

PART II
RULES RELATING TO SPECIAL JURISDICTION IN DELHI
HIGH COURT

(Volume II of High Court Rules and Orders)

CHAPTER 1

Rules Under Special Acts

Part A
RULES UNDER THE COMPANIES ACT

Rules made by the High Court under the powers conferred by Section 246 of the Indian Companies Act, 1913^a

General

1. The following shall be used as general heading in all cases under the Indian Companies Act in the [.] High Court and the Courts subordinate thereto and for all advertisements, notices, etc.

In the [.] High Court at

Or, in the Court of the District Judge at

In the matter of the Indian Companies Act, VII of 1913, and of the
. Limited Petition

under section(s)

. of the Act, for

.Petitioners(s).

Versus

. Respondent(s)

2. Petitions and forms—All applications under the Indian Companies Act shall be made by petition duly verified by affidavit and forms in the appendix, where applicable, or forms of the like character, with such variations as circumstances may require, shall be used.

Winding up

3. Form of petitions for winding up a company—Every petition for the winding up of a company by the Court or subject to the supervision of the Court shall be in Form No. 1, 2 or 3 in the appendix, as the case may be.

4. Verification of petition—Every petition for the winding up of any company by the Court or subject to the supervision of the Court shall be verified in the prescribed form. Such verification shall be made by the petitioner or by one of the petitioners (if more than one), or if by reason of absence or other good cause any person by whom or on whose behalf such petition is presented is unable himself to verify the same, the Court may permit some other competent person to verify the petition. In case the petition is presented by any company, the allegations therein shall be verified by some Director, Secretary or other principal officer of the company. Such verification shall be made and filed within four days after the petition is presented and such verified statement shall be sufficient *prima facie* evidence of the statement in the petition. (Form No. 4.)

5. Directions on admission—Upon the admission of the petition, the Judge shall fix a date for the hearing thereof and give directions as to the advertisement to be published and as to the person on whom copies are to be served.

6. Advertisement—(i) In the absence of any direction to the contrary, the petition for the winding up of any company by the Court, or subject to the supervision of the Court, shall, after admission, be advertised fourteen clear days before the hearing, once in the local official gazette and once at least in two newspapers.

(ii) The advertisement shall state the date on which the petition was presented, the name and address of the petitioner and of his pleader or agent, if any. (Form 5)

7. Service of notice—Every such petition shall, unless presented by the company, be served at the registered office (if any) of the company, and where there is no registered office, then at the principal or last known principal place of business of the company, if any such place can be found, by leaving a copy with any Director, Officer or servant of the Company, there, or in case no such Director, Officer or servant can be found there, then by being left at or affixed to the door or wall of such registered office or principal place of business, or being served in such other manner as the Judge may direct. Every petition for the winding up of a company subject to the supervision of the Court shall also be served upon the Liquidator (if any) appointed for the purpose of winding up the affairs of the company. So also every petition for compulsory winding up of a company shall be served upon the Liquidator (if any), who may have been appointed to act in a voluntary winding up or winding up under supervision, as the case may be.

8. Notice by person who intends to appear—Every person who intends to appear on the hearing of a petition for winding up shall serve on, or send by post to, the Deputy Registrar (Judicial) of the Court, notice of his intention. The notice shall contain the address of such petitioner and shall be signed by him or by his agent or counsel and shall be served 7 days before the day appointed for hearing of the petition. A person who has failed to comply with this rule

shall not, without the special leave of the Court, be allowed to appear on the hearing of the petition. (Form No. 8)

9. Copy of petition to be furnished—Every contributor or creditor of the company shall, on application to the Court in which the petition is presented, be entitled to be furnished with a copy of the petition on payment of the usual and customary fees for copies of documents in such Court, and such copies shall be furnished within three days after the same shall have been applied for.

10. Affidavits—An affidavit intended to be used in support or opposition of the petition that the company be wound up by or subject to the supervision of the Court, shall be filed after notice to the opposite party 7 clear days before the date of hearing of the petition.

(b) An affidavit in reply, to an affidavit filed in support or opposition of the petition, shall be filed two clear days before the date of hearing of the petition and after notice to the opposite party.

(c) Any other affidavit may be filed at any stage of the proceedings with the permission of the Court and notice of any such affidavit shall be given, on the date on which it has been filed, to the party against whom it is intended to be used.

11. Petition not to be dismissed if the petitioner does not desire to prosecute it—(i) Where a petitioner consents to withdraw his petition or to allow it to be dismissed or fails to appear in support of his petition when it is called on in the Court on the day originally fixed for the hearing thereof or on any day to which the hearing has been adjourned or, if appearing, does not apply for an order in the term of the prayer of his petition, the Court may, upon such terms as it may think just, substitute as petitioner any other person who, in the opinion of the Court, has a right to present petition for winding up and who is desirous of prosecuting the petition.

(ii) Where the Judge allows a person to be substituted as petitioner in an application for the winding up of the company, he shall adjourn the hearing of the petition to a date to be fixed by him. Such person shall within seven days from the making of the order file a fresh petition with such amendment as he desires to incorporate therein and shall also file an affidavit setting out the ground upon which he supports the petition. The amended petition shall be treated as the petition for the winding up of the company, and shall not require any stamp.

12. Death of petitioner—If the petitioner dies before the hearing of the petition, his legal representatives may obtain an order to carry on the petition or the Court may, upon such terms as it may think just, substitute as petitioner any other person who in the opinion of the Court has a right to present a petition for winding up and who is desirous of prosecuting the petition. In the latter case, the provisions of Rule 11 (ii) shall apply.

13. Winding up order to be filed with Registrar—On the making up of a winding up order, it shall be the duty of the petitioner in a winding up proceedings and of the Official Liquidator of the company to file with the Registrar of Joint Stock Companies a copy of the order within a month from the date of the winding-up order. (Form Nos. 9 and 10)

14. Order of winding up to be advertised—Every order for winding up of a company by the Court or subject to the supervision of the Court shall, within two weeks after the date thereof, be advertised once in the same papers and Gazette in which the notice of the winding up petition appeared unless the Court otherwise directs and shall be served upon such person or persons (if any) and in such manner as the Court may direct. (Form No. 11)

15. Appointment of Provisional Liquidator—(a) After the presentation, of a petition, upon the application of the company or any person entitled to present the petition and upon proof by affidavit of sufficient ground for the appointment of a Provisional Liquidator, the Court, if it thinks fit, and upon such terms as in the opinion of the Court shall be just and necessary, may make the appointment, but shall before making any appointment give notice to the company unless it thinks fit to dispense with the notice. (Form No. 12)

(b) The Court may appoint the Official Receiver attached to the Court or any other person or persons to be the Provincial Liquidator.

(c) Unless otherwise ordered, a person appointed to be Provisional Liquidator, if he is not the Official Receiver, may be required to give security.

(d) The order of appointment of Provisional Liquidator shall state the nature of the property of which the said Provisional Liquidator is ordered to take possession and the duties to be performed by him or them. (Form No. 13)

(e) When an order for the appointment of a Provisional Liquidator prior to the making of an order for winding up has been made, the Deputy Registrar (Judicial) of the Court shall forthwith send by post or otherwise to the person or persons so appointed two copies of the order duly sealed with the seal of the Court.

The Provisional Liquidator shall cause one of such copies to be served upon the company.

(f) The Provisional Liquidator so appointed shall from time to time take instructions from the Court as to the manner in which the duties are to be performed by him.

(g) The Provisional Liquidator so appointed, unless otherwise ordered, shall as far as possible submit a report to the Court, as to the affairs of the company before the hearing of the petition for winding up.

(h) The costs and charges properly incurred by the Provisional Liquidator and also his remuneration as fixed by the Court shall be paid out of the assets of the company and in the event of there being not available assets of the company, the Court may direct such charges, etc., to be paid by the petitioner.

(i) The Provisional Liquidator, until an Official Liquidator is appointed by the Court, shall keep a book to be called the “Cash Book”, in which he shall enter from day to day all receipts and payments.

(j) The costs and charges ordered to be paid by the petitioner under clause (h) above, shall be a first charge on the assets of the company when a winding up order is made.

(k) If no order for winding up is made upon the petition, the costs and charges incurred by the Provisional Liquidator shall be paid by the petitioner, unless otherwise ordered by the Court.

16. Rules applicable to Provisional Liquidators—(a) All the rules relating to Official Liquidators shall, so far as the same are applicable and subject to the directions of the Judge, apply to Provisional Liquidators.

(b) All the Rules relating to Official Liquidators shall, so far as the same are applicable and subject to the directions of the Judge, apply to the Liquidator of a company under supervision of the Court in addition to the following directions :

(1) The liquidator shall furnish a report of progress every six months.

(2) Accounts shall be prepared and audited at least once per annum.

(3) All accounts shall be filed within one month of the completion of the audit.

(4) The appointment of the auditors must have the approval of the Court.

(5) All compromises must be recommended by the Liquidator and be approved by the Court.

17. Official Receiver's duty on appointment of another person as Official Liquidator—Where the Official Receiver has acted as Liquidator and thereafter a Liquidator is appointed by the Court who has notified his appointment to the Registrar of Companies and given security to the Court, the Official Receiver shall forthwith put the Liquidator into possession of all property of the Company of which the Official Receiver may have custody.

It shall be the duty of the Official Receiver, if so requested by the Official Liquidator, to communicate to the Liquidator all such information respecting the estate and affairs of the company as may be necessary or conducive to the due discharge of the duties of the Official Liquidator.

18. Appointment of Official Liquidator—The Court may appoint a person other than the Official Receiver to the office of Official Liquidator without any previous advertisement or notice to any party or may fix a time and place for the appointment of an Official Liquidator.

19. Advertisement for the appointment of Official Liquidator—When a time and place are fixed for the appointment of an Official Liquidator, such time and place shall be advertised in such manner as the Judge shall direct, so that the first or the only advertisement shall be published within fourteen days and not less than seven days before the day so fixed. (Form No.

17)

20. Order appointing Official Liquidator—The Official Liquidator shall be appointed by order, and unless he shall have given security or unless security shall have been dispensed with, a time shall be fixed by such order within which he is to do so. (Form No. 18)

21. Order to be served on the company—If the company is not the petitioner or does not appear at the hearing the order shall be served upon the company.

22. Order to be advertised—In the absence of any directions as to advertisement, the order shall, within fourteen days after the order shall have been sealed, be advertised by the petitioner or the substituted petitioner, as the case may be, once in the local Official Gazette and shall be served upon such person and in such manner as the Judge may direct. The form of advertisement shall be in Form No. 22.

23. The Official Liquidator shall present to the Court accounts of his “Receipts and Payments” drawn up to 31st December and 30th June by 31st January and 31st July, respectively, each year.

All money received by the Official Liquidator shall be paid in a scheduled Bank, as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934, immediately after the receipt thereof to the account of the Official Liquidator of the company and an account shall be opened there accordingly. A copy of the order duly sealed with the seal of the Court shall be lodged with such scheduled Bank.

24. Security of Official Liquidator—Every Official Liquidator shall give security by entering into a recognizance with one or more sufficient sureties or by depositing Government Securities in such sum as the Court may approve, provided that the Court may, if it thinks fit, dispense with such security. (Form Nos. 19 and 20)

25. Security to be certified—When an Official Liquidator has given security pursuant to the direction in the order appointing him, the same shall be certified by the Judge or the Registrar of the Court. (Form No. 21)

26. Copy of order to be filed with Registrar of Companies—A certified copy of the order appointing an Official Liquidator shall be filed by him with the Registrar of Joint Stock Companies within ten days of the same being made.

27. Advertisement of appointment made—Every appointment of an Official Liquidator shall be advertised in such manner as the Judge shall direct immediately after he has been appointed and has given the required security. (Form No. 22)

28. Failure to furnish security—If the Official Liquidator fails to furnish the required security within the time ordered or within any extension thereof, the Judge may rescind the order of appointment and make such other appointment and such order as to costs as he considers fit and proper.

29. Failure to maintain security—If the Official Liquidator fails to maintain the security ordered to be furnished, the Judge may remove him and make such other appointment and such order as to costs as he may think fit.

30. Security increased—If it shall appear at any time that the security furnished by the Official Liquidator is inadequate or excessive, the Judge may, upon the application of the Official Liquidator or of a creditor or contributory, order that the security be increased or reduced in amount.

31. Summons for direction to be taken out by the Official Liquidator—Within fourteen days or such less time as the Judge may direct after the winding up order shall have been sealed, a summons for directions shall be taken out by the Official Liquidator, if appointed, otherwise, by the petitioner. Upon the hearing of such summons, directions shall be given by the Judge in respect of such matters as he shall deem necessary or expedient including any of the following matters :

- (a) The appointment of an Official Liquidator (if not already appointed or if appointed temporarily),
- (b) Delegation under Section 246 of the Act of the powers of the Court,
- (c) Proof of debts,
- (d) Settlement of the list of contributories,
- (e) Powers of the Official Liquidator in respect of matters specified in Section 179 of the Act.

The further proceedings under the orders shall be continued by adjournment of such summons and save as otherwise provided by these rules, all applications by an Official Liquidator, creditor or contributory, shall be made by restoration of such summons supported by affidavit; provided that the Judge may direct the service or re-service of such summons or of a further summons on any person.

32. Applications by Official Liquidator—All applications by an Official Liquidator shall be made on notice to such persons as may be affected by the order sought for and to such persons as the Court may direct.

33. Vacancy in office of Liquidator—In case of the death, removal or resignation of an Official Liquidator another shall be appointed in his place in the same manner as directed in the case of a first appointment, and proceedings for that purpose may be taken by such party interested as may be authorised by the Judge to take the same.

34. Fresh security when required—The Official Liquidator shall on each occasion of passing his accounts, and also whensoever the Judge may so require, satisfy the Judge by a duly sworn affidavit (or by oral evidence if so required), that his sureties are living and resident in India and have not become insolvent or been adjudged bankrupt, and in default thereof he may be required

to enter into fresh Security or to deposit Government securities within such time and to such amount as may be directed.

35. Remuneration of Official Liquidator—how allowed or paid—The Official Liquidator shall be allowed in his account or otherwise paid such amount by way of salary or remuneration as the Judge may direct and such remuneration may be fixed either at the time of his appointment or thereafter and may be altered. Such remuneration may be fixed or altered to cover or exclude the employment of assistants or clerks, office rent and incidental expenses. No money shall be appropriated to such remuneration, save upon the passing of an account or upon an application by the Official Liquidator for that purpose on notice to such person (if any) and supported by such evidence as the Judge may direct, provided, nevertheless that the Judge may, from time to time, allow an Official Liquidator to appropriate such sum as he may think fit on account of remuneration to be thereafter fixed.

36. Time for payment of remuneration—The remuneration of an Official Liquidator, as far as possible, shall be fixed in the nature of a commission or percentage of which one part shall be payable on the amount realized after deducting the sum (if any) paid to secured creditors (other than debenture-holder), out of the proceeds of their securities and the other part on the amount distributed in dividends.

37. Official Liquidator's charges—Where an Official Liquidator receives remuneration for his services as such; no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required by the Act or these rules to be performed by him.

38. Preparation of list of company's Property—Unless the Court shall otherwise direct, the Liquidator, as soon as he takes over charge, shall make a list of all the property (movable as well as immovable) belonging to the company, in duplicate, which shall be signed by two or more past officers of the company as well as the Liquidator who shall file one copy of the list with the Court.

39. Duties of Official Liquidator—(1) The Official Liquidator shall with all convenient speed, after he is appointed, proceed to make up, continue, complete and rectify the books of account of the company, and shall provide and keep such books of account as shall be necessary, or as the Judge may direct, for the purposes aforesaid and for showing the debts and credits of the company including a ledger which shall contain separate account of the contributories and in which every contributory shall be debited from time to time with the amounts payable by him in respect of any call to be made as provided by the Act and these rules.

(2) The Official Liquidator shall keep a book to be called the Record Book in which he shall record all minutes, all proceedings and resolutions passed at any meeting of creditors or contributories or of the Advisory Committee, if any, and, subject to the orders of the Court, all such matters as may be necessary to give a correct view of his administration of the Company's affairs, but he shall not be bound to insert in the Record Book and document of a confidential nature (such as the opinion of Council on any matter affecting the interest of the creditors or

contributories) nor need he exhibit such documents to any person other than a member of the Advisory Committee, if any.

(3) The Official Liquidator shall keep a book (or continue one left by the Official Liquidator, if any) to be called the Cash Book in which he shall enter from day to day the receipts and payments made by him.

(4) Where the Official Liquidator is authorised to carry on the business of the company, he shall keep separate books of account in respect of such business.

40. Reports of the Official Liquidator—(1) Unless the Judge otherwise directs, at the end of three months after the order for winding up of a company, the Official Liquidator shall file in Court a report of the progress of the winding up and thereafter similar reports shall be filed every three months until the winding up proceedings are concluded.

(2) In particular and without prejudice to the generality of the foregoing sub-rule such reports shall mention the following matters:

- (a) Settlement of lists of contributories,
- (b) Calls,
- (c) Proofs and debts,
- (d) Meetings of creditors and resolutions passed therein,
- (e) Properties that have come into the hands of the Official Liquidator,
- (f) Outstandings that have been recovered and that remain to be recovered.
- (g) Dividends declared, and
- (h) Receipts and payments under appropriate heads.

