

# TABLE OF CONTENTS

<i>Publisher's Note</i> .....	v
<i>List of Contributors</i> .....	vii
<i>Table of Cases</i> .....	xv
<i>Table of Hong Kong Legislation</i> .....	lxv
<i>Table of PRC Legislation</i> .....	lxxxv
<i>Table of Foreign Legislation</i> .....	xc
<i>Table of Rules and Regulations</i> .....	xcv

## CHAPTER 1 DIRECTORS

I. Effect of Winding-Up and Receiverships on Directors.....	1.001
II. Civil Liability of Directors.....	1.015
III. Criminal Liability of Directors.....	1.059
IV. Disqualification of Directors.....	1.065

## CHAPTER 2 ROLE AND STATUS OF LIQUIDATORS

I. Introduction.....	2.001
II. Appointment of Liquidators.....	2.005
III. Duties of Liquidators.....	2.012
IV. Powers of Liquidators.....	2.020
V. Remuneration.....	2.032
VI. Control of Liquidators.....	2.038
VII. Cross Border Issues.....	2.041
VIII. Recent Reforms.....	2.042

## CHAPTER 3 PROVISIONAL LIQUIDATION

I. Introduction.....	3.001
II. Criteria for the Appointment of Provisional Liquidators Generally.....	3.002
III. Persons who may be Appointed as a Provisional Liquidator .....	3.003
IV. Effect of the Appointment of a Provisional Liquidator .....	3.004
V. Provisional Liquidation as an Aid to Restructuring a Company's Debt .....	3.005
VI. Procedure.....	3.006

VII. Provisional Liquidators Fees .....	3.007
VIII. Provisional Liquidation Post Winding-Up Order .....	3.008
IX. Appointment of Provisional Liquidator under s.194(1A) .....	3.009
X. Removal of Provisional Liquidator .....	3.010

#### CHAPTER 4 WINDING-UP BY THE COURT

I. Scheme of This Chapter .....	4.001
II. Jurisdiction .....	4.002
III. Grounds for Winding-Up .....	4.009
IV. The Winding-Up Process – The Law and Procedure .....	4.023
V. Group Liquidations .....	4.057
VI. Effect of a Winding-Up Order .....	4.062
VII. Proceedings by or against the Company .....	4.068
VIII. Winding-Up by the Court Conducted as a Creditors' Winding-Up .....	4.085
IX. Regulation Orders .....	4.087
X. Summary Procedure Liquidations .....	4.091

#### CHAPTER 5 MEMBERS' VOLUNTARY WINDING-UP

I. Introduction .....	5.001
II. Prerequisite for Members Voluntary Winding-Up Certificate of Solvency .....	5.002
III. Procedure .....	5.003
IV. If Company is Found to be Insolvent .....	5.005
V. Stay/Rescission of Members' Voluntary Winding-Up .....	5.006
VI. Consequences of a Members Voluntary Winding-Up .....	5.009
VII. The Liquidators: Duties, Powers, Vacancy in Office, Removal by the Court, Removal of Liquidator by the Company and Creditors, Resignation and Vacation of Office .....	5.010
VIII. Section 237 of Cap. 32 Regarding Arrangements (Reconstructions) .....	5.017
IX. Creditors' Voluntary Winding-Up .....	5.018
X. Resolutions for, and Commencement of, Voluntary Winding-Up .....	5.019
XI. Consequences of Voluntary Winding-Up .....	5.024
XII. The Meeting of Creditors .....	5.025
XIII. Liquidators .....	5.027
XIV. Appointment of Committee of Inspection .....	5.029
XV. Fixing of Liquidators' Remuneration and Cessation of Directors' Powers .....	5.030
XVI. Powers and Duties of Liquidator in a Creditors' Voluntary Winding-Up .....	5.031

XVII. Distribution of Property of Company .....	5.032
XVIII. Vacancy in Office and Removal by the Court .....	5.033
XIX. Completion of Creditors' Voluntary .....	5.034
XX. Right to Apply for Compulsory .....	5.035
XXI. Special Procedure for Voluntary Liquidation under Section 228A of Cap. 32 .....	5.036

#### CHAPTER 6 INVESTIGATIONS, ASSETS, CLAIMS AND REALISATIONS

I. Introduction .....	6.001
II. Steps to be Taken Upon Appointment .....	6.016
III. Practical Investigation Procedures .....	6.061
IV. Unfair Preferences .....	6.073

