

compliance with this section and only applies to the first allotment of shares offered to the public by the company: s 42(6).

#### [42.03] Payment for shares allotted

A sum of money is deemed by s 42(1) to have been paid to and received by the company if a cheque has been received in good faith by the company and the directors have no reason to believe that the cheque will not be honoured. In calculating the minimum subscription which is to be raised, this figure is to be determined only by reference to an amount payable in cash and not by reference to non-cash consideration: s 42(2). Where an application is made for shares, the amount which is to be payable on each share is to be not less than 5% of the nominal amount of the share: s 42(3).

#### [42.04] Non-compliance with s 42

Any condition which requires or binds an applicant for shares to waive compliance with any requirements of s 42 is declared by s 42(5) to be void. Also, if the conditions set out in s 42 is not complied with within 30 days of the first issue of the prospectus, the company is required to immediately repay all money received (without interest): s 42(4). Where the money is not repaid by the 38th day of the issue, the directors of the company are jointly and severally liable to repay the money together with interest calculated at a rate of 8%. However, a director will not be liable under s 42(4) if he or she proves that the default in repaying the money was not due to misconduct or negligence upon the part of that director.

#### [42.05] Requirements of Third Schedule

Paragraph 7(a) of the Third Schedule requires that the following particulars be set out in a prospectus when shares are offered to the public:

- (1) the minimum amount which the directors believe must be raised by the issue of those shares; and
- (2) the balance of the money which must be raised, after defraying such matters as: (a) the purchase price of any property out of the proceeds of the issue; (b) any preliminary expenses or commissions payable by the company in connection with the share issue; (c) the repayment of any money borrowed by the company in respect of the share issue; and (d) working capital.

However, none of these requirements need to be complied with where the purpose of the issue is clearly stated and fully underwritten.

Paragraph 7(b) of the Third Schedule provides that where shares are offered to the public for subscription, it is necessary to state the amounts which are to be provided in relation to the above matters otherwise than out of the proceeds of the issue and the sources of these amounts.

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

- (1) A company having a share capital which does not issue a prospectus on its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, shall not allot any of its shares or debentures unless at least 3 days before the first allotment of either shares or debentures there has been delivered to the Registrar for registration a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set out in Part I of the Fourth Schedule and, in the cases mentioned in Part II of that Schedule, setting out the reports specified therein, and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule.
- (2) Every statement in lieu of prospectus delivered under subsection (1) shall, where the persons making any such report as aforesaid have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in paragraph 5 of the said Fourth Schedule, have endorsed thereon or attached thereto a written statement signed by those person setting out the adjustments and giving the reasons therefor.
- (3) This section shall not apply to a private company or any allotment of shares or debentures the subject of an offer specified in Part 1 of the Seventeenth Schedule as read with the other Parts of that Schedule. (Amended 30 of 2004 s 2)
- (4) If a company acts in contravention of subsection (1) or (2), the company and every director of the company who knowingly and wilfully authorizes or permits the contravention shall be liable to a fine. (Amended 7 of 1990 s 2)
- (5) Where a statement in lieu of prospectus delivered to the Registrar under subsection (1) includes any untrue statement, any person who authorized the delivery of the statement in lieu of prospectus for registration shall be liable to imprisonment and a fine, unless he proves either that the untrue statement was immaterial or that he had reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe that the untrue statement was true. (Amended 7 of 1990 s 2)

- (6) For the purposes of this section-
- (a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and
  - (b) a statement shall be deemed to be included in a statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein.
- (6A) For the purposes of subsection (5), *untrue statement* (不真實陳述), in relation to a statement in lieu of prospectus, includes a material omission from the statement. (Added 30 of 2004 s 2)
- (7) The Chief Executive in Council may by regulation amend the Fourth Schedule. (Amended 23 of 1999 s 12)
- (Replaced 78 of 1972 s 12)  
[cf 1948 c 38 s 48 U.K.]

#### [43.01] History

This section may be compared with s 48 of the Companies Act 1948 (UK). The section was replaced in 1972 and was amended in 1990. The amendment in 1997 replaces 'Governor in Council' with 'Chief Executive in Council'. The Adaptation of Laws (No 9) Ordinance 1999 reconfirms this substitution and is in effect from 1 July 1997. Subsection (3) was amended and subsection (6A) added in 2004; subsection (3) excludes the 12 offers specified in the Seventeenth Schedule and subsection (6A) makes clear that a material omission constitutes an untrue statement.

#### [43.02] Overview

Section 43(1) prohibits a public company, which has allotted shares to the public on its formation (or where it has not proceeded to allot shares under a prospectus) from allotting any of its shares or debentures unless it delivers to the Registrar a statement in lieu of a prospectus. This statement must be delivered at least three days before the first allotment and it must be signed by every person who is named as a director or a proposed director of the company (or by an authorized agent). The statement must comply with the Fourth Schedule to the Companies Ordinance. A statement in lieu of a prospectus, which contains any adjustments of the kind referred to in paragraph 5 of the Fourth Schedule, must have attached to it a written statement signed by those who have set out the adjustments giving the reasons

for the adjustment: s 43(2). The terms of the Fourth Schedule may be amended by the Chief Executive in Council: s 43(7).

#### [43.03] Offence

In the event of a contravention of ss 43(1) or (2), a level 6 fine may be imposed summarily upon the company and every director of the company who knowingly and wilfully authorized or permitted the contravention to occur: s 43(4). The definition of 'director' in s 2(1) provides that the term includes any person who occupies the position of a director, even if they are not called a director.

#### [43.04] Untrue statements

If a statement in lieu of a prospectus contains an untrue statement, any person who authorized such a statement will be liable to imprisonment for up to one year (if the matter is tried summarily) or for up to two years (if the matter is tried on indictment). In addition, a person who authorized such an untrue statement will be liable to a fine of up to \$150,000 (if the matter is tried summarily) or up to \$350,000 (if the matter is tried on indictment): s 43(5).

#### Effect of irregular allotment

- (1) An allotment made by a company to an applicant in contravention of the provisions of sections 42 and 43, shall be voidable at the instance of the applicant within 1 month after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within 1 month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.
- (2) If any director of a company knowingly contravenes, or permits or authorizes the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby:  
Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of 2 years from the date of the allotment.

[cf 1929 c 23 s 41 U.K.]