41. Official Liquidator to file the report—The Official Liquidator shall submit a report stating the facts and matters which he may desire to bring to the notice of the Court, and he may apply to the Court to fix a day for the consideration of the same and on such application the Court shall appoint a day on which the report shall be considered.

42. Consideration of the report—The consideration of the report shall be before the Judge of the Court and the Official Liquidator shall personally or by counsel attend the consideration of the report and give to the Court any further information or explanation with reference to the matters stated in the report which the Court may require.

43. Disposal of Books—The Judge may, at any time during the progress of the liquidation, on the application of the Official Liquidator, give directions as to the disposal of such of the books,

papers and documents of the company or of the Official Liquidator as are no longer required for the purpose of the liquidation.

44. Unauthorised benefit—An Official Liquidator shall not, without the sanction of the Judge, give up or agree to give up any part of his remuneration to any person.

45. Restriction on purchase of goods by Liquidator—Where the Official Liquidator carries on the business of the company, he shall not, without the express sanction of the Court, purchase goods for the carrying on of such business from any person whose connection with the Liquidator is of such a nature as would result in the Liquidator obtaining any portion of the profit (if any) arising out of the transaction.

46. Dealing with the assets—Neither the Official Liquidator, nor any member of the Committee of inspection, if any, shall, while acting as Liquidator or member of such Committee, except by leave of the Court, either directly or indirectly by himself or any partner, clerk or servant, become purchaser of any part of the company's assets.

47. Liquidator as an Officer of the Court—The duties imposed on the Court by Section 184(1) of the Act in a winding up by the Court with regard to the collection of the assets in discharge of the company's liabilities shall be discharged by the Official Liquidator as an Officer of the Court subject to the control of the Judge.

48. Enforcement of the powers of Liquidator in relation to assets—For the purpose of the discharge by the Official Liquidator of such duties the Official Liquidator shall, for the purpose of acquiring or retaining possession of the property of the company, be in the same position as if he were a Receiver of property appointed by the Court, and the Judge may, on his application, enforce such acquisition or retention accordingly.

49. Funds not available for winding up proceedings—When the Official Liquidator takes charge of the company and finds that there are no funds available to carry on the winding up proceedings, he shall move the Court for directions in the matter. The Court shall direct the issue of notice to the person or persons who applied for the winding up order, and the secured creditors, if any, so as to find out their wishes in the matter and require them to show cause why they should not be made to pay a reasonable amount to carry on the winding up proceedings, and after hearing them and the Official Liquidator, the Court may direct any of them to pay a reasonable amount to Official Liquidator to meet the necessary expenses.

The amount so advanced shall be a first charge on the assets of the company.

50. Rules re: Joint Official Liquidators—Where Joint Official Liquidators are appointed the rules relating to the Official Liquidator shall be applicable *mutatis mutandis*.

51. Cases under Section 179—The direction or sanction of the Judge for any proceedings or act to be taken or done by the Official Liquidator under the powers conferred on him by Section 179 shall (subject to the provisions of Section 180 of the Act), be obtained upon application in writing and an order shall be drawn up thereon, unless the Judge shall otherwise direct.

Statement of Affairs

52. Extension of time for submitting Statement of affairs—(a) When any person requires an extension of time for submitting the statement of affairs under Section 177A of the Act, he shall apply to the Official Liquidator who may, if he thinks fit, give a written certificate extending the time, which certificate shall be filed with the proceedings in the winding up and shall render an application to the Court unnecessary. (Form No. 16)

(b) Where the Official Liquidator refuses to grant an extension of time for submitting the statement of affairs, the person required to submit the statement may, on notice to the Official Liquidator, apply to the Judge.

53. Failure to comply with Section 177A—If any person or persons fail to comply with the provisions of Section 177A of the Act, the Liquidator shall report the matter to the Court which may take action against the defaulting person or persons, either under sub-clause 5 of Section 177A of the Act or may make an order upon the said person or persons compelling him or them to comply with the said provisions of the Act. (Form No. 15)

54. Preparation of the statement of affairs—(1) The statement of affairs under Section 177A of the Act shall be made out in duplicate and shall be submitted to the Official Liquidator within the time prescribed or within such extended time as the Official Liquidator or the Judge may, for special reasons, appoint. One copy of the statement shall be verified by an affidavit. The Official Liquidator shall cause the verified statement to be filed in Court and shall retain the duplicate thereof for his record.

(2) The Official Liquidator may from time to time hold personal interview with person who may be able to give some information about the company's affairs for the purpose of investigating the company's affairs and it shall be the duty of every such person to attend the Liquidator's office at such time and place as the Liquidator may appoint and give all information that he may require.

Committee of Inspection

55. Difference between the resolutions of the meetings of the creditors and contributories—Where there is a difference between the resolutions of the meetings of the creditors and contributories held under Section 178A (1) and (2), the Judge shall, on the application of the Official Liquidator, fix a time and place for consideration of the resolution and make such order as may be necessary.

When the time and place has been fixed for the consideration of the resolutions and determinations of the meetings, such time and place shall be advertised by the Liquidator in such manner as the Judge may direct. (Form No. 23)

On the date fixed, the Judge shall hear the Liquidator and any creditor or contributory who may appear on the application.

56. Committee of Inspection not to make profit—No member of the Committee of Inspection shall except under and with the sanction of the Court, directly or indirectly by himself or any employer, partner, clerk, agent or servant, be entitled to derive any profit from any transaction arising out of the winding up or to receive out of the assets any payment for services rendered by him in connection with the administration of the assets, or for any goods supplied by him to the Liquidator for or on account of the company. If it appears that any profit by or payment to any member or members of the Committee of Inspection has been made contrary to the provisions of this rule, the Court may recover such profit, or disallow such payment as the case may be.

57. Costs of obtaining sanction of Court—In any case in which sanction of the Court is obtained under the proceeding rule, the costs of obtaining such sanction shall be borne by the person in whose interest such sanction is obtained and shall not be payable out of the company's assets.

58. Sanction of payment to Committee—Where the sanction of the Court to a payment to a member of a Committee of Inspection for services rendered by him in connection with the administration of the company's assets is obtained, the order of the Court shall specify the nature of the services, and such sanction shall only be given where the service performed is of a special nature. Except by the express sanction of the Court, no remuneration shall, under any circumstances, be paid to a member of a Committee for services rendered by him in the discharge of the duties attaching to his office as a member of such Committee.

Meetings

59. Summoning of meetings of creditors and contributories—The meetings of creditors and contributories shall be summoned as hereinafter provided.

The notices of meetings of creditor and contributories shall be in forms appended thereto, and the notices to creditors shall state a time within which the creditors must lodge their proof in order to entitle them to vote at the meeting. (Forms Nos. 23 to 27)

60. Liquidator's meeting of creditors and contributories—In addition to the meeting of the creditors and contributories held under Section 174 or Section 178A of the Act (hereinafter referred to as Court meetings of creditors and contributories), the Liquidator in any winding up by the Court may himself, from time to time, subject to the provisions of the Act and the control of the Court, summon, hold and conduct meetings of the creditors or contributories (hereinafter referred to as Liquidator's meetings of creditors and contributories) for the purpose of ascertaining their wishes in all matters relating to the winding up.

61. Summoning of meetings—The Official Liquidator shall summon all meetings of creditors and contributories by giving not less than 7 days notice of the time and place thereof in a newspaper directed by the Court, and shall not less than 7 days before the day appointed for the meeting send by post to every person appearing by the company's books to be a creditor of the company notice of the meeting of creditors and to every person appearing by the company's books or otherwise to be a contributory of the company notice of the meeting of the contributories.

The notice to each creditor shall be sent to the address given in his proof or, if he has not proved, to the address given in the statement of affairs of the company, if any, or to such other address as may be known to the person summoning the meeting. The notice to each contributory shall be sent to the address mentioned in the company's books as the address of such contributory or to such other address as may be known to the person summoning the meeting.

62. Proof of notice—A certificate or affidavit by the Liquidator or his clerk, that the notice of any meeting has been duly posted, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed. (Forms Nos. 28 and 29)

63. Place of meeting—Every meeting shall be held at such place as is in the opinion of the Official Liquidator most convenient for the majority of the creditors or contributories or both. Different times or places may, if thought expedient, be named for the meeting of creditors and for the meeting of the contributories.

64. Costs of calling meeting—The costs of summoning a meeting of creditors or contributories at the instance of any person other than the Official Liquidator shall be paid by the persons at whose instance it is summoned and who shall, before the meeting is summoned, deposit with the Official Liquidator such sum as may be required by the Official Liquidator as security for the payment of such costs. The said costs shall be repaid out of the assets of the company, if the Court shall, by order, so direct.

65. Chairman of meeting—Where a meeting is summoned by the Official Liquidator, he or some one nominated by him shall be Chairman of the meeting. At every other meeting of the creditors or contributories, the Chairman shall be such person as the meeting, by resolution, shall appoint.

66. Ordinary resolution of creditors and contributories—At a meeting of creditors a resolution shall be deemed to be passed when a majority in value of the creditors present personally or by proxy and voting of the resolution have voted in favour of the resolution, and at a meeting of the contributories a resolution shall be deemed to be passed when a majority in value of the contributories present personally or by proxy and voting on the resolution have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulations of the company.

67. Copy of resolution to be filed—The Official Liquidator shall file with the Registrar of Joint Stock Companies and also in Court a copy certified by him of every resolution of a meeting of creditors or contributories in a winding up by the Court.

68. Non-receipt of notice by a creditor—Where a meeting of creditors or contributories is summoned by notice, the proceedings and resolutions at the meeting shall, unless the Court otherwise orders, be valid notwithstanding that some creditors or contributories may not have received the notice sent to them.

69. Adjournments—The Chairman may, with the consent of the meeting, adjourn it from time to time and from place to place, but the adjourned meeting shall be held at the same place as the

original meeting unless in the resolution for adjournment another place is specified or unless the Court otherwise orders.

70. Quorum—A meeting may not act for any purpose except the election of a Chairman, the proving of debts and the adjournment of the meeting unless there are present or represented there at least three creditors entitled to vote or three contributories, or all the creditors entitled to vote or all the contributories, if the number of creditors entitled to vote or the contributories, as the case may be, shall not exceed three.

If within half-an-hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place or to such other day or time or place as the Chairman may appoint, but so that the day appointed shall not be less than 7 or more than 21 days from the day from which the meeting was adjourned.

71. Creditors entitled to vote—In the case of meeting of creditors held under Section 178A or of an adjournment thereof, a person shall not be entitled to vote as a creditor unless he has duly lodged with the Official Liquidator not later than the time mentioned for that purpose in the notice convening the meeting a proof of the debt which he claims to be due to him from the company. In the case of a Court meeting or Liquidator's meeting of creditors a person shall not be entitled to vote as a creditor unless he has lodged with the Official Liquidator a proof of the debt which he claims to be due to him from the company and such proof has been admitted wholly or in part before the date on which the meeting is held. Provided that this and the next four rules shall not apply to a Court meeting of creditors held prior to the meeting of creditors under Section 178A. This rule shall not apply to any creditor or class of creditors who by virtue of the rule or any directions given thereunder are not required to prove their debts.

72. Creditors may not vote—A creditor shall not vote in respect of any unliquidated or contingent debt or any debt the value of which is not ascertained, nor shall a creditor vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a receiving order in bankruptcy has not been made, as a security in his hand, and to estimate the value thereof and for the purpose of voting, but not for the purposes of dividend, to deduct it from his proof.

73. Vote of secured creditors—For the purpose of voting a secured creditor shall, unless he surrenders his security, state in his proof the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due to him after deducting the values of his security. If he votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court, on application, is satisfied that the omission to value the security has arisen from inadvertence.

74. Creditor required to give up security—The Official Liquidator may within 21 days after a proof, require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated with an addition thereto of 20 per cent, provided that where a creditor has valued the security he may, at any time before being required to give it up, correct

the valuation by a new proof and deduct the new value from his debt, but in that case the said addition of 20 per cent shall not be made if the security is required to be given up.

75. Admission and rejection of proofs for purpose of voting—The Chairman shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether a proof shall be admitted or rejected, he shall mark it as ‘objected to’ and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

76. Minutes of meeting—The Chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose and the minutes shall be signed by him or by the Chairman of the next ensuing meeting. (Form No. 34)

A list of creditors and contributories present at every meeting shall be made and kept.

77. Attendance by proxy—A creditor or a contributory may vote either in person or by proxy. Where a person is authorised in manner provided by Section 80 of the Act to represent a corporation at any meeting of creditors such person shall produce to the Official Liquidator or the Chairman of the meeting a copy of the resolution so authorising him. Such copy must either be certified to be true copy by the Secretary or a Director of the Corporation. The succeeding rules as to proxy shall not (unless otherwise directed by the Court), apply to a Court meeting of creditors or contributories.

78. Form of proxies—Every instrument of proxy shall be in accordance with the form in the appendix and every written part thereof shall be in the handwriting of the person giving the proxy or of any manager or clerk or any other person in his regular employment or of a Commissioner to administer oaths residing in the locality where such person is living or carrying on business. (Form Nos. 35, 36 or 37)

79. Form of proxy to be sent with notice—General and special forms of proxy shall be sent to the creditors and contributories with the notice summoning the meeting, and neither the name nor description of the Official Liquidator or any other person shall be printed or inserted in the body of any instrument of proxy before it is sent.

80. General proxies—A creditor or contributory may give a general proxy to any person. (Form No. 37)

81. Special proxies—A creditor or contributory may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all questions relating to any matter given in the agenda and arising at the meeting or adjournment thereof. (Form No. 36)

82. Proxy to Official Liquidator—A creditor or contributory in a winding up by the Court may appoint the Official Liquidator or, if there is no Liquidator, the Chairman of a meeting to act as his general or special proxy.

83. Holder of proxy not to vote on matter in which he is financially interested—No person acting either under a general or special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the assets of the company otherwise than as a creditor rateably with the other creditors of the company. Provided that, where any person holds special proxies to vote for an application to the Court in favour of the appointment of himself as Official Liquidator, he may use the said proxies and vote accordingly.

84. Filing of proxies—A proxy intended to be used at a meeting of creditors or contributories held under Section 178A or on adjournment thereof, shall be lodged with the Official Liquidator not later than the time mentioned for that purpose in the notice convening the meeting or the adjourned meeting, which time shall be not earlier than 12 O'clock at the noon of the day before the day appointed for such meeting unless the Court otherwise directs.

85. Use of proxies—Where an Official Liquidator, who holds any proxies, cannot attend the meeting for which they were given, he may, in writing, dispute some person under his official control to use the proxies on his behalf and in such manner as he may direct.

86. Filing of proxies by creditors incapable of writing—The proxy of a creditor, blind or incapable of writing, may be accepted if such creditor has attached his signature or mark thereto in the presence of a witness, who shall add to his signature his description and residence: Provided that all insertions in the proxy are in the handwriting of a witness and such witness has certified at the foot of the proxy that all such insertions have been made by him at the request and in the presence of the creditor before he attached his signature or mark.

The proxy shall be witnessed by some person other than the person appointed proxy.

Debts, Claims and Proofs

87. For the purpose of ascertaining the debts due by and claims against the company and of requiring debts and claims to be proved an advertisement shall be published by the Official Liquidator in such manner as the Judge shall direct. Such advertisement shall be in Form No. 38. Unless otherwise ordered by the Judge, the fixed in the advertisement shall not be less than 14 days from the date of the publication thereof.

88. In a winding up by the Court, every creditor shall subjects as hereinafter provided prove his debt unless the Judge in any particular case shall give directions that any creditor or class of creditor shall be admitted without proof.

89. A debt may be proved in any winding up by delivering or sending through the post an affidavit. The affidavit may be made by the creditor himself or by some person authorised by or on his behalf. If made by a person so authorised, it shall state his authority and means of knowledge.

90. The affidavit proving a debt shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be

substantiated. The Liquidator to whom the proof is sent may at any time call for the production of the vouchers.

91. An affidavit proving a debt shall state whether a creditor is or is not a secured creditor. Where a creditor seeks to prove in respect of a bill of exchange, promissory note or any other negotiable instrument or security of a like nature on which the company is liable, such bill of exchange, note, instrument or security must be produced to the Liquidator and be marked by him before the proof is admitted. Such affidavit shall be in Form No. 40.

92. No creditor need attend upon the investigation, nor prove his debt or claim unless required to do so by notice from the Official Liquidator, to be given by pre-paid letter post at the last known address of the creditor. Such notice shall be in Form No. 41.

93. A creditor so required to prove his debt or claim shall do so by affidavit to be sent by him to the Official Liquidator by registered letter post and if not made by the creditor himself such affidavit shall state the authority and means of knowledge of the deponent. Such affidavit shall contain particulars of any security held sufficient to identify the same and shall be in Form No. 40.

