

Duty of liquidator to call creditors' meeting if of opinion that company unable to pay its debts

584. (1) If the liquidator is at any time of the opinion that the company will not be able to pay or discharge its debts and other liabilities in full within the period stated in the declaration concerned referred to in section 207 or 580 (2), as the case may be, the liquidator shall—

(a) summon a meeting of creditors for a day not later than the 14th day after the day on which he or she formed that opinion,

(b) send notices of the creditors' meeting to the creditors by post not less than 10 days before the day on which that meeting is to be held,

(c) cause notice of the creditors' meeting to be advertised, at least 10 days before the date of the meeting, once in *Iris Oifigiúil* and once at least in 2 daily newspapers circulating in the locality in which the company's principal place of business in the State was situated during the relevant period, and

(d) during the period before the day on which the creditors' meeting is to be held, furnish creditors free of charge with such information concerning the affairs of the company as they may reasonably require,

and the notice of the creditors' meeting shall state the duty imposed by paragraph (d).

(2) The liquidator shall also—

(a) make out a statement in the prescribed form as to the affairs of the company, including a statement of the company's assets and liabilities, a list of the outstanding creditors and the estimated amount of their claims,

(b) lay that statement before the creditors' meeting, and

(c) attend and preside at that meeting.

(3) As from the day on which the creditors' meeting is held under this section, this Act shall have effect as if—

(a) without prejudice to the powers of the court under section 582 (2), the directors' declaration referred to in section 207 or 580 (2), as the case may be, had not been made, and

(b) the creditors' meeting and the company meetings at which it was resolved that the company be wound up voluntarily were the meetings mentioned in section 587,

and, accordingly, the winding up shall become a creditors' voluntary winding up and any appointment made or committee established by the creditors' meeting shall be deemed to have been made or established by the creditors' meeting so mentioned.

(4) The appointment of a liquidator at a meeting called under this section shall not, subject to subsection (5), affect the validity of any action previously taken by the liquidator appointed by the members of the company.

(5) Where—

(a) the creditors appoint a liquidator at a meeting called under this section, and

(b) there is a dispute as to any or all of the costs, charges or expenses incurred by, the liquidator appointed by the members of the company,

the liquidator appointed by the creditors, or any creditor, may apply to the court to determine the dispute and the court may, on such application, make such order as it thinks fit.

(6) Nothing in this section shall read as taking away any right in this Act of any person to present a petition to the court for the winding up of a company.

(7) If the liquidator fails to comply with subsection (1), he or she shall be guilty of a category 3 offence.

(8) In this section “relevant period” means the period of 6 months immediately preceding the day on which were sent the notices summoning the company meeting at which it was resolved that the company be wound up voluntarily.