#### CHAPTER 7 CREDITORS IN A WINDING-UP

I. Introduction .....	7.001
II. Who is a Creditor for the Purpose of Commencing the Winding-Up Process? .....	7.004
III. Position of Creditors after a Winding-Up Order has been Made or a Resolution to Wind Up has been Passed .....	7.008
IV. Claiming in the Liquidation: The Procedure .....	7.013
V. Claiming in the Liquidation: What Claims can be Proved or Claimed? .....	7.019
VI. Limitations on Eligibility to Claim in a Liquidation .....	7.032
VII. Order of Payment to Creditors .....	7.036
VIII. Other General Rights of Creditors During the Winding-Up Process .....	7.046

#### CHAPTER 8 SCHEMES OF ARRANGEMENT

I. Introduction .....	8.001
II. Parties to the Scheme .....	8.003
III. Jurisdiction .....	8.007
IV. Explanatory Statement .....	8.011
V. The Scheme .....	8.014
VI. The Procedure .....	8.015
VII. The Court's Role .....	8.017
VIII. Classification of Class .....	8.019
IX. Voting .....	8.022
X. Effect on Other Proceedings – Winding-Up .....	8.023
XI. Court Sanction .....	8.024

XII. Effect of the Sanction .....	8.030
XIII. Modification of Schemes .....	8.031
XIV. Special Uses of Schemes .....	8.032

## CHAPTER 9 SETTING ASIDE OF PREFERENCES AND TRADING ISSUES

I. Introduction .....	9.001
II. Summary.....	9.005
III. Requirements.....	9.006
IV. Avoidance of Disposition of Property, etc after Commencement of Winding-Up.....	9.027
V. Disposition of the Property of the Company .....	9.030
VI. Transfer of Shares or Alteration in Status.....	9.048
VII. Application for Validation Order.....	9.049
VIII. Discretion of the Court.....	9.055

## CHAPTER 10 LIQUIDATION COSTS

I. Introduction.....	10.001
II. Costs in a Compulsory Winding-Up or Liquidation .....	10.002
III. Security for Costs.....	10.023
IV. When and How the Costs Relating to a Winding-Up Order are Paid.....	10.038
V. Liquidations Converted under Section 209A of the Retitled Cap. 32 .....	10.039
VI. The Liquidator's Remuneration.....	10.041
VII. Solicitors' Bills.....	10.044
VIII. Section 221 of Cap. 32.....	10.080
IX. Liquidation Costs - Interim Payments.....	10.081
X. Costs in a Voluntary Winding-Up .....	10.084
XI. Costs in a Receivership .....	10.087

## CHAPTER 11 RECEIVERSHIP

I. General Nature of Receiver.....	11.001
II. Types of Receiver .....	11.002
III. Receivers Appointed by the Court .....	11.003
IV. Receivers Appointed out of Court.....	11.049

## CHAPTER 12 CROSS-BORDER ISSUES

I. Overview .....	12.001
II. Cross-Border Reach of the Hong Kong Courts' Jurisdiction .....	12.002
III. Interaction between Hong Kong and Other Jurisdictions .....	12.016
IV. Ancillary Applications .....	12.033
V. The Cross-Border Effect of Orders .....	12.042
VI. Reform .....	12.054

## CHAPTER 13 CORPORATE RESCUE

I. Introduction .....	13.001
II. The Concept of Corporate Rescue.....	13.002
III. Why is Rescue Necessary?.....	13.003
IV. Methods for Corporate Rescue.....	13.004
V. Non-Statutory Methods of Corporate Rescue .....	13.005
VI. Statutory Methods of Rescue under the SOA-Based Reorganisation System.....	13.007

## CHAPTER 14 BANKRUPTCY LAW IN THE PRC

I. An introduction.....	14.001
II. Development of Bankruptcy Law & Practice in China.....	14.002
III. Enterprises Bankruptcy Law of 2006 .....	14.005
IV. Judicial Interpretations and Circulars.....	14.006
V. A Uniform Insolvency Test.....	14.007
VI. Petition and Acceptance.....	14.008
VII. Bankruptcy Administration.....	14.009
VIII. Automatic Stay .....	14.010
IX. Avoidance Powers .....	14.011
X. Assets of the Debtor .....	14.012
XI. Bankruptcy Expenses and Debts of Common Benefits (共益債務) ....	14.013
XII. Claims Declaration .....	14.014
XIII. The Creditors' Meeting.....	14.015
XIV. Reorganization .....	14.016
XV. Settlement .....	14.017
XVI. Declaration of Bankruptcy .....	14.018
XVII. Bankruptcy and Reorganization of Listed Companies .....	14.019