**[44.01] History**

This section may be compared with s 41 of the Companies Act 1929 (UK) (cf s 85 Companies Act 1985 (UK)).

**[44.02] Overview**

Where an allotment is made which contravenes ss 42 or 43, it is voidable provided an application to strike down the allotment is made within one month of the holding of the 'statutory meeting' or (if this does not apply), within one month of the allotment taking place. An irregular allotment will be voidable despite the fact that the company may be in the process of being wound up: s 44(1).

**[44.03] Payment of compensation**

A director of the company who knowingly contravenes, or permits or authorizes such a contravention, shall be liable to compensate the company and the allottee for any loss or damages or costs which have been sustained by the company or by an allottee as a result of the contravention. However, proceedings to recover such compensation must be commenced within two years of the date of the allotment: s 44(2).

**44A. Applications for, and allotment of, shares and debentures**

- (1) No allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally and no proceedings shall be taken on applications made in pursuance of a prospectus so issued, until the beginning of the 3rd day after that on which the prospectus is first so issued or such later time (if any) as may be specified in the prospectus.

The beginning of the said 3rd day or such later time as aforesaid is hereafter in this Ordinance referred to as 'the time of the opening of the subscription lists'.

- (2) Subject to section 38A, no allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally later than 30 days after the day on which the prospectus is first so issued. (Amended 86 of 1992 s 9)
- (3) In subsections (1) and (2), the references to the day on which the prospectus is first issued generally shall be construed as referring to the day on which it is first so issued as a newspaper advertisement:

Provided that, if it is not so issued as a newspaper advertisement before the 3rd day after that on which it is first so issued in any other manner, the said reference shall be construed as referring to the day on which it is first so issued in any manner.

- (4) The validity of an allotment shall not be affected by any contravention of the foregoing provisions of this section but, in the event of any such contravention, the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s 2)
- (5) In the application of this section to a prospectus offering shares or debentures for sale, the foregoing subsections shall have effect with the substitution of references to sale for references to allotment, and with the substitution for the reference to the company and every officer of the company who is in default of a reference to any person by or through whom the offer is made and who knowingly and wilfully authorizes or permits the contravention.
- (6) An application for shares in or debentures of a company which is made in pursuance of a prospectus issued generally shall not be revocable until after the expiration of the 5th day after the time of the opening of the subscription lists, or the giving before the expiration of the said 5th day, by some person responsible under section 40 for the prospectus, of a public notice having the effect under that section of excluding or limiting the responsibility of the person giving it.
- (7) In reckoning for the purposes of this section and section 44B the 3rd or 5th day after another day, any intervening day which is a Saturday or Sunday or which is a general holiday in Hong Kong shall be disregarded, and if the 3rd or 5th day (as so reckoned) is itself a Saturday or Sunday or such a holiday there shall for the said purposes be substituted the 1st day thereafter which is none of them. (Amended 6 of 1984 s 259)

(Added 78 of 1972 s 13)

[cf 1948 c 38 s 50 U.K.]

**[44A.01] History**

This section may be compared with s 50 of the Companies Act 1948 (UK) and it was amended in 1984, 1990 and 1992.

**[44A.02] Overview**

Section 44A(1) prohibits the making of an allotment of any shares or debentures of a company pursuant to a prospectus which has been issued generally, until the beginning of the third day after the first issue of the prospectus, unless a later time is specified in the prospectus. The prohibition in s 44A relating to the allotment of shares or debentures pursuant to a prospectus is also deemed to apply to the offering of shares or debentures for sale: s 44A(5).

**[44A.03] Time limits**

The beginning of the third day (or such later day as is nominated) is referred to as 'the time of the opening of the subscription lists'. Furthermore, subject to s 38A, an allotment of any shares or debentures pursuant to a prospectus which has been issued generally, is not to be made later than 30 days after 'the day on which the prospectus is first issued generally': s 44A(2). The reference to the day on which a prospectus is first issued is defined in s 44A(3) by reference to the day on which it is first issued as a newspaper advertisement or, in lieu thereof, on the day that it is issued in any manner.

Subject to the same time limits, this section also prohibits any proceedings which are taken on applications pursuant to a prospectus which has been issued in this way. Section 44A(6) provides that the revocation of an application for shares in or debentures of a company is not to be permitted until the end of the fifth day after the time of the opening of the subscription lists or the giving of the relevant public notice under s 40. In calculating the exact date of the third and fifth days, as provided for in s 44A, Saturdays, Sundays and Hong Kong public holidays are to be disregarded: s 44A(7).

**Exceptions**

Prospectuses offering shares and debentures to professional investors are exempt from the 30 day time limit for allotment of shares and debentures imposed by s 44A(2): Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice, s 3(1); repealed L.N. 181 Of 2004, with effect from 7 January 2005.

**[44A.04] Penalties**

Although the validity of an allotment will not be affected by a contravention of ss 44A(1) to (3), in the event of a contravention, the company and every officer of the company who is in default may be held liable. The Twelfth Schedule provides for a level 6 fine (punishable summarily) for a contravention of s 44A(4).

**44B. Allotment of shares and debentures to be listed on stock exchange**

- (1) Where a prospectus, whether issued generally or not, states that application has been or will be made for permission for the shares or debentures offered thereby to be listed on any stock exchange, any allotment made on an application in pursuance of the prospectus shall, whenever made, be void if the permission has not been applied for before the 3rd day after the first issue of the prospectus or if the permission has been refused before the expiration of 3 weeks from the date of the closing of the subscription lists or such longer period not exceeding 6 weeks as may, within the said 3 weeks, be notified to the applicant for permission by or on behalf of the stock exchange. (Amended 6 of 1984 s 259)
- (2) Where the permission has not been applied for as aforesaid, or has been refused as aforesaid, the company shall forthwith repay without interest all money received from applicants in pursuance of the prospectus, and, if any such money is not repaid within 8 days after the company becomes liable to repay it, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of 8 per cent per annum from the expiration of the 8th day: Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.
- (3) All money received as aforesaid shall be kept in a separate bank account so long as the company may become liable to repay it under subsection (2); and, if default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s 2)
- (4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section shall be void.
- (5) For the purposes of this section, permission shall not be deemed to be refused if it is intimated that the application for it, though not at present granted, will be given further consideration.
- (6) This section shall have effect-
  - (a) in relation to any shares or debentures agreed to be

taken by a person underwriting an offer thereof by a prospectus as if he had applied therefor in pursuance of the prospectus; and

- (b) in relation to a prospectus offering shares for sale with the following modifications, that is to say-
- (i) references to sale shall be substituted for references to allotment;
  - (ii) the persons by whom the offer is made, and not the company, shall be liable under subsection (2) to repay money received from applicants, and references to the company's liability under that subsection shall be construed accordingly; and
  - (iii) for the reference in subsection (3) to the company and every officer of the company who is in default there shall be substituted a reference to any person by or through whom the offer is made and who knowingly and wilfully authorizes or permits the default.