94. The Official Liquidator may at any time call for the production of the securities or vouchers specified in the affidavit referred to in Rule 93 and in default of such production may reject the proof.

95. The Official Liquidator shall within twenty-eight days after receiving a proof either admit or reject it wholly or in part and shall thereupon inform those creditors whose claim he wholly admits of his decision in respect of such claims. If he rejects the proof, he shall state in writing to the creditor the grounds of the rejection.

96. When the Official Liquidator has completed his investigation of all debts and claims he shall file a list thereof in Court supported by affidavit and obtain an appointment from the Judge to settle the same, and shall give not less than seven days' notice of such appointment to every person included in such list except those whose claims he wholly admits stating that his debt or claim has been rejected in whole or in part, as the case may be, and requiring him to prove as much of it as has been rejected before the Judge. Such affidavit and notice shall be in Form No. 43.

97. Upon the date appointed for settlement of the list of creditors or any adjourned date, the Judge shall adjudicate thereon.

98. Such creditors as prove their debts or claims shall, unless the Judge shall otherwise direct, bear the costs of such proof.

99. The settlement of the list of debts and claims shall be recorded in a certificate signed by the Judge in Form No. 45.

100. If the Official Liquidator is of opinion that a proof has been improperly admitted he may apply, on notice to the creditor who made the proof, to expunge the proof or reduce its amounts.

101. If the Official Liquidator declines to interfere in the matter, a creditor or contributory may apply to the Judge to expunge or reduce a proof.

List of Contributories

102. Liquidator to settle list of contributories—The Official Liquidator shall, with all convenient speed after his appointment, settle a list of contributories of the Company and shall appoint a time and place for that purpose. The list of contributories shall contain a statement of the address and the number of shares or the extent of interest to be attributed to each contributory, and the amount called up, and the amount paid up in respect of such shares and interest, and shall distinguish the several classes of contributories. As regards the representative contributories, the Official Liquidator shall observe the requirements of sub-section (2) of Section 184 of the Act. (Form No. 46)

103. Appointment of time and place for settlement of the list—

(a) The Official Liquidator shall give notice in writing of the time and place appointed for the settlement of the list of contributories to every person whom he proposes to include in the list and shall state in the notice to each person in what character and for what number of shares or interest he proposes to include such person in the list, and what amount has been called up and what amount paid up in respect of such shares or interest. (Form No. 47)

(b) The notice shall be sent by registered post (acknowledgment due) unless the Court otherwise directs.

104. Settlement of the list of contributories—(a) On the day appointed for settlement of the list of contributories, the Official Liquidator shall hear any person who objects to being settled as a contributory and after such hearing shall finally settle the list, which, when so settled, shall be the list of contributories of the company.

(b) The Official Liquidator may, from time to time vary or add to the list of contributories, but any such variation or addition shall be made in the same manner in all respects as the settlement of the original list.

(c) The list of contributories, as settled by the Official Liquidator from time to time, shall be filed in Court duly verified by his affidavit.

105. Notice to contributories of final settlement—(1) The Official Liquidator shall forthwith give notice to every person whom he has finally placed on the list of contributories stating in what character and for what number of shares or extent of interest he has been placed on the list of contributories and what calls prior to liquidation are still unpaid and what are his uncalled liabilities, and in such notice inform such person that any application for the removal of his name from the list or for a variation of the list must be made to the Court on notice to the Liquidator within 30 days from the date of the service on the contributory or alleged contributory of notice of the fact that his name has been settled on the list of contributories. (Form No. 51)

(2) The Official Liquidator or his attorney shall file an affidavit of service of the above notice on all the persons included in the list. (Form No. 52)

106. Application to the Court to vary the list—Subject to the power of the Court to extend the time or to allow an application to be made notwithstanding the expiration of the time limited for that purpose, no application to the Court by any person who objects to the list of contributories, as finally settled by the Official Liquidator, shall be entertained after the expiration of 30 days from the date of the service on such person of notice of the settlement of the list.

107. Endorsement by Judge on the settlement of list of contributories—After the Official Liquidator has filed the list of contributories in Court and after hearing objections, if any, to the inclusion in or exclusion from the list, the Judge shall record an endorsement on the list. (Form No. 55)

108. Address of contributories—The address of a contributory as stated in such list shall, unless otherwise directed by the Judge, be his address for service under these rules.

109. List open to inspection—The list of contributories referred to in the foregoing rules, will be open to inspection by any of the creditors and contributories of the company in the office of the Official Liquidator or in the Court.

Calls

110. Application for call—In a winding up by the Court an application by the Official Liquidator for leave to take a call on the contributories of a company or any of them, shall be made by petition. Upon such application the Judge, if he admits the petition, shall fix a date for the hearing thereof. Such petition shall be in Form No. 56. Notice of such date shall be given by advertisement or otherwise as the Judge may direct. No contributory shall be served with an individual notice unless the Judge shall direct and every notice and advertisement shall be given or published at least ten clear days before the date so appointed. (Form Nos. 59 and 60)

111. Service of order for call—(1) When any order authorising a call has been made, a copy thereof shall forthwith be served by registered post, or as the Judge may direct, upon each of the contributories liable to pay such call together with a notice by the Official Liquidator making such call and specifying the amount due from such contributory in respect of such call. (Form Nos. 61 and 62)

(2) After the despatch of the above notice to contributories, the Official Liquidator or his clerk or agent shall file in Court his affidavit showing the manner in which the service of this notice has been effected. (Form No. 63)

112. Affidavit of non-payment—For the purpose of enforcing any order for payment of money into one of the scheduled Banks in which the Liquidator has account or in Court, an affidavit of the Official Liquidator shall be sufficient evidence of the non-payment thereof.

113. The Official Liquidator's affidavit in support of an application for an order of payment against the defaulting contributories shall be in Form No. 65.

Payment of Moneys and Deposit of Securities

114. Liquidation banking account—Upon the winding-up Order being made, the Official Liquidator shall, as soon as may be after his appointment, open an account with a scheduled Bank as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934 as nominated by the Court, or in the case of a district Court, with that Court, in the name of the Official Liquidator of the company in liquidation.

115. Payments on account of calls, etc. how to be made—All orders for payment of calls balances or other money due from any contributory or other person shall direct the same to be paid into the scheduled Bank, where the Official Liquidator has account under orders of the Court, or into Court, to the account of the Official Liquidator of the Company, unless on account of the smallness amount or other cause, it shall having regard to the amount of the security given by the Official Liquidator be thought proper to direct payment thereof to the Official Liquidator. Provided that where any such order has been made directing payment of a specific sum into the bank or into Court, in case it shall be thought proper for the purpose of enabling the Official Liquidator to take execution or other proceedings to enforce the payment thereof, or for any other reason, an order may, either before service of such former order or after the time thereby fixed for payment, be made without notice for payment of the same sum to the Official Liquidator.

116. Investment of money—All or any of the money for the time being standing to the credit of the account of the Official Liquidator at any of the scheduled Banks as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account, or in Court, and not immediately required for the purpose of the winding up, may be invested in the purchase of Government Promissory Notes in the name of the Official Liquidator or in deposit receipt of the Bank, as aforesaid, as the Judge upon the application of the Official Liquidator may direct. All such investment shall be made upon a request signed by the Official Liquidator and countersigned by the Judge, which request shall be sufficient authority for debiting the account with the purchase-money. Such Government Promissory Notes or Deposit Receipts shall not afterwards be sold or transferred or otherwise dealt with except upon a direction for that purpose signed by the Official Liquidator and countersigned by or under an order made by the Judge.

117. Interest upon Investments—All interest accruing upon any such Government Promissory Notes or Deposit Receipts shall, from time to time, be received by any of the scheduled Banks as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account, or the Court, and placed to the credit of the account of such Official Liquidator.

118. Title of Account in Bank—All moneys, bills, hundies, notes and other securities paid and delivered into any of the scheduled Banks as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account or into Court shall be placed

to the credit of the account of the Official Liquidator of the Company, and orders for any such payment and delivery shall direct the same accordingly.

119. Bills, hundies, etc., where to be deposited—All bills, hundies, notes and other securities payable to the company or to the Official Liquidator thereof, shall as soon as they shall come to the hands of the Official Liquidator be deposited by him in any of the scheduled Banks as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934, for the purpose of being presented for acceptance and payment, or for payment only, as the case may be, or shall be dealt with as the Court shall order.

120. Payment of moneys and deposit to securities. Default to payment into Bank—Where any Official Liquidator shall not pay all the moneys received by him into any of the scheduled banks as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account, or in the case of a District Court, into that Court, to the account of the Official Liquidator of the company, within seven days next after the receipt thereof, unless the Judge shall have otherwise directed, such Official Liquidator shall be charged in his account with rupees ten for every thousand rupees and proportionate sum for any larger amount retained in his hands beyond such period for every seven days during which the same shall have been so retained, and the Judge may, for any such retention, disallow the salary or remuneration of such Official Liquidator.

121. Drawing, accepting etc., of bills—The sanction of the Judge to the drawing, accepting, making or endorsing of any bill of exchange, hundi, promissory note, by any Official Liquidator, shall be testified by a memorandum on such bill of exchange, hundi or promissory note signed by the Judge or by the Registrar under the direction of the Judge, unless the Judge in special cases dispenses with this formality and orders otherwise.

122. On what authority moneys, etc., to be delivered by the Bank—No moneys or bills, or hundies or other securities shall be paid out of the aforesaid banking account except upon cheques or order signed by the Official Liquidator.

Bad Debts

123. Writing off of amounts irrecoverable—Every application for the sanction of the Judge to write off any amount due from any contributory or other person indebted to the company shall be supported by the affidavit of the Official Liquidator stating that he has investigated the affairs of such contributory or person and that for the reasons stated he believes that the amount sought to be written off is such as is not likely to be recovered by any process of the Court.

Private Examination

124. Examination under Section 195—An application for a summons under Section 195 of the Act shall be made to the Judge on petition verified by affidavit and may be made by the Official Liquidator or upon notice to the Official Liquidator, by a creditor or contributory. The person or persons to be examined will be allowed a reasonable sum of his or their expenses. The summons shall be in Form No. 74.

125. Counsel's attendance—The person so summoned will be entitled to be attended in his examination by his counsel who may with the permission of the Court put such questions as the Court may allow.

126. Who may attend the examination—At the examination of a person summoned under the said section, the Official Liquidator and the applicant (if other than the Official Liquidator) may attend in person, or, with the sanction of the Judge, by attorney and advocate and may not such questions to the persons examined as the Judge may allow.

127. Proceedings not to be public—Unless the Judge shall otherwise order, no examination of a person summoned under Section 195 of the Act shall take place in open Court, and the note of the deposition of any person so examined, notwithstanding that such notes shall have been filed, shall not be open to the inspection of any person other than the Official Liquidator nor shall any copy thereof or extract therefrom be supplied to any person other than the Official Liquidator save upon the order of the Judge.

128. Signature of examinee—Notes of the examination shall be taken in writing and shall be read over to, or by, and signed by the person examined.

Public Examination

129. Public Examination—An application for a summons under Section 196 of the Act shall be made to the Judge on petition duly verified by an affidavit and may be made by the Official Liquidator or, upon notice to the Official Liquidator, by a creditor or contributory. The application as well as the affidavit shall contain a brief description of the fraud alleged.

The Court may after considering the petition direct the person or persons concerned to attend before the Court for examination. (Form No. 75)

130. Procedure consequent on order for public examination—Where the Judge makes an order under Section 196 of the Act directing any person or persons to attend for public examination—

(a) The examination shall be held before the Judge, provided that, in the High Court, the Judge may direct that the whole or any part of the examination of any such person or persons be held before the Registrar or the Deputy Registrar.

(b) The Judge may, if he thinks fit either in the order for examination, or by any subsequent order give directions as to the special matters on which any such person is to be examined.

(c) Where on an examination held before any of the person mentioned in sub-section 9 of the said section, it appears to such person that the examination is being unduly or unnecessarily protracted, he may adjourn the examination of any person or any part of the examination to be held before the Judge.

131. Application for day of holding examination—Upon an order directing a person to attend for public examination being made, the Official Liquidator shall apply for the appointment of a day on which the public examination is to be held.

132. Appointment of time and place of public examination—A day and place shall be appointed for holding the public examination and notice of the day and place so appointed shall be given by the Official Liquidator or the Court, as the case may be, to the person who is to be examined, by sending such notice in a registered cover addressed to his usual or last known address. (Form Nos. 76 and 77)

133. Notice of public examination to creditors and contributories—(1) The Official Liquidator shall give notice of the time and place appointed for holding a public examination to the creditors and contributories by advertisement in such newspapers as the Court or the Registrar may, from time to time, direct. (Form No. 78)

(2) Where an adjournment of the public examination has been directed, notice of the adjournment shall not, unless otherwise directed by the Court, be advertised in any newspaper.

134. Default in attending—If any person, who has been directed by the Court to attend for public examination, fails to attend at the time and place appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the day appointed for the examination the Official Liquidator satisfies the Court that such person has absconded or that there is reason for believing that he is about to abscond with the view of avoiding examination, it shall be lawful for the Court, upon it being proved to the satisfaction of the Court that notice of the order and of the time and place appointed for attendance at the public examination was duly served, without any further notice, to issue a warrant for the arrest of the person required to attend, or to make such other order as the Court shall think just. (Form No. 97)

Misfeasance

135. Application against delinquent directors, officers and promoters—An application under Section 235 of the Act shall contain the particulars on which the claim is based and a copy of the application with the grounds thereof shall be served on every person, against whom an order is sought, not less than 8 days before the day named in the summons for hearing the application. Where the application is made by the Official Liquidator, he shall state the facts and information on which he proceeds, which shall be verified by an affidavit, or appear from sworn evidence in other proceedings. Where the application is made by any other person, it shall be supported by an affidavit to be filed by him.

On the return of the summons, the Court may give such directions, as it shall think fit, for the hearing of the summons, the taking of evidence, wholly or in part, by affidavit or orally and counter affidavits in reply to affidavits in support of or in opposition to the application.

136. Who may appear—At the hearing, the Official Liquidator, the applicant (if other than the Official Liquidator), any other person whom the Judge may allow and any person against whom an order is sought, may appear and may do so by attorney or advocate and may put such question to any person orally examined as the Judge may allow.

Dividends

137. Sanction of dividends—No dividend shall be declared by the Official Liquidator without the sanction of the Judge.

138. Notice of dividend—No less than one month's notice shall be given by the Official Liquidator of his intention to declare and pay a dividend. Such notice shall be given by advertisement unless the Judge otherwise directs. (Form No. 80)

139. Transmission of dividend by post—Dividends may, at the request and risk of the person to whom they are payable, be transmitted to him by post.

140. Payment of dividend to nominees—A person to whom dividends are payable may lodge with the Official Liquidator an authority in writing to pay such dividends to another person named therein. (Form No. 82)

141. Return of capital to contributories—Every order, by which the Official Liquidator in a winding up by the Court is authorised to make a return to contributories of the company, shall unless the Judge otherwise directs, contain or have appended thereto a schedule or list (which the Official Liquidator shall prepare), setting out in tabular form the names and addresses of the person to whom the return is to be made, and the amount of money payable to each person, and particulars of the transfers of shares, if any, which have been made, of the variation in the list of contributories which have arisen since the date of the settlements of the list of contributories. (Form No. 83)

Compromises

142. Sanction of Judge to compromise—Every application for the sanction of the Judge to a compromise with any contributory or other person indebted to the company shall be supported by the affidavit of the official Liquidator stating that the Official Liquidator stating that the Official Liquidator has investigated the affairs of such contributory or person and that he believes the proposed compromise to be beneficial to the company. The Official Liquidator shall also state in the application the reasons for such belief. (Form No. 85)

Services of Notices, etc.

143. Service on contributories and creditors—how effected—Service upon contributories and creditors shall be effected (except when personal service is required) by sending the notice or copy of the petition, summons, order or other proceedings, through post in a registered acknowledgement due cover addressed to the party or his attorney, advocate or agent, at the address entered or last entered pursuant to Rule 108, or if no such entry has been made, then in the case of a contributory, to his last known address or place of abode, and in the case of a creditor, to the address given by him pursuant to Rule 149 and such notice or copy, summons, order or other proceedings shall be deemed to have been served at the time the same would be delivered in due course of post.

In the case of those companies in liquidation, in which the Official Liquidator has little or no funds at his disposal, the Judge may allow letters, etc., to be sent under certificate of posting and not by registered acknowledgement due post.

The Judge may also permit notice, etc., to be served by hand.

144. Service not invalidated by misdescription—No service under these rules shall be deemed invalid by reason of any error or omission in the name, style or designation of the person on whom service is sought to be made, provided the Judge is satisfied that such person has not been prejudiced thereby.

145. To whom warrants, etc., may be addressed—A warrant of arrest or any other warrant issued under provisions of the Act and rules may be addressed to the bailiff of the Court or such other Court, whether that Court has jurisdiction to wind up a company or not, as the Court may in each case direct. The officer executing any warrant or serving any notice or process, etc., shall submit an affidavit in support of his report as to the service or non-service of the Warrant, notice or process, etc.

