings on resignation, etc., of liquidator.

(2) The Registrar may, at any time during the progress of the liquidation, on the application of the liquidator, direct that such of the books, papers and documents of the foundation or of the liquidator as are no longer required for the purpose of the liquidation may be sold, destroyed or otherwise disposed of.

## MISCELLANEOUS MATTERS

**87.** The Court may, in any case in which it shall see fit, extend, enlarge, or abridge the time appointed by the Rules or fixed by any order of the Court for doing any act or taking any proceedings.

Enlargement or abridgement of time.

**88.** Notices for publication in the Gazette shall be in Form 36.

Notices.  
Form 36.

**89.** (1) No proceedings under the Act or the Rules shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to the proceedings is of the 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.

Formal defect not to invalidate proceedings.

(2) No defect or irregularity in the appointment or election of a liquidator shall vitiate any act done by him in good faith.

Application of  
existing  
procedure.

**90.** In all proceedings in or before the Court, or any judge, 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 Supreme Court.

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**SCHEDULE**
**FORMS****No.1 (Rule 6(2))****FORM OF SUMMONS***(Title. see Form 2)*

Let [*Name of Respondent*] attend at ..... on .....  
 the.....day of.....20 .....at .....o'clock  
 in the .....noon on the hearing of an application of [*name  
 and description of applicant*] for an order that [*State object  
 of application*]

Dated ..... the .....day  
 of.....20.....,

This summons was taken out by .....of  
 .....Counsel and Attorney for .....

To  
 .....

Note - If you do not attend, either in person or by your  
 Counsel and Attorney 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.

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**No.2 (Rule 7)**
**General Title (Supreme Court)**

In the Supreme Court.

No.....of

.....20.....

In the matter of [*Insert full name of Foundation.*]

.....Foundation

*and*

In the matter of the Foundations Act

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No.3 (Rule 17)

PETITION (Title)

To the Supreme Court

The humble petition of [Insert full name, title, etc. of petitioner ] .....showeth as follows:

1. ....Foundation (hereinafter called the Foundation), was in the month of ..... registered under the Foundations Act.

2. The registered office of the foundation is at [State the full address of the registered office] .....

3. The initial assets of the foundation were \$..... The amount of the capital paid or credited as paid is \$.....

4. The main objects for which the foundation was established are as follows: .....  
.....  
.....

and other objects set forth in the foundation charter 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 .....Foundation, may be wound up by the Supreme Court under the provisions of the Foundations Act.

[Add words in brackets ( ) if supervision order is asked for] (That the voluntary winding up of the Foundation, 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.

**NOTE.** - [This note will be unnecessary if the foundation is petitioner] It is intended to serve this petition on .....

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**No.4 (Rule 17)**

**PETITION BY UNPAID CREDITOR ON SIMPLE CONTRACT**

*(Title)*

Paragraphs 1, 2, 3, and 4 as in Form 3.

5. The foundation is indebted to your petitioner in the sum of \$ .....for [*State consideration for the debt, with particulars so as to establish that the debt claimed is due*].

6. Your petitioner has made application to the foundation for payment of his debt, but the foundation has failed and neglected to pay the same or any part thereof.

7. The Foundation is [insolvent and] unable to pay its debts.

8. In the circumstances it is just and equitable that the foundation should be wound up. Your petitioner, therefore, & c. [as in Form 3].

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No.5 (Rule 19)

ADVERTISEMENT OF PETITION (Title)

A petition to wind up the above-named foundation [*if the winding-up is to be subject to supervision insert "subject to the supervision of the Court"*]

presented on .....20 .....

by [*Insert name and address of the petitioner*]

of .....claiming to be a

creditor of the foundation will be heard [at the Supreme Court, Bank Lane, Nassau]

on .....20 .....

Any creditor wishing to oppose or support must ensure that written notice reaches the undersigned by 4:00 p.m. on [*if the day of the hearing of the petition is a Monday then the previous Friday: otherwise the day before the day of the hearing (Rule 26)*]

.....20 .....

A copy of the petition will be supplied by the undersigned on payment of the prescribed charge.

[*To be signed by the Counsel and Attorney to the petitioner or by the petitioner if he has no Counsel and Attorney*]

.....of .....