(Added 78 of 1972 s 13)  
[cf 1948 c 38 s 51 U.K.]

#### [44B.01] History

This section may be compared with s 51 of the Companies Act 1948 (UK). It was added in 1972 and was amended in 1984 and 1990.

#### [44B.02] Overview

Where the prospectus states that shares or debentures are to be listed on any stock exchange, any allotment which is made on an application pursuant to a prospectus is void under s 44B where, before the third day after the first issue of the prospectus, permission has not been applied for the listing. Where permission to list the securities has been refused before the expiration of three weeks from the closure of the subscription lists, similar consequences will apply: s 44B(1). However, permission will not be deemed to have been refused where it has been indicated by the stock exchange that the application is receiving further consideration: s 44B(5). Any condition requiring an applicant for shares or debentures to waive any of the requirements of s 44B is void: s 44B(4). Section 44B will also apply to the sale of shares or debentures; it will also apply to

underwriters of an offer under a prospectus, as if they had applied for the shares or debentures under a prospectus: s 44B(5).

#### [44B.03] Liability under s 44B

In the event of an allotment of the kind covered by s 44B(1) being void, the company is required to immediately repay all money which has been received from applicants pursuant to the prospectus. Where this is not done by the end of eight days, interest will also be payable at a rate of 8% per annum: s 44B(2). However, a director will not be liable under s 44B(2) if it can be proven that the default in the repayment of the money which has been received is not due to any misconduct or negligence on his or her part. Money which is received under the allotment is to be kept in a separate bank account for the period of time that the company is liable to repay this money under s 44B(2). In the event of a default in complying with this requirement, every officer of the company in default shall be liable to a level 5 fine, punishable summarily: s 44B(3).

45.

(Repealed 28 of 2012 ss. 912 & 920)

46.

(Repealed 28 of 2012 ss. 912 & 920)

47.

(Repealed 80 of 1974 s 3)

47A.

(Repealed 28 of 2012 ss. 912 & 920)

47B.

(Repealed 28 of 2012 ss. 912 & 920)

47C.

(Repealed 28 of 2012 ss. 912 & 920)

47D.

(Repealed 28 of 2012 ss. 912 & 920)

47E.

(Repealed 28 of 2012 ss. 912 & 920)

47F.

(Repealed 28 of 2012 ss. 912 & 920)

the Registrar for registration. (Replaced 28 of 2003 s 81)  
(Added 6 of 1984 s 158; Amended 28 of 2003 s 81)

### [226A.01] History

The section was added in 1984 as a result of a recommendation of the Companies Law Revision Committee in their Second Report (1973), para 8.21. The recommendation was based on a similar recommendation in the Jenkins Committee, para 503(t). Subsections (1) and (2) were amended in 2003 to allow the liquidator or the official Receiver to act in this dissolution process. Subsection (3) was replaced in 2003. There is no exact equivalent elsewhere. Section 202 of the Insolvency Act (UK) provides for early dissolution on application by the Official Receiver to the Registrar of Companies in the case of a compulsory liquidation where the assets are insufficient to cover the expenses of the liquidation and the affairs of the company do not require further investigation. Section 202 is an extension of a recommendation in the Cork Committee Report, paras 644-651. See also ss 203, 204 (early dissolution in Scotland) and 205.

### [226A.02] Overview

Before the introduction of the section, it was necessary for a liquidator to apply to the court for an order for dissolution under s 227. The section is the equivalent of s 239(4) (dissolution after member's voluntary winding up) and s 248(4) (dissolution after creditors' voluntary winding up). The section provides for automatic dissolution after the expiration of two years from the registration of a certificate under the section signed by the Official Receiver or the liquidator and delivered to the Registrar of Companies. The specified form is NW6. The dissolution may be deferred by the court upon application by the Official Receiver or the liquidator. An office copy of such referral order must be delivered to the Registrar of Companies within seven days of the making of the order.

The Companies Registry Annual Departmental Report no longer reports dissolutions according to the relevant section. There are about 2,000 dissolutions of all types a year.

## 227. Dissolution of company by order of court

- (1) When the affairs of a company have been completely wound up, the court, if the liquidator makes an application in that behalf, shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.
- (2) A copy of the order shall within 14 days from the date thereof be delivered by the liquidator to the Registrar for registration.
- (3) If the liquidator makes default in complying with the requirements of this section, he shall be liable to a fine and,

for continued default, to a daily default fine. (Amended 7 of 1990 s 2)

(Replaced 6 of 1984 s 158)  
[cf 1948 c 38 s 274 U.K.]

### [227.01] History

The section is derived from s 221 of the Companies Act 1929 (1948 Act, s 274). The section was replaced in 1984 with the slight amendment in subsection (1) adding the reference to the liquidator making an application for dissolution. Previously, the section was silent as to who could or should make the application leading to the order. Subsection (3) was amended in 1990 with the general amendments to penalty provisions taking the quantum out of the section into the Twelfth Schedule.

For equivalent legislation, see UKIA, s 205; Aus CA, s 480; Sing CA, s 275.

### [227.02] Overview

The section permits the liquidator to apply to the court for the dissolution of the company when the affairs of the company have been completely wound up: *Re London and Caledonian Marine Insurance Co* (1879) 11 Ch D 140 (CA). The liquidator is under no obligation to make an application, so subsection (3) presumably only applies to subsection (2).

Dissolution brings the company to an end: *Salton v New Beeston Cycle Co* [1899] 1 Ch 775. One practical consequence is that thereafter the books of the company may be destroyed (but see s 121(3A)) unless an order is made by the court under s 283 and CWUR r 190 for the retention of the books and papers at the company for a period not exceeding five years. No action may be brought against the directors for dividends improperly paid unless fraud is alleged: *Coxon v Gorst* [1891] 2 Ch 73. For liability of the liquidator after dissolution for misapplication of assets, see [196.06].