Scheme of Composition

146. Scheme of composition—(a) Every petition under Section 153 of the Act shall be verified by affidavit and duly accompanied by the relevant papers, statements, etc., in support thereof.

(b) The Court may order a meeting of the creditors or any class of creditors, or of contributories or any class of contributories, or of both creditors and contributories of the company to be called, held and conducted in such manner as may be directed so as to know their wishes.

(c) The Court shall, while directing a meeting of creditors or contributories or both, as the case may be, nominate a Chairman to preside over the said meeting. The Chairman so appointed may be a creditor or Contributory or Official Liquidator. The Official Liquidator shall notify by an advertisement in a paper or papers to be selected by the Court for the purpose, the date, time and place of the meeting. (Form No. 88)

(d) Notice will also be sent to the class of persons required to attend the meeting by registered post. The notice shall be accompanied by a copy of the order, directing the holding of meeting, a copy of the scheme to be considered at the meeting and a form of proxy to be used by them in case they are not attending the meeting personally.

(e) The result of the proceedings of this meeting shall be reported by the Chairman to the Court.

(f) The Manager of the company or the Official Liquidator, or the Manager's or Official Liquidator's attorney or clerk, shall file an affidavit of service of notices to the creditors and contributories and of the advertisement of the dates of the meetings.

(g) The Court may sanction the scheme adopted by the creditors and contributories with such modifications as it may think just and proper or may reject the same as a whole.

Attendance and Appearance

147. Cost of attendance of contributories, or creditors—Every person for the time being on the list of contributories of the company as filed in Court by the Official Liquidator and every person whose debt or claim against the company, shall have been allowed by the Judge, shall be at liberty, at his own expense, to attend the proceedings before the Judge, and shall be entitled, upon payment of the cost occasioned thereby, to have notice of all such proceedings as he shall, by written request, desire to have notice of; but if the Judge shall be of opinion that the attendance of any such person upon any proceedings has occasioned any additional cost which ought not to have been borne by the funds of the company, he may direct such costs or a gross sum in lieu thereof to be paid by such person and such person shall not be entitled to attend any further proceedings until he has paid the same.

148. Appointment of one or more contributories or creditors as representatives of other contributories or creditors—The Judge may from time to time appoint any one or more of the contributories or creditors, as he thinks fit, to represent before him, at the expense of the company, all or any class of contributories or creditors upon any question as to a compromise with any of the contributories or creditors, or in and about any other proceedings before him relating to the winding up of the company and may remove the person or persons so appointed. In case more than one person shall be so appointed, they shall employ the same attorney, advocate or agent to represent them.

149. Only contributories or creditors whose names are entered are entitled to attend—No contributory or creditor shall be entitled to attend any proceedings before the Judge, unless and until he has entered in a book to be kept for that purpose, his name and address and the name and the address of his attorney, advocate (pleader) or agent (if any), and upon any change of his address or of his attorney, advocate, pleader or agent, his new address and the name and address of his new attorney, advocate, pleader or agent. (Form No. 87)

Sale

150. Mode of sale—Any movable or immovable property belonging to the company may with the sanction of the Judge, be sold by the Official Liquidator or an agent or auctioneer appointed by him for such purpose or, if the Judge shall so direct, in the same manner as a sale under a decree or order of the Court.

151. Any movable or immovable property belonging to the company may be sold with the approbation of the Judge in such manner as the Judge shall direct, and the Judge may, on any sale by public auction fix a reserve bidding, and unless on account of the small amount of the purchaser money or other cause, it shall (having regard to the amount of security given by the Official Liquidator) be thought proper that the purchase money shall be paid to him, all conditions and contracts of sale shall provide that the purchase money shall be paid by the respective purchasers in any of the scheduled Banks, as defined in clause (e) of the Reserve Bank of India Act, 1934, where the Official Liquidator has account.

152. Expenses of sale—Where property forming part of a company's assets is sold by the Liquidator through an auctioneer or other agent, the gross proceeds of the sale, unless the Court

shall otherwise direct, shall be paid over by such auctioneer or agent, and the charges and expenses connected with the sale shall afterwards be paid to such auctioneer or agent, if the Official Liquidator is satisfied of the correctness of such charges and expenses. Every Liquidator, by whom such auctioneer or agent is employed, shall unless the Court otherwise orders, be accountable for the proceeds of every such sale.

Advertisements

153. Advertisement—how to be published—When advertisement is required for any purpose, except when otherwise directed by these rules, the advertisement shall be published as the Judge shall direct, or it may take the form of a public notification or proclamation. The Judge, however, may in such cases as he shall think fit, dispense with any advertisement required by these rules.

Application for Recovery of Money

154. Application under Section 186—Every application to the Court for recovery of money due from contributories shall state particulars as nearly as in a plaint in a civil suit, and shall be accompanied by the document or copies of account supporting the claim. It shall be supported by an affidavit of the Liquidator. The further proceedings shall be of the nature of a suit as nearly as circumstances may require before a final order for payment is passed.

Registration of Petitions and Reports

155. Procedure repetitions and reports—(1) All petitions shall be registered and numbered immediately on their receipt and placed before the Court for orders.

(2) All reports submitted by the Liquidator, the Provisional Liquidator or the Official Liquidator shall be registered and numbered (in a register kept for the purpose) and placed before the Judge in Chamber or in Court without delay for orders.

(3) The reports so received shall form part of the Court records. The Liquidator, Provincial Liquidator and the Official Liquidator, as the case may be, shall be supplied with true copies of the orders passed on the reports.

156. Notice of petition to Official Liquidator—Every creditor or contributory or any other person connected with the affairs of the company in liquidation, who proposes to file a petition with regard to the affairs of the company, shall give notice of his doing so in writing to the Official Liquidator along with a copy of the same before filing such petition.

The Official Liquidator immediately on receipt of such notice shall find out from the Court the date of hearing of such petition and shall attend duly prepared to support or oppose the same on the date of hearing.

157. Petition against the order of Official Liquidator—An application under Section 183(5) of the Act shall be made by petition supported by an affidavit of the applicant on notice to the Official Liquidator and shall be made within 30 days from the date of the act or decision complained of. The application need not be accompanied by a copy of the order complained of.

158. Extension of time—The Court may, in any case in which it shall see fit, extend the time appointed by the rule or fixed by any order of the Court for doing any act or taking any proceedings.

159. Applicability of rules—These rules shall apply to proceedings under the Indian Companies Act amended by Act XXII of 1936 and the winding up proceedings continued under the Indian Companies Act VII of 1913, in pursuance of Section 246 of the Act, shall be regulated by the rules made under the Act of 1913.

160. Inspection of books by contributories and creditors—Every contributory of the company and every creditor thereof, whose debt has been allowed, shall, subject to the order of the Court, be entitled at all reasonable times to inspect all books of accounts papers or documents relating to the winding up of the company, in the custody of the Official Liquidator, and at his own expense to take copies or extracts from the same, or to be furnished with such copies or extracts.

The person intending to inspect the record or applying for copies of documents in possession of the Official Liquidator shall have to pay the same charges as are prescribed by the rules of the Court in respect of proceedings other than winding up.

161. Register of proceedings—A register shall be kept by the Court of all proceedings before the Court in each matter with proper dates, so that all the proceedings may appear consecutively and in chronological order with a short statement of the question or points decided or ruled at every hearing.

162. Taxation of costs—Where an order is made in the High Court for payment of any costs, the order shall direct the taxation thereof by the Registrar or the Deputy Registrar of the Court except in cases where a gross sum in lieu of the taxed costs is fixed by the order.

Termination of Winding-up Proceedings

163. Official Liquidator to present a balance sheet upon termination of proceedings—Upon the termination of the proceedings for the winding up of any company a balance sheet shall be brought in by the Official Liquidator showing the result of his receipts and payments, duly verified by his affidavits, and the Official Liquidator shall pass his final accounts and the balance, if any, due thereof shall be certified by the Judge, and upon payment of such balance, in such manner as the Court shall direct, the recognizance entered into by the Official Liquidator and his sureties may be vacated.

164. Judge to certify that the company has been completely wound up—When the Official Liquidator has passed his final accounts and the balance, if any, certified to be due thereof, has been paid in such manner as the Court shall direct, a certificate shall be made by the Judge that the affairs of the company have been completely wound up, and in case the company has not already been dissolved, the Official Liquidator shall, immediately after the issue of such certificate, supply to the Judge for an order that the company be dissolved from the date of such order. (Forms Nos. 89 and 90)

165. Destruction of records—The record shall consist of Part A and Part B. Part A shall contain the following papers:

1. The index of papers.
2. The order sheet or chronological abstract of orders.
3. The complaint or petition together with any schedule annexed thereto.
4. The written statement.
5. The memorandum of issues with amended or additional issues, if any.
6. All depositions of witnesses.
7. All documents received by the Court during the trial as evidence between the parties other than copies of civil, revenue or municipal records.
8. Commissions, proceedings held thereunder and report of commissioners.
9. Applications to refer to arbitration, the award or other final return of the arbitration, with the proceedings depositions and documents submitted therewith, and any application to set aside the award with the Court's orders thereon.
10. Instruments of withdrawal, compromise or confession of judgment.
11. The judgment or other final order.
12. The decree or order for payment and all documents relating to the preparation or amendment thereof.
13. All notes in the handwriting of the Judge.
14. Any order by the Court accepting an application for review of judgment or for a new trial.
15. Judgments and decrees on appeal, if any.
16. All orders passed in execution proceedings with all applications, objections, writs, of which service has been effected, notices, reports and returns relating thereto.
17. All receipts and acknowledgments filed in execution proceedings. Part B shall consist of all papers not included in Part A.

Destruction of judicial records, after the company has been dissolved finally, shall take effect so soon as the period for their retention under the supervision of the Record Keeper has expired.

The following instructions shall, however, be followed when destroying the records:

(a) All objections and other proceedings involving the title to immovable property as well as records of attachment, sale and delivery of possession of immovable property in execution of decrees (or orders for payment) with orders passed thereon shall be preserved in perpetuity.

(b) Part A of the records other than mentioned in (a) above shall be preserved for three years from the date of the final dissolution order and shall then be destroyed.

(c) Part B of all cases relating to winding up shall be preserved for one year from the date of the dissolution order and shall then be destroyed. Where appeal lies, Part B shall not be destroyed until the period of limitation for the instituting of such appeal has expired, or until the appeal, if instituted has been decided.

166. When the proceedings for winding up of any company have been completed, all books, papers and documents belonging or appertaining to the company and the books containing the Official Liquidator's accounts shall be deposited in Court for disposal in such manner as the Court may direct having regard to Sections 242 and 243 of the Act.

Restriction of Register of Members

167. Notice of all applications for rectification of the register of members shall be given to the company and in case of transfer of shares to the transferor or the transferee, as the case may be.

Reduction of Capital

168. An application for an order confirming the reduction of the share capital of a company shall be in Form No. 91.

169. Orders on an application for permission to dispense with the addition of the words "and Reduced" may be made *ex parte*, or the Judge may direct notice to be given of such application.

170. In a case where the creditors of a company are not entitled to object to the proposed reduction, it shall not be necessary to obtain the certificate required by Rule 180 and on the presentation of the petition the Judge shall fix a day for the hearing thereof and shall give directions as to the advertisements to be published of the presentation of the petition, so that the first or only insertion of such notice shall be made not less than fourteen days before the date fixed for the hearing. Such notice shall be in Form No. 92.

171. In a case where the creditors are entitled to object to the proposed reduction, notice of the application shall be given to the directors as to the proceedings to be taken for settling the list of creditors entitled to object and for fixing the date with reference to which the list of such creditors is to be made out. (Form No. 93)

172. In a case where the creditors are entitled to object to the proposed reduction, the company shall, within such time as the Judge shall direct, file a list containing the names and addresses of the creditors of the company at the date fixed under Rule 171 and stating the nature and amounts

of the debts due to each of them respectively or in case of any debt payable on a contingency or not ascertained or of any claim admissible to proof in a winding up of the company, the value so far as can be justly estimated of such debt or claim. Such list shall be verified by the affidavit of an officer of the company competent to make the same. Such affidavit shall be in Form No. 94.

173. Copies of such list, containing the names and addresses of the creditors and the total amount due to them, but omitting the amount due to them, respectively, or (if the Judge shall think fit) complete copies of such list shall be kept at the registered office of the company and at the office of its attorney and any person desirous of inspecting the same may, at any time during the usual hours of business, inspect and take extracts from the same on payment of the sum of one rupee.

174. The company shall, within seven days after the filing of such affidavit, or such further time as the Judge may allow, send to each creditor whose name is entered in the said list, a notice stating the amount of the proposed reduction of the capital, and the amount or estimated value of the debt or claim for which such creditor is entered in the said list. Such notice shall be sent by prepaid letter post to each creditor at his last known address. Provided that where such address is not in India, or is not known to the company, the Judge may direct notice to be given to such creditor in such manner as he may think fit. Such notice shall be in Form No. 95.

175. Notice of the filing of the list of creditors shall be advertised by the company in such manner as the Judge shall direct. Such notice shall be in Form No. 96.

176. A creditor entered in the said list who claims to be a creditor for a larger amount than that stated therein shall send his name and address and particulars of the debt or claim, and the name and address of his attorney (if any) to the attorney of the company, within the time stated in such notice being not more than fourteen days from the date of the notice or such further time as the Judge may allow.

177. The company shall, within such time as the Judge shall direct file an affidavit made by its attorney verifying a list containing the names and addresses of persons (if any) who shall have sent in particulars of their debts or claims in pursuance of the notice prescribed by Rule 175 and the amounts of such debts or claims. A competent officer of the company shall join in such affidavit proving the despatch and publications of such notices and distinguishing in such list which (if any) of such debts and claims are wholly, or as to any and what part thereof, admitted by the company, and which (if any) of such debts and claims are wholly, or as to any and what part thereof, disputed by the company. Such affidavit shall be in Form No. 97.

178. Where any debt or claim, the particulars of which have been so sent, is not admitted by the company in full, then and in every such case, unless the company is willing to set apart and appropriate in such manner as the Judge shall direct the full amount of such debt or claim the company shall, where the Judge thinks fit so to direct, send to the creditor a notice that he is required to prove such debt or claim or such part thereof as is not admitted by the company, by affidavit by a day to be therein named being not less than fourteen days after such notice and being the time appointed by the Judge for adjudicating upon such debts and claims. Such notice

shall be sent in the manner provided by Rule 174 and shall be in Form No. 98 and such affidavit in proof shall be in Form No. 99.

179. The costs of proof of a debt or claim in pursuance of the notice prescribed by Rule 178 shall be in the discretion of the Judge.

180. The result of the settlement of the list of creditors shall be stated in a certificate which shall be prepared by the attorney of the company and signed by the Judge. Such certificate shall (1) specify debts or claims (if any) which have been disallowed; (2) distinguish (a) debts or claims the full amount of which the company is willing to set apart and appropriate, (b) debts or claims (if any) the amount of which has been fixed by inquiry and adjudication in manner provided by Section 59 of the Act, (c) debts or claims (if any) the full amount of which is not admitted by the company, and of which the company is not willing to set apart and appropriate the full amount or the amount of which has not been fixed by inquiry and adjudication as aforesaid ; (3) show (a) which of the creditors have consented to the proposed reduction, and the total amount of the debts due to them, (b) the total amount of the debts or claims the payment of which has been secured in manner provided by Section 59 of the Act and the person to or by whom the same are due or claimed. It shall not be necessary to show in such certificate the several amounts of the debts or claims of any person who has consented to the proposed reduction or the payment of whose debts or claims has been secured as aforesaid.

181. After the expiration of eight days from the filing of such last mentioned certificate, the petition shall be set down for hearing, by requisition addressed to the Deputy Registrar (Judicial) by the attorney of the company.

182. Notice of the day appointed for the petition to be heard shall, unless the Judge otherwise directs, be advertised in the same manner as the notice under Rule 176 so that the first or only advertisement shall be published not less than fourteen days before such day. Such notice shall be in Form No. 100.

183. Any creditor included in the said certificate whose debts or claims have not, before the hearing of the petition, been discharged or determined or been secured in manner provided by Section 59 of the Act and who has not before the hearing consented to the proposed reduction of capital, may appear at the hearing of the petition and oppose the application. A creditor intending so to appear shall give two days' notice in writing of such intention to the attorney of the company and in default of such notice shall not without the leave of the Judge be entitled to appear. The cost of the appearance of a creditor shall be in the discretion of the Judge.

184. At the hearing of the petition the Judge may, if he thinks fit, give such directions as may seem proper with reference to the securing, in manner mentioned in Section 59 of the Act, the payment of the debts or claims of any creditors who do not consent to the proposed reduction, and the further hearing of the petition may, if the Judge thinks fit, be, adjourned for the purpose of allowing any steps to be taken with reference to the securing in manner aforesaid the payment of such debts or claims.

185. Where the Judge makes an order confirming a reduction such order shall give directions as to the manner in which, in what newspapers, and at what times notice of the registration of the order and of such minute as is mentioned in Section 61 of the Act, shall be published and (unless the addition of the words “and Reduced” shall have been dispensed with altogether or shall be dispensed with henceforth) shall fix the date until which the words “and Reduced” are to be deemed part of the name of the company as provided in Section 57 of the Act.