Counsel and Attorney for/the Petitioner [*Delete as appropriate*]

**No.6 (Rule 22)****AFFIDAVIT OF SERVICE OF PETITION.***(Title)*

In the matter of a petition dated .....

I, ....., of .....,  
make oath and say:

1. [In the case of service of petition on a foundation by leaving it with a the secretary of the foundation at the registered office, or if no registered office at the principal or last known principal place of business of the foundation.]

That I did on .....day, the .....day of .....20, serve the above-named foundation with the above-mentioned petition by delivering to and leaving with [*name and description*] the secretary of the said Foundation a copy of the above-mentioned petition, duly sealed with the seal of the Court, at [*office place of business as aforesaid*], before the hour of .....in the .....noon.

2. [In the case of the secretary of the foundation not being found at the registered office or place of business.]

That I did on .....day, the .....day of .....20, having failed to find any secretary of the above-named Foundation 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 where such sealed copy was left. e.g.: office fixed to door of offices or placed in letter box, or otherwise.*]

3. [In the case of directions by the Court as to the office of the foundation to be served].

That I did on .....day, the .....day of .....20, 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 together with a true copy of the order for substituted service dated.....20....., 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.**

**No.7 (Rule 21)**

**AFFIDAVIT VERIFYING PETITION**

*(Title)*

I, A.B. of .....make oath and say as follows:

1. [I am the petitioner in the above matter] [I am .....(state capacity) of the petitioner in the above matter. I have been concerned in this matter in such capacity and am duly authorised by the said petitioner to make this affidavit on his/its behalf.]

2. Such of the statements in the petition now produced and shown to me and marked with the letter A as relate to the acts and deeds of [myself] [my firm] [the petitioner] are true and such of the statements as relate to the acts and deeds of any other person or persons I believe to be true.

**Sworn etc.**

**No.8 (Rule 24)**

**ORDER APPOINTING A PROVISIONAL LIQUIDATOR  
AFTER PRESENTATION OF PETITION AND BEFORE  
ORDER TO WIND UP**

*the.....day cf .....20.....*

*(Title)*

Upon the application, & c., and upon reading, & c.,  
the Court doth hereby appoint  
.....

to be Provisional Liquidator of the above-named Foundation. 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 cf which he is to take possession.*]

**No.9 (Rule 26)**

**NOTICE OF INTENTION TO APPEAR ON PETITION**

*(Title)*

Take notice the A.B., of [*State full name and address. or f a firm, the name cf the firm and address*] a creditor for \$ .....of the above foundation intends to appear on the hearing of the petition advertised to be heard on the .....day of .....,20 .....,and to support (or oppose) such petition.

(Signed) [*To be signed by the person or his Counsel and Attorney*]

.....[Address.  
]

To.....  
-----

**No.10 (Rule 27(1))**

**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.....,20.....

Name .....

Address .....

Name and Address of Counsel and Attorney of party who has given notice .....

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Creditors Amount of debt .....

Opposing .....

Supporting .....

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**No.11 (Rule 30)**

**ORDER FOR WINDING UP BY THE COURT**

*the.....day of .....20.....*

*(Title)*

Upon the petition of the above-named foundation [*or A.B .. cf & c .. a creditor of the above named foundation*], on the .....day of .....20 ....., preferred unto the Court, and upon hearing for the petitioner, and .....for ....., and upon reading the said petition, an affidavit of (the said petitioner), filed, & c., verifying the said petition, an affidavit of L.M., filed the ....day of .....20..... , the Gazette of the..... day of.....20....., the newspaper of the .....day of .....[*enter any other papers*], each containing an advertisement of the said petition [*enter any other evidence*], this Court doth order that the said foundation be wound up by this Court under the provisions of the Foundation Act and that .....be constituted Provisional Liquidator of the affairs of the foundation.

And it is ordered that the costs of .....of the said petition be taxed and paid out of the assets of the said foundation.