For the power of the Registrar to strike defunct companies off the register, see ss 291 and 291A and to deregister see s 291AA. For power of the court to declare a dissolution void, see s 290. If the dissolution is set aside, rights against the company will be revived and be enforceable: *Re Spottiswoode, Dixon & Hunting Ltd* [1912] 1 Ch 410.

The existence of a contingent claim which has been admitted to proof may prevent the making of a dissolution order: *Re Haytor Granite Co* (1865) 1 Ch App 77.

The liability of a surety for a company's debts may survive dissolution: *Re Fitzgeorge* [1905] 1 KB 462; *Union Bank of Australia Ltd v Puddy* [1949] VLR 242 at 247.

The Companies Registry no longer breaks down the dissolution statistics into the CO section under which a dissolution occurs. Under the Companies Ordinance Rewrite some alignment needs to be made to the dissolution etc provisions.

In *Re Yang Zhenghong* [2014] HKCU 181 (unreported, HCMP 3115/2013, 8 January 2014) the company was dissolved under s 227. Its land, which was subject to a charging order, became bona vacantia under s 292 of the former Companies Ordinance (Cap 32) (now Cap 622 s 752). The charging order holder sought an order for sale. The hearing was adjourned to allow the Secretary for Justice to be joined as a party.

## (iiA) WINDING UP BY THE COURT WITH A REGULATING ORDER

### 227A. Court may make a regulating order

Expanded Cross Reference: 227B, 227C, 227D, 227E

- (1) Where it appears to the court on application being made by the Official Receiver, liquidator or by any creditor at any time after the presentation of a winding up petition that by reason of the large number of creditors or contributories or for any other reason the interest of the creditors so requires, it may, on or after the making of a winding-up order, order that the winding up of the company by the court shall be regulated specially by the court, and such order shall be known as a regulating order. (Amended 6 of 1984 s 159)
- (2) Where a regulating order is made it shall be published in such manner as the court may direct, and sections 227B to 227E inclusive shall apply to the winding up. < \* Note - Exp X-Ref: Sections 227B, 227C, 227D, 227E \* >
- (3) Where a regulating order is made the Companies (Winding-up) Rules (Cap 32 Sub Leg H) shall apply mutatis mutandis to the Official Receiver, liquidator and committee of inspection appointed or acting after the making of a regulating order, and to the conduct of any ballot or other proceedings ordered by the court under section 227C or 227D.
- (4) Where any order made under section 227B, 227C or 227D prescribes any procedure it shall be deemed to be in substitution for the procedure which would be required by this Ordinance but for the making of such order, and in particular where any such order prescribes a procedure for doing something which would otherwise be done at a meeting of creditors or contributories no such meeting shall be required to be held.

(Added 22 of 1965 s 2)

### [227A.01] History

This section and the following sections to s 227E were added in 1965, as a result of the experience in the Official Receiver's Office following several bank failures in the early 1960s, particularly the Canton Trust Bank failure, see eg *Re Canton Trust and Commercial Bank Ltd (No 1)* (1965) HKLR 450. It was more recently used in the Bank of Credit and Commerce Hong Kong Ltd winding up: [227E.02].

### [227A.02] Overview

The section addresses the problem of insolvencies with a large number of small creditors, such as bank depositors or holiday makers and travellers who have bookings through a failed travel agency. But it is not limited to this situation alone and may also be made where it is otherwise impracticable to hold the first meeting of creditors or contributories: see *Re Legend International Resorts Ltd (No 3)* [2006] 3 HKLRD 289; [2006] HKCU 952.

A regulating order avoids the need to hold meetings with a large number of creditors. The application for a regulating order will usually be made by the Official Receiver, but it may be made by the liquidator or by any creditor. The application is made at any time after the presentation of the winding-up petition.

A creditor is unlikely to have the knowledge or interest to make an application. The definition of 'liquidator' in s 2 (1) includes a provisional liquidator holding such office by virtue of s 194.

When a regulating order is made, ss 227B to 227E inclusive shall apply to the winding up.

With regard to subsection (4), see [227B.03] and s 227C(c).

### [227A.03] Reform

Other jurisdictions function without a regulating order procedure and it has been queried whether the procedure is really necessary. On the other hand, the procedure seems to have worked well. One complaint about it is that creditors have no choice of liquidator, because the first meeting of creditors will be dispensed with under s 227B(1)(a) and the court will usually appoint the Official Receiver as liquidator under s 227B(1)(b): see Law Reform Commission of Hong Kong Report on the Winding-Up Provisions of the Companies Ordinance, July 1999, para 14. 108. In fact, many creditors' meetings are poorly attended and few, if any, creditors take advantage of creditors' meetings. Since the UK Insolvency Act 1986, the Official Receiver is no longer obliged to summon creditors' meetings: IA 1986, s 136.

In normal winding up proceedings meetings, creditors must be summoned: see s 194.

**227B. Appointment of liquidator and committee of inspection**

- (1) The court may on the application of the Official Receiver by order-
- (a) dispense with the summoning of first meetings of creditors and contributories as required under sections 194 and 206 for the purpose of considering the appointment of a liquidator and a committee of inspection;
  - (b) appoint the Official Receiver or such other person or persons recommended by him as liquidator or liquidators; and
  - (c) appoint such qualified persons as it thinks fit as a committee of inspection, and may remove any member thereof and fill any vacancy therein.
- (2) Where under subsection (1) the court makes any appointment of a liquidator or a committee of inspection, or where it removes any member of such committee of inspection or fills any vacancy therein, it shall not be necessary to ascertain the wishes of the creditors or contributories, and the provisions of section 194(b) or 206(1) and (2) or 207(6) and (7), as the case may be, shall cease to apply and any action taken under such provisions in respect of any appointment of a liquidator or committee of inspection or any removal therefrom or any filling of any vacancy therein shall cease to have effect.

(Added 22 of 1965 s 2)

**[227B.01] History**

See [227A.01].

