

- (c) the expression “rates” or “taxes” means any rate charge, tax or assessment imposed or made by the Government or by any Provincial Council or local authority or any other authority established by or under any written law.

TENTH SCHEDULE [Section 366 (5)]

PAYMENT OF CLAIMS IN LIQUIDATION

1. The liquidator may from time to time distribute such amount of the funds held by him as he thinks fit to creditors who have made a claim in the liquidation.
2. Before making any payment to creditors the liquidator shall prepare a list showing all claims received, the amount of the claim and the amount to be paid to each person who has made a claim.
3. Before making a payment, the liquidator may—
  - (a) fix a date before which any creditor who wishes to participate in the payment shall file a claim; and
  - (b) give public notice that a payment is to be made and of the date fixed under sub-paragraph (a).
4. A date fixed for the purpose of sub-paragraph (a) of paragraph 3, shall not be less than twenty working days after the date of the public notice given under sub-paragraph (b) of paragraph 3 or more than twenty working days before the date of the proposed payment.
5. The liquidator may exclude from a payment, any creditor who does not make a claim before the date specified in a notice given under paragraph 3.
6. The list prepared by the liquidator under paragraph 2 shall be available for inspection by any creditor who has made a claim or any shareholder of the company, on each working day which is less than ten working days before the date of the payment.
7. The liquidator shall make the payment on the date specified in the public notice given under paragraph 3 to each creditor shown on the list, unless notice of an application under subsection (3) of section 292 or section 348, for an order reversing or modifying the decision of the liquidator to accept the claim of that creditor, has been served on the liquidator before that date. No payment made in accordance with this paragraph shall be liable to be disturbed as a consequence of any subsequent challenge to the liquidator’s acceptance of a claim.

8. Where a creditor makes a claim after one or more payments have been made to creditors by the liquidator—
  - (a) that creditor shall be paid at the same rate in respect of his claim as all other creditors with equal ranking claims have previously been paid, to the extent that the assets of the company are sufficient to do so;
  - (b) any payments which have already been made to other creditors shall not be disturbed;
  - (c) that creditor shall be entitled to participate in the same manner as other creditors with equal ranking claims in any further payments to such creditors.
9. Where at the time a payment is made to creditors, a claim by any creditor—
  - (a) has been rejected by the liquidator, and the creditor has applied to the court under subsection (3) of section 292 or section 348 for an order reversing or modifying the decision of the liquidator; or
  - (b) has been allowed by the liquidator, but notice of an application under subsection (3) of section 292 or section 348 for an order reversing or modifying the decision of the liquidator has been served on the liquidator,the liquidator—
  - (c) shall not make a payment to that creditor in respect of that claim;
  - (d) may if he thinks fit, make provision for the payment that would be made in respect of that claim and for the probable cost of the application if the claim is admitted, before making any payment to the other creditors.
10. A guarantor of any debt or obligation of the company who has paid or discharged the debt or obligation in whole or in part, whether before or after the commencement of the liquidation, may, subject to any agreement with the principal creditor to the contrary—
  - (a) if the principal creditor has made a claim in the liquidation in respect of the amount which has been paid or discharged, stand in the place of the principal creditor so far as the claim in respect of that amount is concerned; or

- (b) otherwise, make a claim in respect of the amount of the debt or obligation paid or discharged.

ELEVENTH SCHEDULE [Section 429 (1)]

TERMS IMPLIED IN INSTRUMENTS CREATING FLOATING CHARGES

1. The company shall not sell or otherwise dispose of the property comprised in the floating charge (referred to in this Schedule as the “secured property”) other than in the normal course of business.
2. The floating charge shall be security for the payment of all sums owing by the company to the grantee, from time to time.
3. The floating charge and the instrument creating it shall remain in full force and effect and shall be a continuing security for the payment of any sums owing by the company to the grantee from time to time, notwithstanding that any sum or sums may be paid to the grantee and that any account between the company and the grantee may from time to time be in credit, and notwithstanding any settlement of account or other matter or thing whatsoever, until a final discharge of the floating charge is executed by the grantee in respect of the property comprised in it.
4. The company undertakes to—
  - (a) duly and punctually comply with all laws binding on it;
  - (b) duly and punctually perform and comply with the terms of all agreements between the company and the grantee;
  - (c) pay or discharge on or before the due date, all its liabilities, debts, outgoings, expenses and obligations of a monetary nature, including rents, taxes, insurance premiums and other outgoings in respect of the secured property;
  - (d) comply with all obligations, duties and restrictions binding on the company whether arising from contract or otherwise including all leases, sub-leases, agreements to lease, tenancy agreements or licences in respect of the secured property;
  - (e) keep all its assets in good order, repair and condition and maintain, service, renew or replace, assets essential to its business in accordance with good commercial practice;