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**No.12 (Rule 31 (2))****ORDER FOR WINDING UP, SUBJECT TO  
SUPERVISION***(Title)**the.....day of .....20.....*

Upon the petition, &., the Court doth order that the voluntary winding up of the said

Foundation, 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 foundation, or other the liquidator for the time being, do on the .....day of .....next, and thenceforth every three 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 foundation, and with the realization 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 Counsel and Attorney employed by the liquidator of the said foundation, 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 foundation, 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 petitioners and of person appearing*]. And the creditors and liquidator of the said foundation, and all other persons interested, are to be at liberty to apply generally as there may be occasion.

No.13 (Rule 32(7))

REPORT OF RESULT OF MEETING OF CREDITORS

In the matter, & c.

I, A.B., chairman of a meeting of the creditors of the above-named foundation, summoned by advertisement in the .....newspaper of the ..... 20....., and in the Gazette of the .....20....., and by notice dated .....20....., and held on the.....day of .....20....., at ..... , 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 foundation were admitted for voting purposes, amounting in the whole to the value of \$ .....

The question submitted to the said meeting was, whether the creditors of the said foundation wished that an application should be made to the Court for appointing a liquidator [*or other the 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:] [*Here set out the total number and value of the creditors voting for and against each resolution.*]

Dated this ....., day of ....., 20.....

(Signed).....

H. T Chairman.

-----



**No.14 (Rule 32(10))**

**ORDER APPOINTING LIQUIDATOR**

*(Title)*

*the.....day of.....20.....*

Upon the application of the Provisional Liquidator of the above-named foundation, by summons dated ..... and upon hearing the applicant in person and upon reading the order to wind up the said foundation dated .....20....., and the reports of the Provisional Liquidator of the results of the meetings of creditors made to the Court and respectively dated the ....., and the affidavit of.....as to the fitness of the Liquidator hereinafter named filed on the

.....day  
of.....20.....

It is ordered that .....of .....be appointed Liquidator of the above-named foundation.

And it is ordered that the said Liquidator do within 7 days from the date of the order give security (if any) to the satisfaction of the Registrar as provided by rule 35.

And notice of this order is to be gazetted and advertised ..... in ..... newspaper.

**No.15 (Rule 32(12))**

**ADVERTISEMENT OF APPOINTMENT OF LIQUIDATOR**

In the matter of....., Foundation.

By order of the....., dated the .....day of.....20....., A.B. of..... has been appointed Liquidator of the above-named foundation.

Dated this.....day of.....,20.....

**No. 16 (Rule 35)**

**CERTIFICATE THAT LIQUIDATOR HAS GIVEN SECURITY**

*(Title)*

This is to certify that A.B., of....., who was on the.....day of.....20....., appointed Liquidator of the above-named foundation, has duly given security to the satisfaction of the Court.

Dated this.....day of.....,20.....

.....  
*Registrar (Signea)*

**No. 17 (Rule 38)**

**NOTICE BY LIQUIDATOR REQUIRING PAYMENT OF MONEY OR DELIVERY OF BOOKS ETC. TO LIQUIDATOR**

*(Title)*

Take notice that I, the undersigned [*Name of liquidator*], have been appointed liquidator of the above-named foundation, and that you, the undermentioned [*Name of person to whom notice is addressed*], 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 foundation at my office, situate at [*Address of liquidator's office*], & c., the sum of \$ ....., being the amount of debt appearing to be due from you on your account with the said foundation [*or any money, property, books or papers*], [*or specifically describe the property*] now being in your hands, and to which the said Foundation is entitled [*or otherwise as the case may be.*]

Dated this.....day of.....,20.....

.....  
*(Signea) Liquidator.*

To [*Name of person to whom notice is addressed*]  
*(Address)*  
.....

**No. 18 (Rule 42)****PROOF OF DEBT. GENERAL FORM***(Title)*

I [Fill in full name, address, and occupation of deponent] of....., make oath

and say:.....

[If proof made by creditor in person, strike out whole paragraph] That I am [in the employ] [a director] [the secretary] [Strike out whichever are inapplicable] of the under-mentioned creditor, and that I am duly authorised by such creditor 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.