186. Where the Judge shall think fit to require the company to publish the reasons for the reduction of its capital, or any other information with regard thereto, or the causes which led to such reduction (as provided by Section 65 of the Act) the same shall be advertised in such newspapers, in English and in the vernacular, as the Judge shall think fit.

APPENDIX

FORM 1

Petition by Unpaid Creditor

(Title)

In the matter of

The humble petition of (Insert full name, title, etc. of petitioner) showeth as follows :—

1. The Company, Limited (hereinafter called the Company, was in the month of 19. incorporated under the Companies Act.

2. The registered office of the Company is at

3. The nominal capital of the Company is Rs. divided into shares of Rs. each. The amount of the capital paid up or credited as paid up is Rs.

4. The objects for which the Company was established are as follows:—

(a) (Here set out in paragraphs the facts on which the petitioner relies),

(b)

(c)

5. The company is indebted to your petitioner in the sum of Rs. for (state consideration for the debt with particulars so as to establish that the debt is due).

6. On the day of 19. your petitioner served [or caused to be served by (name of person)] on the company by causing the same to be delivered by registered post, or otherwise, a demand notice under his hand in the words and figures following:—

(set out demand in full)

7. The Company has neglected to pay the said sum of Rs. or to secure or compound for it to the reasonable satisfaction of your petitioner.

8. The Company is (insolvent and) unable to pay its debts.

9. In the circumstances, it is just and equitable that the Company be wound up.

Your petitioner, therefore, humbly prays as follows:—

(1) That the Company Limited, may be wound up by the Court under the provisions of the Companies Act.

¹(That the voluntary winding up of the Company Limited, may be continued but subject to the supervision of the Court.)

(2) Or that such other may be made in the premises shall be just.

²Note—It is intended to serve this petition on.

1. Add words in brackets if supervision order is asked for.

2. This note will be unnecessary if the Company is petitioner.

FORM 2

Winding up Petition by a Contributory

(Title)

In the matter of

The humble petition of (name, title, etc., of petitioner) sheweth as follows:—

1. The Company Limited, (hereunder called the Company), was in the month of 19. incorporated under the Companies Act.

2. The registered office of the Company at

3. The nominal capital of the Company is Rs. divided into shares of Rs. each. The amount of capital paid up or credited as paid up is Rs.

4. The object for which the Company was established are as follows:—

(Here set out in paragraphs the facts on which the petitioner relies.)

5. That the petitioner is holder of shares of the company and has paid Rs. towards these shares.

6. (Here state reasons for belief that the Company must be wound up by the Court or under the supervision of the Court, as the case may be).

Your petitioner, therefore, humbly prays as follows:—

1. That the Company Limited, may be wound up by the Court under the provisions of the Companies Act.

or,

¹(That the voluntary winding up of the Company Limited, may be continued but subject to the supervision of the Court.)

2. Or, that such other order may be made in the premises as shall be just.

²Note— It is intended to serve this petition on.

1. Add words in brackets if supervision order is asked for.

2. This note will be unnecessary if the Company is petitioner.

FORM 3

Petition for Winding up by the Registrar of the Companies

(Title)

Paragraphs Nos. 1, 2, 3 and 4 as in Forms Nos. 1 and 2.

5. That from the financial condition of the Company as disclosed in its balance sheet from (or from the report of an Inspector appointed under Section 138 of the Act), it appears that the Company is unable to pay its debts.

6. That a copy of the Balance Sheet (or copy of the report of the Inspector) is attached herewith.

7. The necessary sanction of the Local Government has been obtained to the presentation of the petition as required by Section 166 of the Act.

Your petitioner, therefore, humbly prays as follows:—

1. That Limited, may be wound up by the Court under the provisions of the Indian Companies Act, or

That such other order may be made in the premises as shall be just.

FORM 4

Verification of Petition

I, A. B. of, make oath (or solemnly affirm) and say that such of the statements in the petition now produced and shown to me, and marked with the letter 'A' as relate to my own acts and deeds are true, and such of the said statements as relate to the acts and deeds of any other person or persons, I believe to be true.

Sworn, etc.

or solemnly affirmed, etc.

FORM 5

Advertisement of Petition for Winding up

(Title)

Notice is hereby given that a petition for the winding up of the above/named Company by the Court (or, subject to the supervision of the Court) was on the day of 19. . . . presented to the Court of by the said Company or by A. B. of a creditor (or contributory) of the said company or by the Registrar of Companies, as the case may be. And that it has been directed that the said petition shall be heard before the said Court on the day of 19. . . . and any creditor or contributory of the said company desirous to support or oppose the making of an order for the winding up of the said company under the above Act, should appear at the time of hearing, by himself or his advocate, attorney, or agent for that purpose; and a copy of the petition will be furnished to any creditor or contributory of the said company requiring the same, on application to the said Court on payment of the charges for the same.

Given under my hand and the seal of the Court, this. day of 19.

Deputy Registrar

Note—Any person who intends to appear on the hearing of the said petition must serve on, or send, by post to, the above named notice in writing of his intention so to do. The notice must state the name and address of the person, or if a firm, the name and address of the firm and must be signed by the person or firm, or his/their duly authorised agent or advocate and must be served or if posted, must be sent by post in sufficient time to reach the above named not later than 7 clear days before the date of hearing.

FORM 6

Affidavit of Service or Petition on Directors, Officers or Servants of the Company

In the matter. Company, Limited and the petition of.

I, A. B. of. make oath and say:

1. (In the case of service of petition on a company by leaving it with a Director, Officer or Servant at the registered office, or in no registered office, at the principal or last known principal place of business of the Company).

That I did on. day, the. day of 19., serve the above-named company with the above-mentioned petition by delivering to and leaving with (name and description), director (or officer), (or servant) of the said company a copy of the above-mentioned petition, duly sealed with the seal of the Court, at (office or place of business as aforesaid), before the hour of. in the. noon.

2. (In the case of no director, officer or servant of the company being found at the registered office or place of business).

That I did on. day, the. day of 19., having failed to find any director, officer or servant of the above-named company at (here state registered office or place of business), leave there a company of the above-mentioned petition duly sealed with the seal of the Court before the hour of. in the. noon (add with whom such sealed copy was left, or where, *e. g.*, affix to door of office or place in letter box or otherwise).

3. (In the case of directions by the Court as to the director, officer or servant of the company to be served).

That I did on. day, the. day of. 19., serve (name or names and description) with a copy of the above-mentioned petition duly sealed with the seal of the Court, by delivering the same together with a true copy of the order for substituted service, dated the. day of. 19., personally to the said. (name) at. (place) before the hour of. in the. noon.

Sworn at. etc.

FORM 7

Affidavit of Service of Petition on Liquidator

(Title)

In the matter of a petition, dated the. day of. 19. for winding up the above company by (or under the supervision of) the Court (as the case may be).

I, A. B. of. make oath and say:

That I did, on. day, the. day of. 19. . . . , serve (name and description), liquidator of the above-named company, with a copy of the above-mentioned petition, duly sealed with the seal of the Court, by delivering the same personally to the said at.(place), before the hour of. . . . in the. noon.

Sworn at, etc.

FORM 8

Notice of Intention to Appear on the Hearing of Petition

(Title)

Take notice that.(state full name or if a firm, the name of the firm, and address), a creditor for Rs. of the above-mentioned company, or contributory (state number and class of shares held) holding shares in the above company, intends to appear on the hearing of the petition advertised to be heard on the. day of. 19. and to support (or to oppose) such petition.

FORM 9

Order for Winding up by the Court

(Title)

Upon the petition of the above-named company [(or A. B.) of, a creditor (or contributory of the above-named company), or of the Registrar of the Companies)] filed on the day of 19 , and the verification thereof by A. B., etc., filed, etc., and upon hearing the advocate for (or attorney or agent of) the petitioner and for and upon reading the “Local Gazette” of the day of . . . 19 the newspaper of the day of 19 enter any other papers) each containing an advertisement of the said petition. This Court doth order that the said Company be wound up by this Court under the provisions of the Indian Companies Act, VII of 1913.

And it is ordered that the costs of the said petition be taxed and paid out of the assets of the said company.

Judge

FORM 10

Order for Winding up Subject to Supervision

(Title)

Upon the petition, etc. (as in Form No. 9, this Court doth order that the voluntary winding up of the said company be continued but subject to the supervision of this Court, and any of the proceedings under the said voluntary winding

up may be adopted as the Court shall think fit. And the creditors, contributories and liquidators of the said company, and all other persons interested, are at liberty to apply to the Court as there may be occasion.

Judge

FORM 11

Advertisement of Order to Wind up

(Title)

By an order made by the in the above matter, dated the day of 19 on the petition of the above-named company or (.), it was ordered that the company be wound up by this Court (or under the supervision of the Court under the provisions of the Indian Companies Act, VII of 1913.

Deputy Registrar

FORM 12

Summons or Notice of Motion for Provision Liquidators

(Title)

Notice is hereby given to that in the above-noted matter a petition for the appointment of a Provisional Liquidator has been presented and that such petition shall be heard by the Court on the day of 19 or at any adjournment, if any. You are required to appear on the said date in person or through duly authorised agent to support or oppose the said petition. If you fail to do so, the petition will be decided according to law.

Given under my hand and the seal of the Court, this day of 19

Deputy Registrar

FORM 13

Order Appointing a Provisional Liquidator After Presentation of Petition and Before Winding up Order

(Title)

Upon the application, etc., and upon reading, etc., the Court doth hereby appoint (one of) the Official Receiver(s) attached to the Court (or as the case may be) to be provisional Liquidator of the above-named company. (If security dispensed with, add "without security" or if security is to be given, add directions as to security, accounts and payments into the Bank). And the Court doth hereby limit and restrict the powers of the said Provisional Liquidator

to the following acts, that is to say (describe the acts which the Provisional Liquidator is to be authorised to do and the property of which he is to take possession).

Judge

FORM 14

Notice to submit Statement of Affairs and to Attend Provisional Liquidators or Official Liquidator

(Title)

Notice to.....

Take notice that by the order made by the High Court, on day of 19 in the above matter, I was appointed liquidator of the company (provisionally). You are, therefore, required to submit to me within 21 days from the said date the statement of affairs of the company duly verified by your affidavit containing the following particulars amongst others as provided by the forms hereafter mentioned:—

- (a) the assets of the company stating separately the cash balance in hand and at the Bank, if any;
- (b) the debts and liabilities;
- (c) the names, residence and occupation of the creditors, stating separately the amounts of secured debts and unsecured debts; and in the case of secured debts, particulars of the securities, their value and the date when they are given;
- (d) the debts due to the company and the names, residence and occupations of the persons from whom they are due the amount likely to be realized therefrom.

Default on your part will make you guilty of offence under section 177-A, sub-clause 5 of the Act.

Official (Provisional) Liquidator

FORM 15

**Order to Submit or Concur in Statement of Affairs,
with Directions to Attendance**

(Title)

Upon the application of, the Official Liquidator (or Provisional Liquidator) of the above-named company and upon reading the order to wind up, dated the day of 19, and affidavit of the Official Liquidator (or Provisional Liquidator, as the case may be) filed, the day of 19, it is ordered that formerly a director of the said company, do within days after service upon him of this order, submit, verify or concur in and verify a statement of the affairs of the said company pursuant to the provisions of Section 177-A of the Act, and to the company's winding up Rules.

And it is ordered that the said do attend on the applicant Official Liquidator (or the Provisional Liquidator, as the case may be) at his Office at at o'clock in the noon of day of 19 . . . , and give the said applicant all information that he may require as to the affairs of the company; and it is ordered that the said do pay to the applicant the sum of Rs. his ascertained costs of and incidental to the said application.

Judge

Endorsement of the Order

If you, the within named neglect to obey the within order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same order.

Judge

FORM 16

Certificate Extending time for Statement of Affairs

{Title}

I, A. B., the Official Liquidator (or the Provisional Liquidator, as the case may be) do hereby certify that I have, under powers given me by Section 177-A of the Act and Rules of the High Court for winding up of companies, extended the time for submitting the statement of affairs of the company required of (name of person) from the day of 19 . . . , to the day of 19 . . .

Official/Provisional Liquidator

FORM 17

Advertisement of the Time and Place Fixed for the Appointment of Official Liquidator

(Title)

Notice is hereby given that the Hon'ble Mr. Justice of the High Court, has fixed the . . . day of at o'clock at as the time and place for the appointment of an Official Liquidator of the above-named company.

Deputy Registrar

FORM 18

Order Appointing an Official Liquidator

(Title)

Upon the application, etc., and upon reading, etc., the Court doth hereby appoint. R. P. H. Official Liquidator of the above-named Company. And it is ordered that the said R. P. H. do on or before the day of next give security (to be approved by the Court). And it is ordered that the said R. P. H. do file an account of his receipts and payments in the prescribed form into this Court not less than twice in each year during his tenure of office as required by section 182(2) of the Act.

It is further ordered that all moneys to be received by the said R. P. H. be paid by him in any scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (or into the Court) to the credit of the Official Liquidator of the said company within 7 days next after the receipt thereof (unless the Judge shall have otherwise directed).

(In case two or more Official Liquidator are appointed, add):

And the Court doth declare that the following acts required or authorised by the Act to be done by the Official Liquidator may be done by either (or any one or two) of the Official Liquidators hereby appointed, that is to say describe the acts), and that all other acts so required or authorised shall be done both (or all) the Official Liquidators hereby appointed.

Judge

FORM 19

Recognizance of the Official Liquidator and Sureties

R. P. H. of, W. B. of and T. P. of before the Court of personally appearing, do acknowledge themselves, and every of them doth acknowledge himself, to own to the Hon'ble Mr. Justice a Judge of the said High Court (or to Mr. A. B., Judge of the said Court of the respective sum set opposite to their respective names in the schedule hereto, to be paid to the said Hon'ble Mr. Justice. (or to be said Mr. A. B., as the case may be), or his successors in office and assignees and in default of payment of the said sums, the said R. P. H., W. B. and T. P. are willing and do agree, and every of them is willing and doth agree for himself, his heirs, executors and administrators, by these presents, that the said sum shall be levied, recovered and received of and from and every of the, and of and from the movable and immovable property of them and every of them, wheresoever the same shall be found.

Dated the day of 19.

Whereas, in the matter of &c. (take title from order to wind up the Hon'ble Mr. Justice. (or the Court of), has by an order, dated the day of 19., appointed the said R. P. H. Official Liquidator of the said company, and has thereby directed him to give security to be approved of by the said Judge (or in case the security proceeds the order appointing) has approved of the said R. P. H. as a proper person to be appointed Official Liquidator of the said company upon his giving security. And whereas the said Judge has approved of the said W. B. and T. P. to be sureties for the said R. P. H. in the amounts set opposite to their respective names in the schedule hereto, and has also approved of the above written recognizance, with the under-written condition, as proper security to be entered into by the said R. P. H., W. B. and T. P., pursuant to the said order, and in testimony of such

approbation the Judge (or Registrar) hath signed an allowance in the margin thereof. Now the condition of the above-written recognizance is such that if that said R. P. H., his executors or administrators, or any of them, do and shall duly account for what the said R. P. H. shall receive, or become liable to pay, as Official Liquidator of the said company, at such periods and in such manner as the said Judge shall appoint, and pay the same as the said Judge hath (by the said order) directed or shall hereafter direct, then the above recognizance to be void, otherwise to remain in full force and virtue.

The Schedule Above Referred To

R. P. H. thousand rupees.

W. B. thousand

T. P. , thousand

Taken and acknowledged by the, above-named R. P. H., etc. etc.

FORM 20

Affidavit of Sureties

We, W. B. of &c., and T. P. of &c., severally make oath (or, solemnly affirm), and say as follows :—

(1) I, the said W. B. for myself say, that I am worth the sum of rupees over and above what is sufficient for the payment of all my just debts and liabilities.

(2) And I, the said T. P., for myself, say that I am worth the sum of rupees, &c. (as above).

Sworn, &c.

Or solemnly affirmed

FORM 21

Certificate that Official Liquidator has Given Security

(Title)

This is to certify that of who was on day of
. 19. . . . , appointed Official Liquidator of the above-named company has duly given security as ordered by the Court.

Judge or Registrar

Dated :

FORM 22

Advertisement of Appointment of Official Liquidator

(Title)

Notice is hereby given that of by an order, dated
has been appointed Official Liquidator of the above-mentioned company (if more than one person appointed, *add*)
with joint and several powers.

Deputy Registrar

FORM 23

Notice (or Advertisement) of Meeting of Creditors or Contributories

(Title)

Notice is hereby given that the High Court of at (or the District Court of) has directed a meeting of creditors
(or contributories) of the above-named company to be summoned, pursuant to the above Act, for the purpose of
ascertaining their wishes at to (state the object for which meeting called, unless notice is by advertisement, in which
case say, certain matters relating to the winding up of the said company), and that such meeting will be held on
. . . day of 19 , at o'clock in the noon. . . . at in the at which time and place all the
creditors (or contributories) of the said company are requested to attend. (The said Court has appointed H. T., etc., to
act as Chairman of such meeting).