**[227B.02] Overview**

On making a regulating order, the court may, on the application of the Official Receiver, dispense with the first meeting of creditors and contributories as required under ss 194 and 206 for the purpose of considering the appointment of a liquidator and a committee of inspection, appoint the Official Receiver or some other person(s) recommended by him as liquidator(s), appoint a committee of inspection and remove any member thereof and fill any vacancy therein. In making such appointments etc, it is not necessary to ascertain the wishes of creditors or contributories and the specified provisions shall not apply: *Re Wah Nam Group Ltd* [2002] 2 HKLRD 369; [2002] HKCU 317. Section 287 assumes meetings will be held to ascertain the wishes of creditors and contributories, and gives the court power to order meetings for that purpose, if necessary.

In the Bank of Credit and Commerce Hong Kong Ltd liquidation, a committee of inspection was appointed by the court on the recommendation of the Official Receiver: see (1994) 3 Int Insol Rev 89, 91 (Bradley).

**[227B.03] Application of the Official Receiver**

An application under this section must be made by the Official Receiver: see *Re Guangnan (HK) Supermarket Ltd* [2002] 1 HKLRD 348; [2002] 1 HKC 188; *Re Legend International Resorts Ltd (No 3)* [2006] 3 HKLRD 289; [2006] HKCU 952.

A regulating order may prescribe the procedure in subsection for the procedure required by this section, see s 227A(4) and thus specify that the liquidators may apply for the appointment of a committee of inspection: see *Re Wah Nam Group Ltd* [2002] 2 HKLRD 369; [2002] HKCU 317.

**227C. Informing creditors and contributories and ascertaining their wishes and directions**

The court may vary the procedure for ascertaining the wishes and directions of creditors and contributories, and for keeping such creditors and contributories informed as to any matter relating to the winding up, and for such purposes the court may-

- (a) order that the Official Receiver or liquidator inform the creditors and contributories of such matters in such manner as it may direct;
- (b) for the purposes of sections 200 and 287 order that the wishes of creditors and contributories be ascertained by the Official Receiver or liquidator in such manner as it may direct;
- (c) for the purposes of section 200 order that the wishes of the creditors and contributories ascertained pursuant to paragraph (b) be reported by the Official Receiver or liquidator to the court, which may thereupon give such directions as it sees fit, and that notwithstanding section 200(2) the liquidator shall not be required to summon any meetings of creditors and contributories:  
Provided that nothing in section 227A(4) or in this paragraph shall operate to prevent any person making application to the court under section 200(5);
- (d) order that instead of the same being sent by post as required under section 203(5) the account of the

liquidator or a summary thereof be communicated by the Official Receiver to the creditors and contributories in such manner as it may direct.

(Added 22 of 1965 s 2)

### [227C.01] History

See [227A.01].

### [227C.02] Overview

The wishes of the creditors are not dispensed with altogether under the regulating order procedure and by this section the court may make appropriate orders and directions to determine those wishes. Section 200(2) provides for the summoning by the liquidator of meetings of creditors and contributories to ascertain their wishes. Section 287 is the general provision through which the court may have regard to their wishes and, if necessary, order meetings to ascertain those wishes. Section 200(5) permits a person aggrieved by any act or decision of the liquidator to apply to the court.

For discharge of a regulating order see *Re Legend International Resorts Ltd* [2011] HKCU 451, HCCW 1139/2004, 7 March 2011.

## 227D. Compromises and arrangements with creditors

- (1) For the purposes of section 670 of the Companies Ordinance (Cap 622), the court may despite subsection (1) of that section order that the wishes of creditors or contributories concerning agreement to or rejection of any compromise or arrangement be ascertained by the liquidator in such manner as it may direct including the conduct of a ballot and the use of voting letters and without holding meetings.
- (2) Where a majority in number and three-fourths in value of the creditors, or a class of creditors, as the case may be, who have proved their debt, or who by virtue of section 227E are deemed for voting purposes to have proved a debt exceeding \$250, agree to any compromise, such agreement shall, for the purposes of section 673 of the Companies Ordinance (Cap 622), have the same effect as if a meeting of the creditors or class of creditors had been summoned under section 670(1) of that Ordinance and a majority in number representing three-fourths in value of the creditors or class of creditors, as the case may be, had been present and voted either in person or by proxy at the meeting and agreed to the compromise.

(Amended 81 of 1976 s 3)

- (3) In the event of the court ordering the holding of any meetings it may order that the provisions of this Ordinance, or of the Companies Ordinance (Cap 622), relating to the holding of meetings be varied, abrogated or added to for the purpose of such meetings.
  - (4) In subsection (1) *arrangement* (安排) has the meaning given by section 668(1) of the Companies Ordinance (Cap 622). (Replaced 79 of 1988 s 6)
- (Added 22 of 1965 s 2. Amended 28 of 2012 ss. 912 & 920)

### [227D.01] History

See [227A.01]. Amended by Companies Ordinance 2012 (Cap 622).

### [227D.02] Overview

Section 156 (court-sanctioned schemes of arrangement) applies also where a company is being wound up and s 227D modifies the voting and other requirements as specified.

## 227E. Proof of debts

- (1) In the case of a bank, any creditor who is a depositor, whether on current, savings, deposit, fixed deposit or other account, shall, unless and until the Official Receiver or liquidator by notice in writing requires him to make a formal proof of debt, be deemed to have proved his debt-
  - (a) for voting purposes, for the net balance to his credit in the books of the bank on all his accounts taken together, at the relevant date,
  - (b) for dividend purposes, for the said balance plus or minus, as the case may be, the net amount of interest accrued due by or to the bank on the said accounts at the relevant date.
- (2) Any debt which is deemed to have been proved by virtue of subsection (1) shall be treated as if a proof thereof had been duly lodged in due time with the Official Receiver or liquidator, and had been admitted for voting and dividend purposes respectively for the said amounts stated in subsection (1).
- (3) In subsection (1), the expression *the relevant date* (有關日期

) shall have the meaning assigned to it by section 265(6).

- (4) In subsection (1), the expressions *deposit* (存款) and *depositor* (存款人) have the same meaning as in section 265(6). (Added 11 of 2010 s 14)

(Added 22 of 1965 s 2)

### [227E.01] History

See [227A.01].