1. That the above-named foundation was, at the date of the (\*) order for winding-up the same, viz., the .....day of .....,20....., and still is justly and truly indebted to [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] in the sum of .....dollars and .....cents for [State consideration as goods sold and delivered by me (and my said partner) to the foundation between the dates of] [or moneys advance by me in respect of the under-mentioned bill of exchange] or, as the case may be] 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 [My said 'partners or any of them' or 'the above-named creditor'] [as the case may be] or any person by ['My' or 'our', or 'their', or 'his', (as the case maybe)] order to my knowledge or belief for ['My', or 'our', or 'their', or 'his', (as the case may be)] use had or received any manner of satisfaction or security whatsoever, save and except the following [Here state the particulars of all securities held, and, where the securities are on the property of the Foundation, assess the value of the same, and if any bills or other negotiable securities be held specify them in the schedule. N.B. - Bills of Exchange or other negotiable securities must be produced before the proof can be admitted]

	Date	Drawer	Acceptor	Amount	Due Date
Admitted to vote for					
\$					
the	day				
of	20				
Liquidator.					
Admitted to rank for					
dividend for					
\$					
this	day				
of	20				
Liquidator.					

Sworn at.....this.....day of .....}
  
20.....}
  
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 Liquidator before the time named in the notice convening the meeting.

Particulars of Account referred to on the other side (Credit should be given for Contra Accounts)

Date	Consideration	Amount	Remarks
			<b>The vouchers (if any) by which the account can be substantiated should be set out here</b>

Deponent’s Signature

-----

**No.19 (Rule 50)**

**NOTICE OF REJECTION OF PROOF OF DEBT**

*(Title)*

Take notice that, as Liquidator of the above-named foundation, I have this day rejected your claim against the foundation [*f proof wholly rejected strike out words underlined*] to the extent of \$ ..... on the following grounds:

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 .....days from this date.

Dated this.....day of.....,20.....

Signature .....

Address .....

To Liquidator. ....

**No.20 (Rule 54)**

**LIST OF PROOFS TO BE FILED UNDER RULE 54**

*(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.....,20.....

Liquidator .....

Name of Creditor	Amount of Proof	Proofs Tendered	
		Whether admitted rejected or standing over for further consideration	If admitted Amount

**No. 21 (Rule 57(1))**

**NOTICE TO CREDITORS OF INTENTION TO  
DECLARE DIVIDEND**

*(Title)*

A [*Insert here first' or 'second' or final', or as the case may be*] dividend is intended to be declared in the above matter. You are mentioned as a creditor in the statement of affairs, but you have not yet proved your debt.

If you do not prove your debt by the .....day of .....20....., you will be excluded from this dividend.

Dated this.....day of.....,20.....

.....

*Liquidator.*

To X-Y.....[Address.]

-----

**No.22 (Rule 57(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 .....20....., 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.....,20.....

.....

*Liquidator.*

To X-Y.....[Address.]

-----

No.23 (Rule 57(3))

NOTICE OF DIVIDEND

(Title)

Address .....

Date .....20.....

NOTICE IS HEREBY GIVEN that a dividend of ..... cents in the dollar .....has been declared in this matter, and that the same may be received at my office, as above, on ..... the .....day of .....20.....or any subsequent weekday, except ..... between the hours of .....and.....

NOTE:

(1) This form must be presented or returned to the Liquidator when application for payment is made. Any bills of exchange, promissory notes or other negotiable instruments held by you must be produced.

(2) If you desire the dividend to be paid to some other person you should sign and lodge with the Liquidator an authority in the prescribed Form No.26.

(3) If you do not desire to attend personally you must fill up, sign and return the form of authority below, when a dividend payable order will be delivered in accordance with the authority.

(4) Dividend payable orders lapse if not presented for payment within 3 months of the last day of the month of issue but will be re-issued after that period on application to the Registrar.

The fee payable on re-issue of a payable order is 25 cents when the order is for \$10 or less, and 50 cents when the order exceeds \$10.

.....  
(Signea) Liquidator.

To.....  
-----

**AUTHORITY**

**SIR,**

Please deliver to [*Strike out words inapplicable*] me (us) by post, at my (our) risk the .....Bearer, A.B.

Dividend Payable Order for \$ .....being the amount payable to [*Strike out words inapplicable*] me/us in respect of the dividend of .....in the \$ on [*Strike out words inapplicable*] my/our claim in this matter.

\$ ..... Creditor's signature

To the Liquidator.....Date .....20.....

