

Schedule

[r. 210A]

Transitional and Saving Provisions relating to Companies (Winding Up and Miscellaneous Provisions) (Amendment) Ordinance 2016

(Schedule added 14 of 2016 s. 179)

1. Interpretation

In this Schedule—

Amendment Ordinance (《修訂條例》) means the Companies (Winding Up and Miscellaneous Provisions) (Amendment) Ordinance 2016 (14 of 2016);

****commencement date*** (生效日期) means the date of commencement of the Amendment Ordinance;

former (原有), when it appears in conjunction with a reference to a rule or Form described by a number or a combination of a number and a letter, means the rule or Form of that number or of that combination of number and letter of the former Rules;

former Rules (《原有規則》) means the Companies (Winding-up) Rules (Cap. 32 sub. leg. H) as in force immediately before the commencement date.

Editorial Note:

* Commencement date: 13 February 2017.

2. Contents of order for winding up or appointment of provisional liquidator (rule 35)

If the petition for the winding up of a company has been presented before the commencement date, the former rule 35(2) and the former Forms 9 and 14 continue to apply in relation to the order for the winding up and the order for the appointment of a provisional liquidator in connection with the petition.

3. Appointment of liquidator and committee of inspection on report of meetings of creditors and contributories under rule 45

(1) If the winding up of a company has commenced before the commencement date, the former rule 45(2) continues to apply in relation to that winding up.

(2) If the petition for the winding up of a company has been presented before the commencement date, rule 45(8) does not apply in relation to the appointment of a liquidator or a committee of inspection.

4. List of contributories (rules 68 to 72)

If the winding-up order of a company has been made before the commencement date, then in relation to the list of contributories of the company—

(a) the former rules 68, 69, 70, 71 and 72 and the former Forms 42, 43, 44, 45, 46, 47, 48 and 49 continue to apply; and

(b) rule 67A does not apply.

5. Vacation of office of liquidator under rule 155

The former rule 155 continues to apply in relation to a liquidator appointed before the commencement date.

6. Certificate of employment under rule 175

If the petition for the winding up of a company has been presented before the commencement date, then in relation to a bill or charges of any solicitor, manager, accountant, auctioneer, broker, or other person employed by the Official Receiver or liquidator—

- (a) the former rule 175 continues to apply; and
- (b) rule 175(2) does not apply.

7. Costs and taxation

If the petition for the winding up of a company has been presented before the commencement date, then for determining whether a bill of costs, charges and disbursements of a person employed by the Official Receiver or the liquidator is to be taxed by the Registrar, the former rule 176 continues to apply.

8. Costs payable out of the assets

- (1) In relation to the priority of payments in respect of the winding up of a company, subject to subsections (2) and (3), rule 179(1) applies irrespective of when the winding up of the company commenced.
- (2) If the petition for the winding up of the company has been presented before the commencement date, rule 179(1) applies as if “makes or concurs in making the company’s statement of affairs” were substituted for “makes the statement of affairs of the company or a supplementary affidavit in relation to that statement”.
- (3) The new item in rule 179(1) does not apply in relation to any expenses incurred by a member of a committee of inspection or the representative of a member before the commencement date.
- (4) If the petition for the winding up of the company has been presented before the commencement date, then in relation to the payments of bills or charges of solicitors, managers, accountants, auctioneers, brokers, or other persons out of the assets of the company, the former rule 179(2) continues to apply.

9. Requirements under former rule 200 with regard to applications under section 204 of the Ordinance

If the winding up of a company has commenced before the commencement date, the former rule 200 continues to apply in relation to an application made under section 204 of the Ordinance in respect of that winding up.

10. Giving notice to creditors and contributories of intention to apply for release by Form 98

In relation to an application for release under the former rule 189 by a liquidator appointed before the commencement date, the former Form 98 continues to apply.