Dated this day of 19

R. P. H.

Official Liquidator

FORM 24

Notice to Contributories of First Meetings

(Title)

Notice is hereby given that the first meeting of the contributories in the above matter will be held at
on the day of 19 , at o'clock in the noon.

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with
me at not later than o'clock on the day of

Dated this. day of. 19.

Official Liquidator

[The Company's statement of affairs has not been lodged (or has been lodged, and summary is enclosed)].

Agenda

To determine whether or not an application shall be made to the Court for the appointment of a Committee of Inspection to act with the Liquidator, and who are to be the members of the Committee if appointed.

FORM 25

Notice to Creditors of First Meeting

(Title)

(Under the order for winding up the above-named company, dated the. day of. 19.).

Notice is hereby given that the first meeting of creditors in the above matter will be held at. on the day of. 19., at. o'clock in the. noon.

To entitle you to vote thereat year proof must be lodged with me not later than. o'clock on the. day of. 19.

Form of proof and of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me at. not later than. o'clock on the. day of. 19.

Official Liquidator

Address

[The statement of the Company's affairs has not been lodged (or has been lodged) and summary is enclosed.]

Agenda

To determine whether or not an application shall be made to the Court for the appointment of a Committee of Inspection to act with Liquidator, and who are to be the members of the Committee, if appointed.

FORM 26

Notice to Directors and Officers of Company to Attend First Meeting of Creditors or Contributories

(Title)

Take notice that the first meeting of creditors (or contributories will be held on the. day of. 19., at. o'clock at (meeting place) and that you are required to attend thereat, and give such information as the meeting may require.

Dated this. day of. 19.

Official Liquidator

To

.....

.....

FORM 27

Notice of Meeting (General Form)

(Title)

Take notice that a meeting of creditors (or contributories) in the above matter will be held at. on the. day of. 19., at. in the. noon.

Dated this. day of. 19.

Official Liquidator

Agenda

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with. at. not later than. o'clock on the. day of. 19.

FORM 28

Affidavit of Posting of Notice of Meeting

(Title)

I, a (description)..... make oath and say as follows :—

1. That I did on the. day of. 19., send to each creditor mentioned in the Company’s statement of affairs (or to each contributory mentioned in the register of members of the Company) a notice of the time and place of the () in the form hereunto annexed marked “A”.
2. That the notices for creditors were addressed to the said creditors respectively according to their respective name and address appearing in the statement of affairs of the company or the last known address of such creditors.
3. That the notices for contributories were addressed to the contributories respectively according to their respective names and registered or last known addresses appearing in the register of the company.
4. That I sent the said notice by putting the same prepaid into the post office at. before the. hour of. o’clock in the. noon on the said. day.

Sworn &c.

FORM 29

Certificate of Posting of Notice (General)

(Title)

I,, a clerk in the office of the Official Liquidator, hereby certify :—

1. That I did on the day of. 19. ... send to each creditor mentioned in the statement of affairs (or each contributory mentioned in the Register of Members of the Company, or as the case may be), a notice of the time and the place of the first meeting (or a general meeting, or adjourned general meeting, or as the case may be) in the form hereunto annexed marked “A”.

Paragraphs 2, 3 and 4 as the preceding form.

Dated. Signature

FORM 30

Memorandum of Appointment of a Person to Act as Chairman at Meeting of Creditors or Contributories

The Judge of. (or Court of.) has appointed Mr. H. T. of & C., one of the creditors (or contributories) of the above-named company, to act as Chairman of a meeting of the creditors (or contributories) of the said company, summoned by direction of the said Judge (or Court), pursuant to the above Act, to be held on the. day of. . . . 19. . . ., at. o'clock at., and to report the result of such meeting to the said Judge (or Court). The said meeting is summoned for the purpose of ascertaining the wishes of the creditors (or contributories of the said company as to (state the object for which meeting called, and at such meeting the votes of the creditors (or contributories) may be given either personally or by proxy.

Dated this. Day. of. 19.

G. H.

Deputy Registrar or Judge

FORM 31

Authority to Act as Chairman of meeting and use of Proxies

(General Heading)

I, the Official Liquidator. do hereby nominate Mr. of. to be chairman of the meeting of creditors (or contributories) in the above matter, appointed to be held at. on the day of. . . . 19. . . ., and I depute him. (here insert "Being a person in my employment or under my official control,") to attend such meeting and use, on my behalf, and proxy or proxies held by me in this matter.

Dated this. day of. 19.

Official Liquidator

FORM 32

Memorandum of Appointment of a Person to Act as a Chairman at Meeting of Creditors or Contributories

(General Heading)

In the matter of the Indian Companies Act, VII. of 1913, etc.

Mr. H. T. of etc., one of the creditors (or contributories) of the above-named Company is appointed to act as Chairman of a meeting of the creditors (or contributories) of the said Company, summoned by direction of the said Judge, pursuant to the above Act, to be held on the. day of. 19.

at o'clock in the noon. at and to report the result of such meeting to the said Judge.

The said meeting is summoned for the purpose of ascertaining the wishes of the creditors (contributories) of the said company as to (state the object for which meeting called) and at such meeting the votes of the creditors (or contributories) may be given either personally or by proxy.

Dated this. day of. 19. . . .

FORM 33

Memorandum of Adjournment of Meeting

(Title)

Before. at. on the. day of. 19. o'clock.

Memorandum—The (first or as the case may be) meeting of (creditors or contributories, as the case may be) in the above matter was held at the time and place above mentioned; but it appearing that (owing to, etc.) the meeting was adjourned until the. day of. 19. . . . , at. o'clock in the noon, then to be held at the same place.

Chairman

FORM 34

Chairman's Report of Result of Meeting of Creditors or Contributories

(Title)

I, H. T., the person appointed by the Hon'ble Mr. Justice. (or by the Court of.) to act as Chairman of a meeting of creditors (or contributories) of the above-named Company, summoned by advertisement (or notice), dated the. day of 19. . . . , and held on the. day of. 19. . . . , at. do hereby report to the said Judge (or Court) the result of such meeting as follows :—

The said meeting was attended either personally or by proxy by. creditors, to whom debts against the said Company have been allowed, amounting in whole to the value of Rs. (or by contributories), holding, in the whole,. shares in the said Company, and entitle respectively by the regulations of the Company to the number of votes hereinafter mentioned.

The question submitted to the said meeting was, whether the creditors (or contributories) of the said Company approved of the proposal of the Official Liquidator of the said Company, that, etc. (as the case may be) and wished that such proposal should be adopted and carried into effect. The said meeting was unanimously of opinion that the said proposal should (or should not) be adopted and carried into effect (or, the result of the voting upon such question was as follows) :—

The undersigned creditors (or contributories) voted against the said proposal being adopted and carried into effect:
:—

Name of creditor (or contributory)	Address	Value of debt (or number of share)	Number of votes conferred on each contributory by the regulations of the Company
---------------------------------------	---------	---------------------------------------	--

The undersigned creditors (or contributories) voted against the said proposal being adopted and carried into effect:—

Name of creditor (or contributory)	Address	Value of debt (or number of share)	Number of votes conferred on each contributory by the regulations of the Company
---------------------------------------	---------	---------------------------------------	--

H. T.

Chairman

Dated this., day of. 19. . . .

FORM 35

Appointment of Proxy to Vote at Meeting of Creditors or Contributories

I, W. S., of. hereby appoint. of. as my proxy to vote for me and on my behalf at the meeting of the creditors (or contributories) of the said Company, summoned by direction of Mr. Justice. (or by the. Court of.) to be held on the. day of. and at. any adjournment. . . thereof.

As witness my hand this. day of. 19. . . .

W. S.

Signed by the said W. S. in the presence of

J. H. of &c.

FORM 36

Special Proxy

(General Meeting)

I, of, a creditor (or contributory) hereby appoint. as proxy at the meeting of creditors (or contributories) to be held on the. day of. 19., or at any adjournment thereof, to vote (for or against, as the case may require and specify the particular resolution).

Dated this. day of. 19.

Signature of witness.

Address

Signature

Certificate to Be Signed by Person Other than Creditor or Contributory Filling up the Above Proxy

I, of being a hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named and in his presence before he attached his signature or mark thereto.

Dated this. day of. 19.

Signature

FORM 37

General Attorney

(General Heading)

I, of a creditor (or contributory) hereby appoint. to be. general proxy to vote at the meeting of creditors (or contributories) to be held in the above matter on the. day of. 19. or at any adjournment thereof.

Dated this. day of. 19.

Signature of witness.

Address. Signature

Notes—(1) The authorised agent of a Corporation may fill up blanks, and sign for the Corporation thus :—

For the Company

J. S. (duly authorised under the seal of the Company).

(2) The person appointed general proxy must be either the Official Liquidator or a person in the regular employ of the creditor or (contributory).

**Certificate to be by Persons Other than Creditor or
Contributory Filling up the Above Proxy**

I, of, being a (.....) hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named and in his presence, before he attached his signature or mark thereto.

Dated this, day of, 19....

Signature

FORM 38

Advertisement for Creditors

The creditors of the above-named Company are required on or before, day of to send in writing their names and addresses and the particulars of their debts or claim and the names and addresses of their Advocate or Attorneys (If any) to the undersigned as Official Liquidator to the said Company at (give place) and, if so required by notice in writing from the undersigned to come in and prove their said debts or claims either in person or by their attorneys or pleaders at such time and place as shall be specified in such notice, or in default thereof, they will be excluded from the benefit to any distribution made before such debts are proved.

Dated this, day of, 19....

Official Liquidator

FORM 39

Notice to Creditors to Send Their Claims to the Liquidator

(Title)

To

.....

.....
.....

Dear Sir,

In the books of the above-named Company, you are shown as one of the creditors thereof. You are required on or before day of 19., to send the particulars of your debts or claims and the names and addresses of your Solicitor, Advocate or Attorney (if any) to the undersigned or in default thereof you will be excluded from the benefit of any distribution made before such debts proved.

Official Liquidator

FORM 40

Affidavit of Creditor in Proof of Debt

I,, make oath (or solemnly affirm) and say as follows :—

1. The above-named company was at the date of the order for winding up the same on the day of 19., and still is justly and truly indebted to me in the sum of rupees. for, etc. (describe, shortly the nature of the debt and exhibit any security for it; and in case of trade debt, exhibit vouchers and verify reasonableness of the charges, as in proving a debt in a suit) as shown by the account endorsed hereon or by the following accounts.
2. I have not, nor hath nor have any person or persons by my order or to my knowledge or belief for my use, received the sum of rupees. or any part thereof of any security or satisfaction for the same or any part thereof. [If any security, add except the said (describe the security) hereinbefore mentioned or referred to].

FORM 41

Notice to Creditors to come in and Prove their Debts Before the Official Liquidator

Sir,

You are hereby required to come in and prove the debt claimed by you against the above-named company by filing your affidavit, and you are to attend at my office in person or by your Advocate, Attorney or Pleader on the day of 19., at o'clock in the noon, at being the time and place appointed for investigating the claims.

Dated this. day of 19

Official Liquidator

FORM 42

Affidavit of Official Liquidator as to his Investigation of Debts and Claims

(Title)

I, of the Official Liquidator of the above-named Company make oath (or solemnly affirm) and say as follows.

1. I have, by the paper hereto annexed and marked with letter 'A', set forth a list of all the debts and claims the particulars of which have been sent to me by persons marking claims upon, or claiming to be creditors of, the said Company pursuant to the advertisement issued in that behalf, dated the day of 19. . . . , and the names and addresses of the persons by whom such claims are made.
2. I have investigated the said debts and claims and examined the same with the books and documents of the said Company in order to ascertain, to the best of my ability, which of such debts and claims are justly due from the said Company.
3. I have, in the first part of the this list, set forth such of the said debts and claims as in my opinion are justly due from the said Company and proper to be allowed without further evidence and I have, in the seventh column of the said first part of the said list of debts and claims, stated my reasons for such belief. In the second part of the said list of debts and claims, I have set forth in separate columns such parts of the said debts and claims as in my opinion are proper to be allowed and as are not admitted to be due from the said Company, and I have, in the eighth column of the said second part of the said list, set out my reasons for such belief, and I have, in the third part of the said list of debts and claims, set forth such of the said debts and claims as in my opinion ought to be proved by the respective creditors, and I have in the sixth column of this part of the said list, giving my reasons for such belief.

Deponent

Sworn (or solemnly affirmed), etc.

Exhibit 'A' referred to in the affidavit
of Sworn (or solemnly affirmed)

before me, this day of 19.

Signature

List of Debts and Claims of which the Particulars have been
sent to the Official Liquidator

First Part

Debts and claims which ought to be allowed without further evidence

Serial No.	Name of Creditor	Address and description	Particulars of debt or claim	Amount claimed	Amount proper to be allowed	Reasons for belief that amounts are proper to be

						allowed
1	2	3	4	5	6	7
				Rs. P.	Rs. P.	

Second Part

Debts and claims which have been partly admitted

Serial No.	Name of Creditors	Address and description	Particulars of debt or claim	Amount claimed	Amount proper to be allowed (a)	Amount not admitted (b)	Reasons for belief that (a) amounts are proper to be allowed not (b) amounts not admitted.
1	2	3	4	5	6	7	8
					Rs. N. P.	Rs. N. P.	

Third Part

Debts and claims which ought to be proved by the creditors

Serial No.	Name of Creditor	Address and description	Particulars of debt or claim	Amount claimed	Reasons for belief
------------	------------------	-------------------------	------------------------------	----------------	--------------------

1	2	3	4	5	6
				Rs. N. P.	

FORM 43

Notice to Creditors to Prove Their Claims Before the Judge

(Title)

Notice to.....

Whereas, as the Official Liquidator of the above-named Company, I have rejected your claim for (or beyond) Rs. on the grounds hereunder (or attached herewith).

Please take notice that you are hereby required to prove before the Judge (the rejected part of) your claim against the above named company by appearing in person, or by your Attorney or Advocate at the High Court of. on the. day of. 19. . . . , at. o'clock in the forenoon, being the time appointed for hearing and adjudicating upon the claim.

Dated this. day of. 19.

Official Liquidator

FORM 44

Affidavit in Support of the Service of Notice to Creditors to Come and Prove Their Debts

(Title)

I,, son of., attorney of the Official Liquidator of the above-named Company solemnly affirm and say as under :

That I did on. day of. 19 , in the matter hereinafter mentioned cause a notice to be served upon the persons named in the 2nd column of the Schedule hereto annexed and marked with the letter "A".

That a true copy of the notice so served is annexed hereto and marked with the letter "B".

That I served the said respective copies of the said notice by putting such copies respectively, duly addressed to such persons respectively or their advocates or pleaders, according to their respective names and addresses, appearing in

the said Schedule and with proper postage stamps affixed thereto as Registered Acknowledgment Due letters, into the Post Office at. on the said day of. 19. . .

Deponent

FORM 45

Certificate by Judges as to Settlement of List of Debts and Claims

(Title)

I hereby certify that the result of the adjudication upon debts and claims against the above-named Company, brought in pursuance to the advertisement issued in that behalf, dated the. day of. 19. . . so far as such adjudication has up to the date of this certificate been proceeded with, is as follows:

The debts and claims which have been allowed are set forth in the first Schedule hereto, and with the interest thereon and cost mentioned in the said Schedule are due to the persons therein named, amount altogether to rupees.

I have in the first part of the said Schedule set forth such of the said debts and claims as carry interest thereon has been computed at the rate they respectively carry down to the date of this certificate.

I have in the second part of the said Schedule set forth such of the said debts and claims and do not carry interest.

The claims set forth in the second Schedule hereto have been brought in by the persons therein named, and have been disallowed.

The First Schedule Above Referred to
First Part

Debts and claims which carry interest

No.	Name of Creditors	Addresses and Description	Particulars of Debt	Total Due
1.	J. L.		On Bill of Exchange date & c. Principal Rs. Interest at—per cent per annum from—the date of the certificate Cost of proof Rs.	Rs. P.

			Total of First Part Rs.	
--	--	--	-----------------------------------	--

Second Part

Debts and claims which do not carry interest

No.	Name of creditors	Address and Description	Particulars of Debt	Interest on Principal	Total Due
				Rs. P.	Rs. P.
25	W. P.		Goods Sold— Principal Rs. 500-00 Cost of proof Rs. 20-00	20 00	540 00
			Total Rs.		
			Add total First Part, Rs.		
			Total First and Second Parts, Rs.		

The Second Schedule Above Referred To

Debts and claims which have been disallowed

No.	Name of Creditors	Address and Description	Particulars of Claims	Amount Claimed
				Rs. P.

--	--	--	--	--

Dated the..... day of..... 19.....

Judge

FORM 46

List of Contributories Made Out by the Official Liquidator/Liquidators

(Title)

The following is a list of members of the Company liable to be placed on the list of contributories of the said Company made out by me/us from the books and papers of the said Company together with their respective addresses and number of shares (or extent of interest) to be attributed to each, so far as I/we have been able to make out or ascertain the same.