**NOTE.** - The authority should be signed by —

- (a) the creditor personally, or
- (b) in the case of a firm, by one of the partners, or
- (c) in the case of a limited Foundation, by an officer of the Foundation, so described, or
- (d) in the case of a holder of a general proxy authorised to receive the dividend, by the holder.

-----  
(For use when payable order handed to creditor or representative)

Received Payable Order for \$ .....Signed .....  
Date .....20.....

-----



No. 24 (Rule 57(5))

**CERTIFIED LIST OF PROOFS UNDER RULE 57(5) OF THE FOUNDATIONS (WINDING UP) RULES, AND APPLICATION FOR ISSUE OF CHEQUES FOR DIVIDEND ON FOUNDATION’S LIQUIDATION ACCOUNT**

.....*Foundation’s Liquidation Account*

.....*Ledger Folio*

*(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) [*to be signed by the Liquidator*]

Dated this.....day of.....,20.....

I certify that by my books the sum of \$ stands to the credit of the above foundation with the foundation’s Liquidation Account at the (Bank), and that the sum of \$..... is required to meet undermentioned dividends on proofs which have been duly made admitted to rank for dividend upon the foundation, and I have to request that orders for payment may be issued to me.

The dividend is payable on the.....day of.....20....., and notice of declaration thereof was forwarded to the Registrar for insertion in the Gazette, on the.....day of.....20..... Liquidator.

Date .....20.....

*Address to which Cheques and Payable Orders should be sent.*

**To**

No.	Surname	First Name	Amount of \$	Amount of \$
-----	---------	------------	-----------------	-----------------

**No.25 (Rule 57(5))**

**CERTIFIED LIST OF PROOFS FILED UNDER RULE  
57(5) OF THE FOUNDATIONS (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)[*to be signed by the Liquidator*]

Dated this.....day of.....,20.....

I hereby certify that a dividend of.....in the \$ ..... 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.....,20.....

**To**

<b>Surname</b>	<b>First Name</b>	<b>Amount of Proof</b>	<b>Amount of Dividend</b>
		<b>\$</b>	<b>\$</b>

No.26 (Rule 57(7)

AUTHORITY TO LIQUIDATOR TO PAY DIVIDENDS TO ANOTHER PERSON

(Title)

To the Liquidator.

SIR,

I/We hereby authorise and request you to pay to ..... 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 foundation, made [by A.B.] 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 A.B. 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 cf

..... Witness to the Signature cf

Date

..... Specimen cf Signature cf person appointed as above.

Specimen of Signature of person appointed as above.

..... Witness to the Signature cf

(Witness to the specimen Signature of person appointed as above.)

-----

**No.27 (Rule 61)**

**GENERAL PROXY**

(Title)

I/We,.....of ..... a creditor hereby appoint (1).....to be my\our general proxy to vote at the Meeting of Creditors to be held in the above matter on the .....day of .....20..., or at any adjournment thereof.

Dated this.....day of.....,20.....

.....

*[Signea] (2)*

**NOTES**

(1) The person appointed general proxy may in a winding up by the Court be the Liquidator or such other person as the creditor may approve, and in a voluntary winding up the Liquidator or if there is no Liquidator the chairman of a meeting. The proxy form should be altered accordingly.

(2) If a firm, sign the firm’s trading title, and add by A.B., a partner in the said firm.

If the appoint or 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 so stated.

(3) 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.

-----

**No.28 (Rule 62)****SPECIAL PROXY***(Title)*

I/We,.....of ....., a  
 creditor hereby appoint  
 (1).....as my/our proxy at  
 the meeting of creditors to be held on the.....day of  
 .....20....., or at any adjournment  
 thereof, to vote [*Here insert the word ‘for’ or the word  
 “against” as the case may require, and specify the  
 particular resolution*] the resolution .....

**No.**.....in the notice convening.

Dated this.....day of.....,20.....

.....

*[Signea] (2)*

**NOTES**

(1) The person appointed proxy may in a winding up by the Court be the Liquidator or such other person as the creditor may approve, and in a voluntary winding up the Liquidator or if there is no Liquidator the chairman of a meeting. The proxy form should be altered accordingly. A creditor 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;
- (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., 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 so stated.