XVIII. Liquidation .....	14.020
XIX. Distribution.....	14.021
XX. Termination of Bankruptcy Proceedings .....	14.022
XXI. Cross-Border Insolvency Provision .....	14.023
XXII. Legal Liabilities .....	14.024
XXIII. Unfinished Policy Bankruptcy .....	14.025
XXIV. Bankruptcy of Financial Institutions .....	14.026
XXV. Practical Difficulties .....	14.027
XXVI. Concluding Remarks .....	14.028
<i>Index</i> .....	677

## TABLE OF CASES\*

A & N Thermo Products Ltd, Re [1963] 1 WLR 1341 .....	10.005
A BC Chewing Gum Ltd, Re [1975] 1 All ER 1017.....	4.053
A Company, Re [1894] 2 Ch 349.....	7.004
A Company, Re [1974] 1 All ER 256, [1973] 1 WLR 1566 .....	4.068
A Company, Re [1984] BCLC 307 .....	4.030
A Company, Re [1987] BCLC 133 .....	11.007, 11.008
A Company, Re [1991] 1 WLR 1003.....	4.047
A Company, Re; <i>ex p</i> Nyckein Finance Co Ltd [1991] BCLC 539 .....	3.002
A Company, (No. 0022 of 1915), Re [1915] 1 Ch 520.....	7.032
A Company (No. 007523 of 1986), Re [1987] BCLC 200.....	9.059, 9.060
A Company (No. 00359 of 1987), Re [1988] 1 Ch 210.....	12.007
A Company (No. 04502 of 1988), Re [1991] BCC 234 .....	10.007
A Company (No. 00330 of 1991); <i>ex p</i> Holden, Re [1991] BCLC 597 .....	4.022
A Company (No. 004055 of 1991), Re [1991] 1 WLR 1003 .....	10.007
A Company (No. 00687 of 1991), Re [1992] BCLC 133.....	9.049
A Company (No. 006341 of 1992), Re; <i>ex p</i> B Ltd [1994] 1 BCLC 225.....	1.002, 1.008
A Company, Re (No. 00751 of 1992); <i>ex p</i> Avocet Aviation, Re [1992] BCLC 869.....	10.008
A Singer & Co (Hat Manufacturers) Ltd, Re [1943] Ch 121.....	1.058
A W Hall and Co Ltd, Re (1888) LK 37 Ch D 712 .....	10.016
A&C Group Services Ltd, Re [1993] BCLC 1297 .....	1.077
AB Developments Pty Ltd, Re (1982) 6 ACLR 654.....	10.007
ABC Coupler and Engineering Co Ltd (No. 3), Re [1970] 1 All ER 650, [1970] 1 WLR 702 (1882), 21 Ch D 322 .....	4.080
ABC Coupler and Engineering Co Ltd (No. 3), Re [1970] 1 All ER 650, [1970] 1 WLR 702.....	3.006, 4.073, 4.080, 10.006
Abdul Aziz Essa v Capital Globe Ltd [2012] 6 HKC 472.....	10.009, 10.017
Abraham v Thompson [1997] 4 All ER 362 .....	10.018
Achieve Goal Holdings Ltd v Zhong Xin Ore-Material Holding Co Ltd (unrep., [2014] HKEC 1454).....	11.044, 11.047
Addstead Pty Ltd v Liddan Pty Ltd (1997) 25 ACSR 175 .....	1.016, 1.019, 1.023, 1.031
Addstead Pty Ltd v Liddan Pty Ltd (1997) 25 ACSR 175.....	1.016
AE Hayter and Sons (Porchester) Ltd, Re [1961] 1 WLR 1008 .....	10.006, 10.007
Agriplant Services Ltd, Re [1997] 2 BCLC 599.....	9.010, 9.021
AI Levy (Holdings) Ltd, Re [1964] Ch 19.....	9.033, 9.053, 9.056, 9.063
Aiden Shipping Co Ltd v Interbulk Ltd [1986] AC 965 .....	4.035, 4.047
Aim Investments (Holdings) Ltd, Re [2004] 2 HKLRD 201.....	4.003, 10.015, 10.019

\* Publisher's Note: Some cases and legal decisions cited in this publication may not have been listed on this Table because of late amendments & additions to the text of this publication. All such cases and legal decisions will be fully incorporated and listed onto the Table of Cases in the subsequent edition of this publication.