In the first part of the list, the persons who are contributories in their own right have been distinguished. In the 2nd part of the said list, the persons who are contributories as being representatives of, being liable to, the debts of others are distinguished.

Official Liquidator.

First Part

Contributories in their own right

Serial No.	Name	Address and description	No. of shares of extent of interest	Call prior to liquidation still unpaid		Uncalled liabilities
				(a) Principal	(b) Interest at per cent	
				Rs. P.	Rs. P.	Rs. P.

Note—Contributors are under no obligation to attend the appointment referred to in the above notice if they are satisfied that the particulars contained in the notice are correct.

A share-holder's name cannot be omitted from the list of Contributors on account of his inability to pay calls ; this question will be dealt with when applications made for payment of the calls.

A change of address may be notified by giving notice by petitioner before the date for the appointment.

FORM 48

**Affidavits of Posting of Notice of Appointment to
Settle List of Contributors**

(Title)

I, attorney/clerk to the Official Liquidator of the above-named Company, solemnly affirm and say as follows :

1. That I did on the. day of. 19., in the manner hereinafter mentioned send to each contributory mentioned in the list of contributors made out by the Official Liquidator of the above-named Company on the. day of. 19. and now on the file of proceedings of the above-named Company at the address appearing in such list, a notice of the time and place of the appointment to settle a list of contributors in the form hereunto annexed and marked A, except that in the tabular form at the foot of such copies respectively, I inserted the No. name, address, description, in what character included, and No. of shares (or extent of interest) call prior to the liquidation still unpaid and uncalled liabilities of the persons on whom such copy of the said notice was served.

2. That I served the said respective copies of the said notice by putting such copies respectively duly addressed to such persons respectively or their Advocates of Pleaders or Attorneys, according to their respective names and addresses appearing in the said list and with proper postage stamps affixed thereto, as registered letters with acknowledgments due into the Post Office at. on the said day of. 19.

Deponent

FORM 49

Affidavit of Official Liquidator in Support of List of Contributors

{Title}

I, the Official Liquidator of the above-named Company, make oath (or solemnly affirm) and say as follows :

1. The paper-writing now produced and shown to me and marked with the letter "A" contains a list of contributors of the said Company, made out by me, after hearing objections (if any) of the contributors to their settlement on the list of contributors, from the books and papers of the said Company, together with their respective addresses, and number of shares (or extent of interest) to be attributed to each and such list is to the best of my knowledge,

FORM 50

Certificate of Official Liquidator of Final Settlement of the List of Contributories

(Title)

Pursuant to the Indian Companies Act, VII of 1913, and to the rules made thereunder, I/we the undersigned being the Official Liquidator(s) of the above-named Company, hereby certify that the result of the settlement of the list contributories of the above-named Company so far as the said list has been settled up to the date of the certificate is as follows :

1. The several persons whose names are set forth in the second column of the First Schedule hereto have been included in the said list of contributories as contributories of the said Company in respect of the number of shares or extent of interest set opposite the names of such contributories respectively in the said Schedule.

I have in the first part of the said Schedule distinguished such of the several persons included in the said list as are contributories in their own right.

I have in the second part of the said Schedule distinguished such of the said several persons included in the said list as are contributories as being representatives of, or being liable to, the debts of others.

2. The several persons whose names are set forth in the second column of the second Schedule hereto were included in the provisional list of contributories and have been excluded from the said list of contributories.

3. I have in the 7th column of the first part of the first Schedule and in the 8th column of the second part of the first Schedule and in the 7th column of the second Schedule set forth opposite the names of each of the several persons, respectively the date when such persons were included in, or excluded from the said list of contributories.

4. I have in the 5th and 6th columns of the first part of the said Schedule hereto and in 6th and 7th columns of the second part of the said Schedule set forth opposite the names of each of the said persons respectively, the amount of calls prior to liquidation still unpaid (showing the principal and interest) and the uncalled liabilities.

5. Before settling the said list, I was satisfied from the records and affidavit of clerk duly filed with the proceedings herein that the notice was duly sent by post to each of the persons mentioned in the said list at his last known address or place of abode informing him that he was included in such list in the character and for the number of shares or extent of interest stated therein, and of the day appointed for finally settling the said list.

Dated this. day of. 19. . . .

Official Liquidator

First Schedule Referred to Above

Part First

FORM 51

Notice to Contributory of Final Settlement of list of Contributories and that His Name is Included

(Title)

Take notice that I/we. the Official Liquidator/Liquidators of the above-named Company have by certificate dated the. day of. 19. under my/our hand/hands, so far settled the list of contributories of the said Company (and that you are included in such list) in the character and for the number of shares (or extent of interest) stated below. The amount due from you in respect of call made prior to liquidation and the uncalled liabilities is also shown therein. Any application by you (to vary the said list of contributories or) that your name may be excluded therefrom must be made by you to the Court, as the case may be, within 30 days from the service on you of this notice, or the same will not be entertained.

The said list may be inspected by you in the said Court on any day between the working hours.

Dated. day of. 19

Official Liquidator

FORM 52

**Affidavit of Service of Notice to Contributories of
Final Settlement of the List**

1. I did on the. day of. 19. . . . , in the manner hereinafter mentioned serve a true of the notice now produced and shown to me and marked 'A' upon each of the said respective persons whose names, addresses and descriptions appear in the second and third columns of the said first schedule to the list of contributories of the said Company made out by the Official Liquidator of the Company on the. day of. and now on the file of proceedings of the said Company. In the tabular form of the foot of such copies respectively I inserted the number of list, name, address, description, in what character included, number of shares or extent of interest, the amount of calls made prior to liquidation and the amount of uncalled liabilities in respect of the shares (or interest) of the persons on whom such copy of the said notice was served, in the same words and figures as the same particulars are set forth in the said list of contributories.

2. I served the said respective copies of the said notice by putting such copies respectively, duly addressed to such persons respectively or their advocates or pleaders or attorneys according to their respective names and addresses appearing in the said list of contributories and with proper postage stamps affixed thereto as registered letters with acknowledgement due into the Post Office at. on the said. day of.

Deponent

FORM 53

Summons to Rectify List of Contributories

(Title)

Let. the Official Liquidator of the above-named company, attend at. on the. day of. 19. . . . , on the hearing of the application on the part of (name of applicant, etc.), contributory of the above-named Company and the Liquidator's certificate finally settling the same may be varied by excluding the name of the applicant therefrom and that the Liquidator may be ordered to pay to the applicant the costs of this application out of the assets of the Company.

Deputy Registrar

FORM 54

Order on Application to Vary List of Contributories

(Title)

Upon the application of W. N., by summons, dated the day of 19. . . . , for an order that the list of contributories of the Company and the Liquidator’s certificate finally settling the same be varied by excluding the name of the applicant therefrom (or, as the case may be), and upon hearing. , for the petitioner and. for the Liquidator, and upon reading. it is ordered that the list of contributories of the above-named Company and the Liquidator’s certificate finally settling the same be varied by excluding, as the case may be), or the Court does not think fit to make any order on the said application, except that the said W. N. do pay to A. B., the Liquidator of the said Company, his costs of this application.

(Costs payable to.)

Given under my hand and the seal of the Court, this. day of. 19.

Judge
or
Deputy Registrar

FORM 55

Endorsement by Judge or Settlement of the List of Contributories

List settled as filed by the Official Liquidator (except that Nos. are expunged from the list and Nos. . . . stand over for determination and subsequent endorsement thereon).

Dated.

Judge

FORM 56

Petition to Make a Call

(Title)

The humble petition of. , Official Liquidator of the above-named Company showeth as follows:

1. The above-named Company was, by an order of this Court, dated the. day of. 19. , ordered to be wound up by this Court (or, under the supervision of this Court, as the case may be).
2. By an order of this Court, dated the. day of. 19. , I was appointed Official Liquidator of the said Company.

3. On the day of 19., the list of contributories was finally settled by me and endorsed by the Judge on

4. The amount of debts proved and admitted against the said Company and the estimated amount of costs, charges and expenses incidental to the winding up aggregate the sum of Rs. or thereabout.

5. Of the assets set forth in the statement of assets, I have realized the sum of Rs. of which I still have in hand the sum of Rs. I estimate that the assets still remaining to be collected will realize approximately Rs. There are no other assets belonging to the said Company except the amounts due from the contributories.

6. In the settled list of contributories of the said Company appear the names of persons in respect of . . . shares.

7. For the purpose of satisfying the debts and liabilities of the Company and of paying the costs, charges and expenses of the winding up, I believe the sum of Rs. will be required in addition to the amount I now have in hand and the amount still to be collected by realization of the outstanding assets.

8. In order to provide the said sum of Rs. it is necessary to make a call upon the several persons who have been settled on the list of contributories and to provide for the contingency of some of such contributories partly or wholly falling to pay the amount of such call. I believe that for the purpose of realizing the said amount required, it is necessary that a call of Rs. per share be made.

Your petitioner, therefore, humbly prays that leave be given to make a call of Rs. per share on all the contributories of the said Company,

Or

that such order may be made in the premises as may be fit and proper.

Official Liquidator

Verification

I, the Official Liquidator of the above-named Company solemnly affirm that the statements contained in the foregoing petition are true to the best of my knowledge, information and belief.

Official Liquidator

FORM 57

Affidavit of Liquidator in Support of Proposal for Call

(Title)

I, of &c., the Liquidator of the above-named Company, make oath and say as follows:

1. I have in the Schedule now produced and shown to me, and marked with the letter 'A', set forth a statement showing the amount due in respect of the debts proved and admitted against the said Company and the estimated

amount of the costs, charges and expenses of, and incidental to, the winding up the affairs thereof and which several amounts form in the aggregate the sum of Rs. or thereabouts.

2. I have also in the said Schedule set forth a statement of the assets in hand belonging to the said Company, amounting to the sum of Rs. and no more. There are no other assets belonging to the said Company except the amounts due from certain of the contributories of the said Company, and, to the best of my information and belief, it will be impossible to realise in respect of the said amounts more than the sum of Rs. or thereabouts.

3. Persons have been settled by me on the list of contributories of the said Company in respect of the total number of shares.

4. For the purpose of satisfying the several debts and liabilities of the said Company and of paying the costs, charges and expenses of, and incidental to, the winding up the affairs thereof, I believe the sum of Rs. will be required in addition to the amount of the assets of the said Company mentioned in the said Schedule 'A', and the said sum of Rs.

5. In order to provide the said sum of Rs. it is necessary to make a call upon the several persons who have been settled on the list of contributories as before mentioned, and, having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that, for the purpose of realizing the amount required as before mentioned, it is necessary that a call of Rs. per share should be made.

Sworn, &c.

FORM 58

Schedule Referred to in the Preceding Form

In the matter of the limited, in liquidation and the Indian Companies Act, VII of 1913.

Schedule of Liabilities and Assets

Liabilities			Amount with the Bank		
Amount of debts and liabilities	Government treasury and in hand
	
Estimated amount of cost, charges, and expenses of, and incidental to, winding up of the company, including Liquidator's remuneration			Book debts and other property, nominal vain?		
		
			Expected to realize		
			..		

Total			Total		

Dated. Official Liquidator

FORM 59

Summon for Intended Call

(Title)

Let all parties concerned attend at. on the. day of 19. . . . , at. . . . o'clock on the hearing of an application on the part of the Official Liquidator of the above-named Company that a call to the amount of Rs. per share may be made on all the contributories (or, if upon any particular class, specify the same) of the said Company.

Given under my hand and the seal of the Court, this. day of. 19. . . .

Judge or
Deputy Registrar

To

Mr. C. D. of.

a contributor of the said company,

proposed to be included in the said call.

FORM 60

Advertisement of Intended Call

(Title)

Notice is hereby given that the day of 19. . . . at . . . o'clock at the Court House has been appointed to make a call on all the contributories of the said Company (or, as the case may be), and that the Official Liquidator of the said Company proposes that such call shall be for Rs. per share. All persons interested are entitled to attend, at such day, hour and place to offer objections to such call.

Given under my hand and the seal of the Court, this. day of. . . . 19. . . .

Judge or
Deputy Registrar

FORM 61

General Order for Call

(Title)

Upon the application, dated the day of 19. . . . , of the Official Liquidator of the above-named Company and upon reading the order, dated the day of 19. . . . , directing winding up of the Company the list of contributories of the said Company and the Official Liquidator's certificate of the final settlement of the same filed on the day of 19. . . . the affidavit of the said Official Liquidator filed on the day of 19. . . . and the exhibit marked 'A' referred to therein, and an affidavit of filed on the day of 19. . . . , it is ordered that a call of Rs. per share be made on all the contributories of the said Company (or as the case may be).

And it is ordered that each such contributory do on or before the day of 19. . . . , pay into the Bank or into the Court to the account of the said Official Liquidator or to the said Official Liquidator at the amount which will be due from him or her in respect of such call.

In case of failure to pay the amount set forth above, payment order for the amount due together with interest at the rate of per cent. per annum from the day of 19. . . . , until payment will be passed on the day of 19. . . . , without any further notice.

Dated the day of 19. . . .

Judge

FORM 62

Notice to be Served with Order Sanctioning a Call

(Title)

The amount due from you. in respect of the call made by the above order is that sum of Rs. , which sum is to be paid by you on or before the. day of. 19. . . . , into the. (Bank) or to the Court into my account or to the undersigned. Official Liquidator of the said Company, at my office at. . . . You may pay the same in person or through a Banker or other agent but this notice and copy of the order attached must be produced at the. (Bank) or the Court. Upon such payment the Bank or the Court will deliver to you a certificate of the payment; you must immediately upon such payment cause written notice of the payment and of the date thereof to be given to me of the Official Liquidator of the said Company at my above-named office.

In default of payment of the amount set forth above, payment order of the amount due together with interest at the rate of. . . per cent per annum from the day of. 19. . . . until payment will be passed by the Court on the day of. 19. . . . without any further notice.

Dated the. day of. 19. . . .

Official Liquidator

Note—Interest will not be more than 4 per cent per annum.

To

.
.

FORM 63

Affidavit of Service of Order for Call Along with the Notice for Payment

I, solemnly affirm and say as follows :

1. I did on. day of. 19. . . . serve in the manner hereinafter mentioned on all the persons named in the Schedule marked “A” hereunto attached, with a copy of the Court’s order, dated. directing a call to be made from each of them along with a notice of payment issued to each of them by the Liquidator as per form marked “B” attached herewith except with the amounts shown as due from each of such persons as noted in the said Schedule marked “A”.

2. That I caused the said respective copies of the said notice and order to be served by putting such copies respectively duly addressed on such persons respectively and with the proper postage stamps affixed thereto as Registered Acknowledgement Due letters into the Post Office at. . . on the said. day of. 19. . . .

Official Liquidator
or
Clerk or Agent.

FORM 64

Application of Official Liquidator for an Order of Payment Against Contributories

(Title)

That by an order, dated. day of. at. 19. . . . , the contributories named in the Schedule annexed to the enclosed affidavit, dated. . . day of. 19. . . . they were ordered to pay the several sums of money set opposite their respective names on or before. day of. 19. . . .

2. That notwithstanding the petitioner having served upon the said persons, with a copy of the said order along with a notice directing payment of the amount due from them as stated above, they have failed to pay the amounts due from each of them.

3. It is prayed that order may kindly be made against them for payment of the amount set opposite their respective names together with interest at. for the future period till the amount is paid.

The necessary affidavit is herewith attached.

Official Liquidator

FORM 65

Affidavit in Support of Application for Order of Payment of Call Due from Contributories

(Title)

I, Official Liquidator (Clerk or Attorney) of the above-named Company solemnly affirm and say :

1. That none of the contributories of the said Company whose names are set-forth in the Schedule hereunto annexed, marked A, have paid or caused to be paid the respective sums set opposite their respective names in the said Schedule and which sums are the respective amounts now due from them respectively in respect of the call made in pursuance of the order on that behalf dated. day of. 19. . . .

2. That the respective amounts or sums set opposite the names of such contributories respectively in such Schedule are the true amounts due and owing by such contributories respectively in respect of the said call.

Deponent

FORM 67

Liquidator's Statement of Account

(General Directions as to Statements)

(Name of Company)

(1) Every statement must contain a detailed account of all the Liquidator's realizations and disbursements in respect of the Company. The statements of realizations should contain a record of all receipts derived from assets existing at the date of the winding up order of resolution and subsequently realized, including balance in bank, book debts, and calls collected, property sold, etc., and the account of disbursements should contain all payments for costs and charges, or to creditors or contributories. Where property has been realized, the gross proceeds of sale must be entered under realization, and the necessary payments incidental to sales must be entered as disbursements. These accounts should not contain payments into the Company's liquidation account (except unclaimed dividends—*see* paragraph 4) or payments into or out of bank, or temporary investments by the Liquidator, or the proceeds of such investments when realized, which should be shown separately—

(a) by names of the bank pass book;

(b) by a separate detailed statement of moneys invested by the Liquidator, and investments realized.

Interest allowed or charged by the Bank, commission, etc., and profit or loss upon the realization of temporary investment should, however, be inserted in the accounts of realizations or disbursements, as the case may be. Each receipt and payments must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet, and the totals carried forward from one account to another without any intermediate balance so that the gross totals shall represent the total amount received and paid by the Liquidator respectively.