### [227E.02] Overview

The section is limited to proof of debt by bank depositors (see *Re Tiffit Securities (Hong Kong) Ltd* [2007] HKCU 1062 Unreported, HCCW 86/2007, 15 June 2007. It is quite a sensible provision that depositors' debts should be deemed to be proved from the bank's records. This is only a deeming provision, so if the depositor can prove that the record is wrong, presumably he should request the Official Receiver or other liquidator to require him to show formal proof of his debt. There is an inconsistency between the relevant date in the section and the usual date for determining the assets and liabilities of the company, ie the date of the winding up order. The section incorporates by reference s 265(6) which makes the date of the appointment of the provisional liquidator the relevant date. The relevant date applies for voting and dividend purposes. For the problems arising from this section in the Bank of Credit and Commerce Hong Kong (BCCHK) administration, see Hunsworth, *Hong Kong Lawyer*, July 1994, p 20; (1994) 3 *Insol Rev* 89, 91-92 (Bradley); and the Law Reform Commission of Hong Kong Report on the Winding-Up Provisions of the Companies Ordinance, July 1999, paras 14. 109 to 14.115. Inconsistency of dates could occur if some depositors were required to formally prove their debts. There could have been large movements of exchange rates in the period between the two dates.

### [227E.03] Reform

There seems no logical reason in limiting this provision to failed banks. Perhaps, it should be applicable to all insolvencies where there is a large number of creditors, the court having power to make a direction as to deemed proof of debts at the time of making the winding-up order.

It is suggested that the relevant date should be the date of the commencement of the winding up (for compulsory winding up, see s 184(2) and for voluntary winding up, s 230); see the HKLRC Report mentioned in [227E.02] at paras 14.113 to 14.115

## (iiB) WINDING UP BY COURT BY WAY OF SUMMARY PROCEDURE

## 227F. Application of Ordinance to small winding-up

- (1) Where after the presentation of a winding-up petition-
- (a) the court is satisfied; or
  - (b) the Official Receiver or the provisional liquidator reports to the court, that the property of the company is not likely to exceed in value \$200,000, the court may make an order that the company be wound up in a summary manner, and thereupon the provisions of this Ordinance shall apply subject to the following modifications- (Amended 25 of 1985 s 4)
    - (i) the Official Receiver or the provisional liquidator, as the case may be, shall be the liquidator but there shall be no meetings of creditors and contributories under section 194 or 206; (Replaced 25 of 1985 s 4)
    - (ii) there shall be no committee of inspection, and the liquidator may do all things which may be done by a liquidator with the sanction of a committee of inspection;
    - (iii) such other modifications as may be prescribed with a view to saving expense and simplifying procedure.
- (2) The court may, upon the application of the liquidator, at any time before the dissolution of the company rescind an order made under subsection (1) and thereupon the winding up shall proceed as if the order had not been made.

(Added 81 of 1976 s 4; Amended 46 of 2000 s 31)

### [227F.01] History

This section was added in 1976. The section is derived from the Bankruptcy Act 1914 (UK) s 129. For the history see *Re Goldlory Restaurant Ltd & Ors* [2006] 3 HKLRD 331. The amendments in 1985 raised the financial limit from \$10,000 to \$200,000 and added the words 'but there shall be no meetings of creditors and contributories under section 194 or 206' to sub-para (i). The amendments in 2000 allow for a person other than the Official Receiver to be the liquidator.

### [227F.02] Overview

This is the so-called winding up by the court by way of summary procedure or small windings-up. Such orders are regularly made: for some statistics on summary cases and the Panel T Scheme (under which the administration of small

liquidator a document in the Form 72 which shall be a sufficient authority for payment of the dividend to the person therein named. (See Form 72)

) The Official Receiver when he is liquidator shall cause to be gazetted notice of his intention to declare a dividend and notice of his declaration thereof, and shall also at the same time give to creditors notice of such intention or of such declaration in like manner as notice thereof is required to be given by a liquidator other than the Official Receiver.

[cf. R. 117]

#### 43. Return of capital to contributories

Every order by which the liquidator in a winding up by the court is authorized to make a return to contributories of the company shall, unless the court shall otherwise direct, contain or have appended thereto a schedule or list (which the liquidator shall prepare) setting out in a tabular form the full names and addresses of the persons to whom the return is to be paid, and the amount of money payable to each person, and particulars of the transfers of shares (if any) which have been made or the variations in the list of contributories which have arisen since the date of the settlement of the list of contributories and such other information as may be requisite to enable the return to be made. The schedule or list shall be in the Form 74 with such variations as circumstances shall require, and the liquidator shall send a notice of return to each contributory. (See Forms 73, 74 & 103(6))

[cf. R. 118]

#### 144. Attendance at proceedings

##### ATTENDANCE AND APPEARANCE OF PARTIES

(1) Every person for the time being on the list of contributories of the company, and every person whose proof has been admitted shall be at liberty, at his own expense, to attend proceedings, and shall be entitled, upon payment of the costs occasioned thereby, to have notice of all such proceedings as he shall by written request desire to have notice of:

Provided that if the court shall be of opinion that the attendance of any such person upon any proceedings has occasioned any additional costs which ought not to be borne by the funds of the company, it may direct such costs, or a gross sum in lieu

thereof, to be paid by such person; and such person shall not be entitled to attend any further proceedings until he has paid the same.

(2) The court may from time to time appoint any one or more of the creditors or contributories to represent before the court, at the expense of the company, all or any class of the creditors or contributories, upon any question or in relation to any proceedings before the court, and may remove the person so appointed. If more than one person is appointed under this rule to represent one class, the persons appointed shall employ the same solicitor to represent them.

(3) No creditor or contributory shall be entitled to attend any proceedings in chambers unless and until he has entered in a book, to be kept by the Registrar for that purpose, his name and address, and the name and address of his solicitor (if any) and upon any change of his address or of his solicitor, his new address, and the name and address of his new solicitor.

[cf. R. 155]

#### 145. Attendance of liquidator's solicitor

Where the attendance of the liquidator's solicitor is required on any proceeding in court or chambers, the liquidator need not attend in person, except in cases where his presence is necessary in addition to that of his solicitor, or the court directs him to attend.

[cf. R. 156]

#### 146. Remuneration of liquidator

##### LIQUIDATOR AND COMMITTEE OF INSPECTION

(1) Where the remuneration of a liquidator is determined by the committee of inspection, it may be in the nature of a commission or percentage of which one part shall be payable on the amount realized, after deducting the sums (if any) paid to secured creditors (other than debenture holders) out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If there is no committee of inspection, the remuneration of the liquidator shall, unless otherwise provided for under the Ordinance or ordered by the court, be fixed by the scale of fees and percentages for the time being payable on realizations and distributions by the Official Receiver as liquidator. (46 of 2000 s. 40)

- (3) This rule shall only apply to a liquidator appointed in a winding up by the court.

