

237A. Duty of liquidator to summon creditors' meeting, etc. in case of insolvency

(Amended 14 of 2016 s. 66)

- (1) This section applies if the liquidator of a company is of the opinion that the company will not be able to pay its debts in full within the period stated in the certificate of solvency. *(Replaced 14 of 2016 s. 66)*
- (1A) The liquidator must—
- (a) summon a meeting of the creditors of the company for a date not later than 28 days after the day on which the liquidator formed that opinion;
 - (b) send notices of the meeting to the creditors at least 7 days before the date on which the meeting is to be held; and
 - (c) cause the notice of the meeting to be advertised—
 - (i) once in the Gazette; and
 - (ii) at least once in an English language newspaper and a Chinese language newspaper circulating in Hong Kong. *(Added 14 of 2016 s. 66)*
- (1B) If the liquidator is not a person who would be disqualified under section 262B(3) from acting as liquidator in the winding up of the company were it a creditors' voluntary winding up, the liquidator must make a disclosure statement that complies with section 262D before notices of the meeting are sent to the creditors. *(Added 14 of 2016 s. 66)*
- (1C) If the liquidator is a person who would be disqualified under section 262B(3) from acting as a liquidator in the winding up of the company were it a creditors' voluntary winding up, the liquidator must state in the notices of the meeting that the liquidator—
- (a) would be disqualified under section 262B(3) from acting as liquidator of the company when the winding up of the company becomes a creditors' voluntary winding up under section 237B(1); and
 - (b) although would be allowed under section 237B(3)(a) to continue to act as liquidator of the company, he or she would cease to be the liquidator of the company immediately after the conclusion of the meeting. *(Added 14 of 2016 s. 66)*
- (1D) At any time before the date on which the meeting is to be held, the liquidator must, as the creditors or any of them may reasonably require, provide the creditors or any of them, free of charge, with any information concerning the company's affairs so required. *(Added 14 of 2016 s. 66)*
- (1E) The liquidator must inform the creditors, in the notice of the meeting, of the liquidator's duty to provide information as imposed by subsection (1D). *(Added 14 of 2016 s. 66)*
- (1F) The liquidator must also—
- (a) prepare a full statement of the position of the company's affairs that complies with subsection (1G); and
 - (b) lay that statement before the meeting. *(Added 14 of 2016 s. 66)*
- (1G) The full statement of the position of the company's affairs must show—
- (a) the particulars of the company's assets, debts and liabilities;
 - (b) the names of the company's creditors and the estimated amount of the claim of each of the creditors;
 - (c) the securities held by each of the creditors;
 - (d) the date on which each of the securities was given; and

- (e) any further or other information as may be prescribed. *(Added 14 of 2016 s. 66)*
- (1H) The liquidator must attend and preside at the meeting. *(Added 14 of 2016 s. 66)*
- (2) The creditors may, at a meeting summoned by the liquidator under this section, appoint another liquidator in place of the liquidator. *(Amended 14 of 2016 s. 66)*
- (3) A liquidator who, without reasonable excuse, fails to comply with subsection (1A), (1B), (1C), (1D), (1E), (1F) or (1H) commits an offence and is liable on conviction to a fine. *(Replaced 14 of 2016 s. 66)*

(Added 6 of 1984 s. 166)
[cf. 1948 c. 38 s. 288 U.K.]