(3) 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.

**No.29 (Rule 66)**

**AUTHORITY TO DEPUTY TO ACT AS CHAIRMAN OF MEETING AND USE PROXIES**

*(Title)*

I,.....the Liquidator of ..... do hereby nominate .....of .....to be chairman of the meeting of creditors in the above matter, appointed to be held at .....on the .....day of .....20....., and I depute him [*Here insert "being a person in my employment or under my official control"*] to attend such meeting and use, on my behalf, any proxy or proxies held by me in this matter.

Dated this.....day of.....,20.....

.....

*Liquidator.*

-----

**No. 30 (Rule 73)**

**AFFIDAVIT VERIFYING LIQUIDATOR’S TRADING ACCOUNT**

*(Title)*

I, .....the liquidator of the above-named foundation, make oath and say 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 foundation, 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.

**Sworn, &c.**

.....

*Liquidator.*

-----

**No. 31 (Rule76)**

**REQUEST TO DELIVER BILL FOR TAXATION**

*(Title)*

I hereby request that you, 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 [Here state nature of employment] failing which, I shall, in pursuance of the Foundation Rules, proceed to declare and distribute a dividend without regard to any claim which you may have against the assets of the Foundation, and your claim against the assets of the foundation will be liable to be forfeited.

Dated this.....day of.....,20.....

.....

*Liquidator.*

**No.32 (Rule 81)**

**CERTIFICATE OF TAXATION**

*(Title)*

I hereby certify that the bill of costs [*or charges*] [*or expenses*] of C.D. [here state capacity in which employed or engaged] [*where necessary add "pursuant to an order of the Court dated the .....day of....., 20....."*] has been taxed and has been allowed at the sum of.....dollars and .....cents [*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.....,20.....

.....

*Taxing Master*

**No.33 (Rule 84)**

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

*(Title)*

Take notice that I, the undersigned liquidator of the above-named foundation, intended 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 Court within twenty-one days of the date hereof.

A summary of all receipts and payments in the winding up is hereto annexed

Dated this.....day of.....,20.....

.....

*Liquidator.*

**To**

-----

**No.34 (Rule 85)**

**APPLICATION BY LIQUIDATOR TO COURT FOR RELEASE**

*(Title)*

I,.....the liquidator of the above-named foundation, do hereby report to the Court as follows:

1. That the whole of the property of the foundation has been realised for the benefit of the creditors *[and a dividend to the amount cf .....in the dollar has been paid as shown by the statement hereunto annexed];*

*[or* That so much of the property of the foundation as can be realised without needlessly protracting the liquidation, has been realised, as shown by the statement hereunto annexed, and a dividend to the amount of ..... has been paid.

2. I have therefore requested the Court to cause a report on my accounts to be prepared, and to grant me a certificate of release.

Dated this.....day of.....,20.....

.....*(Signea) Liquidator.*





**No.36 (Rule 88)**

**NOTICES FOR GAZETTE**

*(1) Notice of Winding-up Order*

*(Rule 31 (1))*

Name of Foundation

Address of Registered Office

Court

Number of Matter

Dare 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 Appointment of Liquidator*

*(Rule 32(11))*

Name of Foundation

Address of Registered Office

Principal Objects

Court

Number of Matter

Name of Liquidator.

Address

Date of Appointment.

---

*(3) Notice of Death, Resignation or Removal of Liquidator*

*(Rule 32(13))*

Name of Foundation

Address of Registered Office

Principal Objects

Court

Number of Matter

Name of Liquidator

Address

Date of Death, Resignation or Removal

*(4) Notice of Intended Dividend*

*(Rule 57(1))*

Name of Foundation

Address of Registered Office

Principals Objects

Court

Number of Matter

Last day for receiving Proofs

Name of Liquidator

Address

*(5) Notice of Dividend*

*(Rule 57(3))*

Name of Foundation

Address of Registered Office

Principal Objects

Court

Number of Matter

Amount per Share

First and Final or otherwise

When payable

Where payable

*(6) Notice of Release of Liquidator*

*(Rule 85(5))*

Name of Foundation

Address of Registered Office

Principal Objects

Court

Number of Matter

Name of Liquidator

Address

Date of Release