(25 of 1985 s. 7)  
[cf. R. 157]

**147. Limit of remuneration**

Except as provided by the Ordinance or the rules, a liquidator shall not under any circumstances whatever, make any arrangement for, or accept from any solicitor, auctioneer, or any other person connected with the company of which he is liquidator, or who is employed in or in connexion with the winding up of the company, any gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration to which under the Ordinance and the rules he is entitled as liquidator, nor shall he make any arrangement for giving up, or give up any part of such remuneration to any such solicitor, auctioneer, or other person.

[cf. R. 158]

**148. Dealings with assets**

Neither the liquidator nor any member of the committee of inspection of a company shall, while acting as liquidator or member of such committee, except by leave of the court, either directly or indirectly, by himself or any employer, partner, clerk, agent, or servant, become purchaser of any part of the company's assets. Any such purchase made contrary to the provisions of this rule may be set aside by the court on the application of the Official Receiver in a winding up by the court of any creditor or contributory in any winding up and the court may make such order as to costs as the court shall think fit.

[cf. R. 159]

**149. Restriction on purchase of goods by liquidator**

Where the liquidator carries on the business of the company, he shall not, without the express sanction of the court, purchase goods for the carrying on of such business from any person whose connexion with the liquidator is of such a nature as would result in the liquidator obtaining any portion of the profit (if any) arising out of the transaction.

[cf. R. 160]

**150. Committee of inspection not to make profit**

No member of a committee of inspection shall, except under and with the sanction of the court, directly or indirectly, by himself or any employer, partner, clerk, agent, or servant, be entitled to derive any profit from any transaction arising out of the winding up, or to receive out of the assets any payment for services rendered by him in connexion with the administration of the assets, or for any goods supplied by him to the liquidator for or on account of the company. In a winding up by the court, if it appears to the Official Receiver or in a voluntary winding up if it appears to the committee of inspection or to any meeting of creditors or contributories that any profit or payment has been made contrary to the provisions of this rule, they may disallow such payment or recover such profit, as the case may be, on the audit of the liquidator's accounts, or otherwise.

[cf. R. 161]

**151. Costs of obtaining sanction of court**

In any case in which the sanction of the court is obtained under rule 149 or 150, the cost of obtaining such sanction shall be borne by the person in whose interest such sanction is obtained, and shall not be payable out of the company's assets.

[cf. R. 162]

**152. Sanction of payments to committee**

Where the sanction of the court to a payment to a member of a committee of inspection for services rendered by him in connexion with the administration of the company's assets is obtained, the order of the court shall specify the nature of the services, and such sanction shall only be given where the service performed is of a special nature. Except by the express sanction of the court no remuneration shall, under any circumstances, be paid to a member of a committee for services rendered by him in the discharge of the duties attaching to his office as a member of such committee.

[cf. R. 163]

**153. Discharge of costs before assets handed to liquidator**

- (1) Where a liquidator is appointed by the court or under the Ordinance, and has notified his appointment to the registrar of companies, and given security to the satisfaction of the Official Receiver, the provisional liquidator shall forthwith

put the liquidator into possession of all property of the company of which the provisional liquidator may have custody:

Provided that such liquidator shall have, before the assets are handed over to him by the provisional liquidator, discharged any balance due to the Official Receiver and provisional liquidator on account of fees, costs, and charges properly incurred by him, and on account of any advances properly made by him in respect of the company, together with interest on such advances at the rate of 8 per cent per annum; and the liquidator shall pay all fees, costs, and charges of the Official Receiver and provisional liquidator which may not have been discharged by the liquidator before being put into possession of the property of the company, and whether incurred before or after he has been put into such possession.

(L.N. 587 of 1995)

- (2) The Official Receiver and provisional liquidator shall be deemed to have a lien upon the company's assets until such balance shall have been paid and the other liabilities shall have been discharged.
- (3) It shall be the duty of the Official Receiver and provisional liquidator, if so requested by the liquidator, to communicate to the liquidator all such information respecting the estate and affairs of the company as may be necessary or conducive to the due discharge of the duties of the liquidator.
- (4) This rule and rule 154 shall apply only in a winding up by the court.

(46 of 2000 s. 40)  
[cf. R. 164]

#### 154. Resignation of liquidator

A liquidator who desires to resign his office shall summon separate meetings of the creditors and contributories of the company to decide whether or not the resignation shall be accepted. If the creditors and contributories by ordinary resolutions both agree to accept the resignation of the liquidator, he shall file with the Registrar a memorandum of his resignation, and shall send notice thereof to the Official Receiver, and the resignation shall thereupon take effect. In any other case the liquidator shall report to the court the result of the meetings and shall send a report to the Official Receiver and thereupon the court may, upon the application

of the liquidator or the Official Receiver, determine whether or not the resignation of the liquidator shall be accepted, and may give such directions and make such orders as in the opinion of the court shall be necessary.

[cf. R. 165]

#### 155. Office of liquidator vacated by his insolvency

If a bankruptcy order is made against the liquidator, the liquidator must thereby vacate office, and for the purposes of the application of the Ordinance, the rules and the Companies Ordinance (Cap 622) is deemed to have been removed.

(28 of 2012 ss. 912 & 920)

[cf. R. 166]

#### 156. Payments out of bank

All payments out of the companies liquidation account shall be made in such manner as the Director of Accounting Services may from time to time direct.

(L.N. 16 of 1977)

[cf. R. 167]

#### 157. Special bank account

- (1) Where the liquidator in a winding up by the court is authorized to have a special bank account, he shall forthwith pay all moneys received by him into that account to the credit of the liquidator of the company. All payments out shall be made by cheque payable to order, and every cheque shall have marked or written on the face of it the name of the company, and shall be signed by the liquidator, and shall be countersigned by such other person, if any, as the committee of inspection may appoint. (30 of 1999 s. 44)
- (2) Where application is made to the Official Receiver to authorize the liquidator in a winding up by the court to make his payments into and out of a special bank account, the Official Receiver may grant such authorization for such time and on such terms as he may think fit, and may at any time order the account to be closed if he is of opinion that the account is no longer required for the purposes mentioned in the application.

