

Appointment of Liquidator and Committee of Inspection in a Winding Up by the Court

(14 of 2016 s. 135)

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

(14 of 2016 s. 136)

- (1) As soon as possible after the first meetings of creditors and contributories have been held the Official Receiver, or the chairman of the meeting, as the case may be, shall report the result of each meeting to the court. *(See Form 24)*
- (2) Subject to section 206 of the Ordinance, upon the result of the meetings of creditors and contributories being reported to the court, the court may, if the meeting of creditors and the meeting of contributories have each passed the same resolutions, or if the resolutions passed at the 2 meetings are identical in effect, upon the application of the provisional liquidator, forthwith make the appointments necessary for giving effect to such resolutions. In any other case the court shall, on the application of the provisional liquidator, fix a time and place for considering the resolutions and determinations (if any) of the meetings, deciding differences (if any), and making such order as shall be necessary. *(46 of 2000 s. 40; 14 of 2016 s. 136)*
- (3) When a time and place have been fixed for the consideration of the resolutions and determinations of the meetings, such time and place shall be advertised by the provisional liquidator in such manner as the court shall direct, but so that the first or only advertisement shall be published not less than 7 days before the time so fixed. *(46 of 2000 s. 40)*
- (4) Upon the consideration of the resolutions and determinations of the meetings the court shall hear the provisional liquidator and any creditor or contributory. *(46 of 2000 s. 40)*
- (4A) For the purposes of appointing a person to be a liquidator, the Official Receiver may, if he considers desirable, require an affidavit as to the fitness of such person to be so appointed. *(L.N. 286 of 1997)*
- (5) If a liquidator is appointed, a copy of the order appointing him shall be transmitted by him to the Official Receiver and the Official Receiver shall, as soon as the liquidator has given security, cause notice of the appointment to be gazetted. The expense of gazetting the notice of the appointment shall be paid by the liquidator, but may be charged by him on the assets of the company. *(See Forms 25 & 103(7))*
- (6) Every appointment of a liquidator or committee of inspection shall be advertised by the liquidator, in such manner as the court directs, immediately after the appointment has been made and the liquidator has given the required security. *(See Form 27)*
- (7) If a liquidator in a winding up by the court shall die, or resign, or be removed, another liquidator may be appointed in his place in the same manner as in the case of a first appointment, and the Official Receiver shall, on the request of not less than one-tenth in value of the creditors or contributories summon meetings for the purpose of determining whether or not the vacancy shall be filled; but none of the provisions of this rule shall apply where the liquidator is released under section 205 of the Ordinance in which case the Official Receiver shall remain liquidator. *(See Forms 103(8) & (9))*
- (8) In paragraphs (4A), (5), (6) and (7)—

liquidator (清盤人) does not include a provisional liquidator holding office by virtue of section 194(1)(a) or (aa) or (1A). *(14 of 2016 s. 136)*