

Section 301 (Powers of court where there is no Committee of Inspection)

Section 307 (Appointment of special manager)

Section 311 (Power to order public examination of promoters, directors, &c.)

Section 213 (Persons prohibited from managing companies)

Section 315 (Delegation to liquidator of certain powers of court)

NINTH SCHEDULE [Section 365 (2)]

PREFERENTIAL CLAIMS

1. The liquidator shall first pay, in the order of priority in which they are listed:—
  - (a) the fees and expenses properly incurred by the liquidator in carrying out the duties and exercising the powers of the liquidator and the remuneration of the liquidator;
  - (b) the reasonable costs of a person who applied to the court for an order that the company be put into liquidation, including the reasonable costs of a person appearing on the application whose costs are allowed by the court;
  - (c) the actual out-of-pocket expenses necessarily incurred by a liquidation committee.
2. After paying the claims referred to in paragraph 1, the liquidator shall next pay the following claims :—
  - (a) all provident fund dues, employees trust fund dues and gratuity payments due to any employee;
  - (b) income tax charged or chargeable for one complete year prior to the commencement of the liquidation, that year to be selected by the Commissioner-General of Inland Revenue in accordance with the provisions of the Inland Revenue Act, No. 10 of 2006;
  - (c) turnover tax charged or chargeable for one complete year prior to the commencement of the liquidation;
  - (d) value added tax charged or chargeable for four taxable periods prior to the commencement of the liquidation, such taxable periods to be selected by the Commissioner-General of Inland Revenue in accordance with the provisions of the Value Added Tax Act, No. 14 of 2002;

- (e) all rates or taxes (other than income tax) due from the company at the commencement of the liquidation which became due and payable within the period of twelve months prior to that date;
  - (f) all dues to the Government as recurring payments for any services given or rendered periodically;
  - (g) industrial court awards and other statutory dues payable to any employee;
  - (h) subject to paragraph 4, all wages or salary of any employee whether or not earned wholly or in part by way of commission, and whether payable for time or for piece work, in respect of services rendered to the company during the four months preceding the commencement of the liquidation;
  - (i) holiday pay becoming payable to an employee (or where the employee has died, to any other person in the employee's right), on the termination of the employment before or by reason of the commencement of the liquidation;
  - (j) unless the company has at the commencement of the liquidation, rights capable of being transferred to and vested in an employee under a contract of the kind referred to in section 24 of the Workmen's Compensation Ordinance, all amounts due in respect of any compensation or liability for compensation under that Ordinance, which have accrued before the commencement of the liquidation;
  - (k) subject to paragraph 4, amounts deducted by the company from the wages or salary of an employee in order to satisfy obligations of the employee.
3. After paying the claims referred to in paragraph 2, the liquidator must next pay the amount of any costs referred to in paragraph (d) of section 254 of this Act.
  4. The sum to which priority is to be given under paragraph 2 (h) shall not, in the case of any one employee, exceed twelve thousand rupees or such greater amount as is determined at the commencement of the liquidation.
  5. Where any compensation under the Workmen's Compensation Ordinance is a fortnightly payment, the amount due in respect of that compensation shall, for the purposes of paragraph 2(i), be the amount of the lump sum for which those payments may be commuted under that Ordinance.

6. Where a payment has been made—

- (a) to an employee of a company on account of wages or salary; or
- (b) to any such employee or where the employee has died, to any other person on behalf of the employee on account of holiday pay,

out of money advanced by some person for that purpose, the person by whom the money was advanced has in a liquidation, the same right of priority in respect of the money so advanced as the employee or other person receiving the payment on behalf of the employee would have, if the payment had not been made.

7. The claims listed in each of paragraphs 1, 2, and 3—

- (a) rank equally among themselves and shall be paid in full, unless the assets are insufficient to meet them, in which case they abate in equal proportions; and
- (b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, shall have priority over the claims of persons in respect of assets which are subject to a floating charge, and shall be paid accordingly out of those assets.

For the purposes of this paragraph, the term “floating charge” includes a security that conferred a floating charge at the time of its creation, but has since become a fixed or specific charge.

8. For the purposes of this Schedule—

- (a) remuneration in respect of a period of holiday or of absence from work through sickness or other good cause, shall be treated as wages in respect of services rendered to the company during that period;
- (b) the expression “holiday pay” in relation to a person, includes all sums which by virtue of his contract of employment or any enactment (including any Order made or direction given under any written law) are payable to that person by the company on account of the remuneration which would in the ordinary course, have become payable to him in respect of a period of holiday, had his period of employment continued until he became entitled to be allowed the holiday;

- (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.