[cf. R. 168]

#### 158. Record of proceedings

## BOOKS

In a winding up by the court the provisional liquidator, until a liquidator is appointed under the Ordinance or by the court, and thereafter the liquidator, shall keep a record in which he shall record all minutes, all proceedings had and resolutions passed at any meeting of creditors or contributories, or of the committee of inspection, and all such matters as may be necessary to give a correct view of his administration of the company's affairs, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors or contributories), nor need he exhibit such document to any person other than a member of the committee of inspection, or the Official Receiver.

(46 of 2000 s. 40)

[cf. R. 169]

### 159. Cash Book

- (1) In a winding up by the court, the provisional liquidator, until a liquidator is appointed under the Ordinance or by the court, and thereafter the liquidator, shall keep a book to be called the 'Cash Book' (which shall be in such form as the Official Receiver may from time to time direct) in which he shall (subject to the provisions of the rules as to trading accounts) enter from day to day the receipts and payments made by him. (46 of 2000 s. 40)
- (2) In a winding up by the court, a liquidator other than the Official Receiver, shall submit the record and Cash Book, together with any other requisite books and vouchers, to the committee of inspection (if any) when required, and not less than once every 3 months.
- (3) In a creditors voluntary winding up the liquidator shall keep such books as the committee of inspection or if there is no such committee as the creditors direct and all books kept by the liquidator shall be submitted to the committee of inspection or if there is no such committee to the creditors with any other books documents papers and accounts in his possession relating to his office as liquidator or to the company as and when the committee of inspection or if there is no such committee the creditors direct.

[cf. R. 170]

### 160. Investment of assets in securities, and realization of securities

#### INVESTMENT OF FUNDS

- (1) Where in a winding up by the court or in a creditors voluntary winding up, the committee of inspection are of opinion that any part of the cash balance standing to the credit of the account of the company should be invested, they shall so advise the liquidator and the liquidator shall inform the Official Receiver in writing accordingly.
- (2) Where the committee of inspection in any such winding up are of opinion that it is advisable to sell any of the securities in which the moneys of the company's assets are invested or to withdraw any money of the company's assets held on deposit, they shall so advise the liquidator and the liquidator shall inform the Official Receiver in writing accordingly. (L.N. 197 of 1987)
- (3) Where there is no committee of inspection in any such winding up as is mentioned in paragraphs (1) and (2) and members' voluntary winding up a case has in the opinion of the liquidator arisen under section 295 of the Ordinance for an investment of funds of the company, a withdrawal of funds of the company held on deposit in a bank or a sale of securities in which the company's funds have been invested, the liquidator shall inform the Official Receiver in writing accordingly, stating the facts on which his opinion is founded and requesting the Official Receiver to make the investment, withdrawal or sale. (L.N. 197 of 1987)

(L.N. 247 of 1994)

[cf. R. 171]

### 161. Audit of Cash Book

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

The committee of inspection shall not less than once every 3 months audit the liquidator's Cash Book and certify therein under their hands the day on which the said book was audited. (See Form 86)

[cf. R. 172]

## 62. Official Receiver's audit of liquidator's accounts

- 1) The liquidator shall, at the expiration of 6 months from the date of the winding up order, and at the expiration of every succeeding 6 months thereafter until his release, transmit to the Official Receiver a copy of the Cash Book for such period in duplicate, together with the necessary vouchers and copies of the certificates of audit by the committee of inspection. He shall also forward with the first accounts, a summary of the company's statement of affairs, showing thereon in red ink the amounts realized, and explaining the cause of the non-realization of such assets as may be unrealized. The liquidator shall also at the end of every 6 months forward to the Official Receiver, with his accounts, a report upon the position of the liquidation of the company in such form as the Official Receiver may direct.
- 2) When the assets of the company have been fully realized and distributed, the liquidator shall forthwith send in his accounts to the Official Receiver, although the 6 months may not have expired.
- 3) The accounts sent in by the liquidator shall be certified to be correct by him in writing.

(L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 173]

## 163. Liquidator carrying on business

- 1) Where the liquidator carries on the business of the company, he shall keep a distinct account of the trading, and shall incorporate in the Cash Book the total weekly amounts of the receipts and payments on such trading account.
- 2) The trading account shall from time to time, and not less than once in every month, be certified to be correct by the liquidator in writing, and the liquidator shall thereupon submit such account to the committee of inspection (if any) or such member thereof as may be appointed by the committee for that purpose, who shall examine and certify the same. (See Forms 88 & 89)

(L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 174]

## 164. Copy of accounts to be filed

When the liquidator's account has been audited, the Official Receiver shall certify the fact upon the account, and thereupon the duplicate copy, bearing a like certificate, shall be filed with the Registrar.

[cf. R. 175]

## 165. Summary of accounts

- 1) Subject to the proviso to section 203(5) of the Ordinance, the liquidator shall transmit to the Official Receiver with his accounts a summary of such accounts in such form as the Official Receiver may from time to time direct, and, on the approval of such summary by the Official Receiver, shall forthwith obtain, prepare, and transmit to the Official Receiver so many printed copies thereof, duly stamped for transmission by post, and addressed to the creditors and contributories, as may be required for transmitting such summary to such creditor and contributory.

(L.N. 201 of 1984)

- 1A) Where under the said proviso the Official Receiver dispenses with compliance with section 203(5) of the Ordinance, he may, if he thinks fit, give a written certificate to that effect which shall be filed with the proceedings in the winding up and shall render an application to the court unnecessary.

(L.N. 201 of 1984)

- 2) The cost of printing and posting such copies shall be a charge upon the assets of the company.

[cf. R. 176]

## 166. Statement of no receipts

Where a liquidator has not since the date of his appointment or since the last audit of his accounts, as the case may be, received or paid any sum of money on account of the assets of the company, he shall, at the time when he is required to transmit his accounts to the Official Receiver, forward to the Official Receiver a statement of no receipts or payments certified to be correct by him.

(L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 177]

## 167. Proceedings on resignation, &c., of liquidator

- 1) Upon a liquidator resigning, or being released or removed from his office, he shall deliver over to the Official Receiver, or as the case may be, to the new liquidator, all books kept