2. When the Liquidator carried on a business, a trading account must be forwarded as a distinct account, and the totals of receipts and payments on the trading account must alone be set out in the statement.

3. When dividends or instalments of compositions are paid to creditors, or a return of surplus assets is made to contributories, the total amount of each dividend, or instalment of composition, or return to contributories, actually paid, must be entered in the statement of disbursement as one sum; and the Liquidator must forward separate accounts showing in lists the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor and of surplus assets payable to each contributory distinguishing in each list the dividends or composition and shares of surplus assets actually paid and those remaining unclaimed.

4. When unclaimed dividend, instalments of composition, or return of surplus assets are paid into the Company's liquidation account, the total amount so paid in should be entered into the statement of disbursements as one sum.

5. Credit should not be taken in the statement of disbursements for any accounts in respect of the Liquidator's remuneration unless it has been duly allowed by resolution of the Company in general meeting, or by order of Court.

Liquidator's Statements of Account

(Pursuant to section.....of the Indian Companies Act, 1913).

Name of Company.

Nature of proceedings (whether wound up by the Court, or under the supervision of the Court, or voluntarily).

Date of commencement of winding up.

Date of which statement is brought down.

Name and address of Liquidator.

This statement is required in duplicate.

Liquidator's Statement of Account Pursuant to Section.....
of the Indian Companies Act, 1913

Realization			
Date	Of whom received	Nature of assets realized	Amount
			Rs. N. P.
		<i>Brought forward</i>	
		<i>Carried over</i>	

Disbursement

Date	To whom paid	Name of disbursement	Amount
			Rs. N. P.
		<i>Brought forward</i>	
		<i>Carried foreword</i>	

Note—No balance should be shown on this account, but only the total realizations and disbursements which should be carried forward to the next account.

Analysis of Balance Analysis

Rs. P.

Total realizations

Total disbursements

The balance is made up as follows :

1. Cash in hands of Liquidator

2. Total payments into Bank, including
balance at date of commencement of
winding up (as per bank book)

Total withdrawals from Bank _____

Balance at Bank

3. Amount in Company's liquidation account.

4. Amount invested by Liquidator less
amounts realized from same _____

Balance

Total balance as shown above

(*Note*—Full details of stocks purchased for investment and of realization thereof should be given in a separate statement).

Note—The Liquidator should also state :

1. The amount of the estimated assets and liabilities at the date of the commencement of the winding up.

Assets (after deducting amounts charged to secured creditors and debenture-holders).

Liabilities :

Secured creditors, Debenture-holders.
Unsecured creditors. Paid-up in cash.

Issued as paid-up otherwise than for cash.

- 2. The total amount of the capital paid up at the date of the commencement of the winding up.
- 3. The general description and estimated value of outstanding assets (if any).
- 4. The causes which delay the termination of the winding up.
- 5. The period within which the winding up may probably be completed.

FORM 68
Affidavit Verifying Statement of Liquidator's Account

(Name of Company)

I, of the Official Liquidator of the above-named Company, make oath and say;

That *(the account hereunto annexed marked, contains a full and true account of any receipts and payments in the winding up of the above-named Company), from the day of 19., to the day of 19., inclusive, and *(that) I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said Company *(other than and except the items mentioned and specified in the said account).

I further say that the particulars given in the annexed Form. marked., with respect to the proceedings in, and position of, the liquidation are true to the best of my knowledge and belief. Sworn at. . .

The affidavit is not required in duplicate, but it must in every case be accompanied by a statement in Form. in duplicate.

*If no receipts or payments, strike out the words in brackets:

FORM 69
Liquidator's Trading Account

(Name of Company)

I, the Liquidator of the above-named Company, in account with the estate.

This account is required in duplicate in addition to Form No.

Dr.				Cr.			
Date	Receipts	Amount		Date	Payments	Amount	
		Rs.	P.			Rs.	P.

Dated Liquidator

FORM 70
List of Dividends or Composition

(Name of Company)

I hereby certify that a dividend (or composition) of in the Rupee was declared payable on and after the day of 19. . . . , and that the creditors whose names are set-forth below are entitled to the amounts set opposite their respective names and have been paid such amounts except in the cases specified as unclaimed.

Dated the, day of 19. . . .

Liquidator

Name	Amount of proof		Amount of Dividends or (composition)			
			Paid		Unclaimed	
	Rs.	P.	Rs.	P.	Rs.	P.

This list is required in duplicate.

FORM 71
List of Amount Paid or Payable to Contributories

(Name of Company)

I hereby certify that a return of surplus assets was declared payable to contributories on and after the day of 19. . . . , at the rate of per share, and that the contributories whose names are set-forth below are entitled to the amounts set opposite their respective names and have been paid such amounts except in the cases specified as unclaimed.

Dated the day of 19. . . .

Liquidator

Name	Number of shares	Amount returned on shares			
		Paid		Unclaimed	
		Rs.	P.	Rs.	P.

This list is required in duplicate.

FORM 72

Affidavit Verifying Account of Unclaimed and Undistributed Funds

I, of, make oath and say that the particulars entered in the statement hereunto annexed marked A, are correct; and truly set-forth all moneys in my hands or under my control representing unclaimed or undisbursed assets of the above Company, and that the amount due by me to the Company’s Liquidation Account in respect of unclaimed dividends and undistributed fund is Rs.

Sworn, etc.

Signature

FORM 73

Direction of Open Account at any Scheduled Bank as Defined in Clause (e) of Section 2 of the Reserve Bank of India Act, 1934

(Heading)

To

The Agent,

.....

.....

Sir,

An order, dated day of 19. . . ., having been made in the abovematter by the Punjab High Court at for winding up of the above-named Court by the Court (or under supervision of the Court), Mr. having by order, dated been appointed to be Official Liquidator of the said Company you are requested to open an account to be entitled. “The account of the Official Liquidator of. . . .

Company,” in your books pursuant to the Indian Companies Act, VII of 1913. All cheques drawn upon such account must be signed by the Official Liquidator whose signature is attached hereto and countersigned by. whose signature is also attached herewith (or. dispensed with).

(Signature of Official Liquidator).

I am,
Your most obedient servant,
Deputy Registrar

FORM 74
Summons for Persons to Attend to be Examined

(Title)

A. B. of &c. and R. P. of &c. are hereby severally summoned to attend at. on. day of. 19. . . . , at. . . . o'clock to be examined on the part of the Official Liquidator (or of W. D. of & C.) for the purpose of proceedings directed by the Hon'ble Mr. Justice. (or by the Court) to be taken before me in the above matter (and the said A. B. is hereby required to bring with him and produce at the time and place aforesaid, a certain indenture (describe documents) and all other books, papers, deeds, writing and other documents in his custody or power in anywise relating to the above named Company.

Dated the. day of. 19. . . .

Judge

This summons was taken out by Messrs. G. and D. of. Advocate or Pleader for the Official Liquidator (or for the said W. D.).

FORM 75
Order Directing Public Examination

(Title)

Upon reading the application, dated. together with affidavit of the Official Liquidator (or creditor or contributory) in the above matter, dated respectively, the. day of. 19. . . . , the. day of. 19. . . . , and. it is ordered that the several persons whose names and addresses are set-forth in the schedule hereto do attend before the Court on a day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the Company and as to their conduct of the business of the company, and as to the conduct and dealings as directors or officers of the Company.

The Schedule Referred to

Name	Address	Connection with the Company
1	2	3

--	--	--

FORM 76
Order Appointing a Time for Public Examination

(Title)

Upon the application of the Official Liquidator in the above matter, it is ordered that the public examination of
. . . who, by the order of the Court, dated the day of 19., was directed to attend before
. . . to be publicly examined, be held at on the day of 19. And it is ordered that the
above-named do attend at the place and time above-mentioned.

Note—It is also ordered that if you, the above-named fall, without reasonable excuse to attend at the time and place
aforesaid, you will be liable to be committed to prison without further notice.

Dated this day of 19.

Deputy Registrar

FORM 77
Notice to Attend Public Examination

(Title)

Whereas by an order of this Court, made on the day of 19., it was ordered that you, the
undermentioned should attend before the Court on a day and a place to be named for the purpose,
and be publicly examined as to the promotion or formation of the Company, and as to the conduct of the Company
and as to your conduct and dealings as (a) and whereas
the day of 19., at O'clock in the noon before
the sitting at has been appointed as the time and place for holding the said examination:

Notice is hereby given that you are required to attend at the said time and place, and at any adjournments of the
examination which may be ordered, and to bring with you and produce all books, papers, and writings and other
documents in your custody in any way relating to the above-named Company.

And take notice that, if you fail without reasonable excuse, to attend at such time and place, and at the adjournments
of the said public examination which may be ordered, you will be liable to be committed to prison without further
notice.

Dated this day of 19.

Deputy Registrar or Official Liquidator

FORM 78

Advertisement of Pay, Time and Place for Public Examination of Directors and Officers of the Company

(Title)

To

All concerned.

Notice is hereby given that the day of 19. . . . , at . . . o'clock in the noon at . . . has been appointed for holding the public examination of Director, or Officer of the above-named Company, All persons interested are entitled to attend at such day, hour and place and to take part in the examination of the aforesaid Director or Officer of the Company.

Dated this day of 19. . . .

Official Liquidator or Deputy Registrar

FORM 79

Warrant Against Person who Fails to Attend Examination

(Title)

To

The Bailiff of this Court and to the Superintendent of the Jail, at

Whereas by evidence taken upon oath, it has been made to appear to the satisfaction of the Court that by order of the Court, dated the day of 19. . . . , and directed to (name of person required to attend) he was directed to attend personally at and be examined before the Hon'ble. which order was afterwards as hath been duly stated on oath, duly served upon the said (name of required to attend), has absconded and gone abroad (or quit his place of residence) with a view to avoiding examination under the Companies Act (VII of 1913).

And whereas the (name of the person required to attend) did without good cause fail to attend on the said day of 19. . . . , for the purpose of being examined, according to the requirements of the said order of this Court made on the day of 19. . . . , directing him so to attend.

These are therefore to require you the said Bailiff, to take the said . . . (name of person required to attend) and to deliver him to the Superintendent to receive the said (name of person to attend) and to keep him safely in the said prison until such time as this Court may order.

Given under my hand and seal of the Punjab High Court at this day of 19. . . .

Deputy Registrar

FORM 80
Advertisement as to Declaration of Dividend

(Title)

Notice is hereby given that a first (or, as the case may be) dividend of in the rupee has been declared that the same will be payable on the day of 19. at the office of the Official Liquidator (give full address).

Every person entitled to participate in this dividend will receive notice to that effect and no payment will be made except upon production of such notice.

Dated this. day of. 19.

Official Liquidator

FORM 81
Notice of Dividend

(Title)

Dividend of. in the Rupee

(Address)
(Date)

Notice is hereby given that a first (or as the case may be) dividend of in the rupee has been declared, and that the same will be payable at my office as above, on the. day of. 19., or on any subsequent day between the hours of. and.

Upon applying for payment this notice must be produced, together with bills of exchange, promissory notes or other negotiable securities held by you. If you desire the dividend to be paid to some other person, you may sign and lodge with the Liquidator an authority in the prescribed Form No. If you do not attend personally you must fill up and sign the adjoined Forms of Receipts and Authority.

Official Liquidator

To.

Note—The receipt and authority should, in the case of a firm, be signed in the firm's name.

Receipt

(Title)

(Address)
(Date)

Received from the Official Liquidator the sum of Rs. being the amount payable to me (us) in respect of the dividend of. in the rupee.
Rs.

Payee's Signature

Authority for Delivery

(Title)

(Address)

(Date)

Sir,

At my/our risk and expense please deliver to me/us by post or to the bearer the cheque or order for the dividend payable to me/us in this matter or send by money order the dividend payable to me/us in this matter.

Payee's signature

To

The Official Liquidator

FORM 82
**Authority to Liquidator to Pay Dividends
to Another Person**

(Title)

(Address)

(Date)

To

The Official Liquidator

Sir,

I (we) hereby authorise you to pay the dividend referred to in the enclosed notice (Notice, of dividend) to. of (a specimen of whose signature is given below) whose receipt shall be sufficient discharge.

Signature (b)

Witness

Address

FORM 84
Notice of Return to Contributories

(Title)

Return of Rs. per share

(Address)

(Date)

Notice is hereby given that a first (or as the case may be) return of Rs. per share has been declared, and that the same will be payable at my office, as above on. the. day of. 19., or on any subsequent day between the hours of. M. and M.

Upon applying for payment this notice must be produced together with share certificate(s). If you do not attend personally you must forward the share certificate and fill up and sign the subjoined Forms of Receipt and Authority.

Official Liquidator

Note—The receipt should be signed by the contributory personally or in the case of joint contributories, by each.

Receipt

(Title)

(Address)

(Date)

No.

Received from the Official Liquidator the sum of Rupees. being the amount payable to me (us)
. in respect of. the. return of per share held by me (us).

Signature (s)

Rs.

Authority for Delivery

(Address)

(Date)

Sir,

Please deliver to bearer. (or me/us by post, at my/our risk) the return of Rs. payable to me/us.

Signature(s)

To

The Official Liquidator

FORM 85

Affidavit of Liquidator as to Proposed Compromise with a Contributory

(Title)

I, of, the Official Liquidator of the above-named Company make oath (or solemnly affirm) and say :

1. That has been, settled on the list of contributories of the above-named Company in respect of shares therein and by an order in these matters dated a call of Rs. per share has been made on him in respect thereof amounting to Rs.
2. That the said has applied to me to accept a compromise of Rs. to be paid as follows in full discharge of his liability in respect of the said sum of Rs.
3. I have investigated the affairs of the said who has made an affidavit to his means filed the day of 19. . . . , and as a result of such investigation it appears that the said cannot pay the said sum of Rs. and I believe I shall not be able to obtain from his estate as much as I shall not be able to obtain from his estate as much as I shall by the said compromise. I believe it will be beneficial to the said Company that the said compromise shall be accepted.

Sworn (or solemnly affirmed).

Official Liquidator

FORM 86

Notice to All Creditors and Shareholders

In the matter of the winding up. Company, Ltd.,

(In Liquidation)

To

(1) All Creditors
(2) All Shareholders.

Notice is hereby given that by an order, dated. day of. 19. . . . , the Hon'ble. has directed meeting of creditors and contributories of the above-named Company for the purpose of considering and if thought fit, approving of, with or without modifications the scheme of arrangement—

(1) Which has been circulated and of which copies may be obtained on application from the under-mentioned Official Liquidators.

.
.

(2) A copy whereof is enclosed herewith.

The meetings will be held on. day of. 19. . . . , at.
at. . . . o'clock for creditors and at. o'clock the same day for contributories, at respective place and time; the creditors and contributories of the above-named Company are requested to attend or may do so by executing and depositing with the Official Liquidator at. not later than 48 hours the time appointed for the meetings, *i. e.*, by. the form of proxy.

(1) Which has been approved of and circulated.
(2) Sent herewith.

provided that such proxy may be held only by persons who are themselves entitled to vote at the meeting also in their own right.

The Court has appointed Mr. and falling him Mr. to act as Chairman of the creditor's meeting and Mr. failing him Mr. to act as Chairman of the contributories' meeting.

The above scheme will be subject to the approval of the Court.

Dated this. day of. 19. . . .

Official Liquidator

FORM 87
Appearance Book

(Title)

Date when appearance entered	Party's name	Whether creditor or contributory	If he appears in person his address for service	If he appears by an advocate or pleader his advocate's or pleader's name	Advocate's or pleader's address	Amount of debt or number of shares
1	2	3	4	5	6	7

FORM 88
In the High Court at.Liquidation Case No.

Re

versus

Application under Section 186 of the Indian Companies Act, VII of 1913, for recovery of Rs. with interest and costs.

Petition represented on.

Order

Upon the application of the Official Liquidator of the above-named company and upon hearing. for the petitioner and. for the respondent, it is ordered under Section 186 of the Act, that the above-named. do pay to the Official Liquidator of the said Company the sum of Rs. . . . due from him on the basis of a pronote for Rs. as interest and further interest at. . . p. a. from. till the date of realization on the balance remaining unpaid from to time.

This payment order may be enforced as a decree under the provision of Section 199, 200 and 201 of the Act.

Dated:

Judge

FORM 89
Certificate of the Company Being Completely Wound up and of the Official Liquidator Having Passed His Final Account

(Title)

I hereby certify that R. P. H., the Official Liquidator of the above named Company, has passed his final account as such Official Liquidator, and that the balance of Rs. thereby certified to be due to (or from) the said Official Liquidator has been paid in the manner directed by the order, dated the. day of. 19. . . . , and that the affairs of the Company have been completely wound up.

Dated this. day of. 19. . . .

Judge

FORM 90
Order to Dissolve the Company

(Title)

Upon the application of the Official Liquidator of the above named Company, and upon reading an order, dated the day of 19. . . . , and the certificate dated the day of 19. . . . , whereby it appears that the affairs of the said Company have been completely wound up, and that the balance of Rs. due from (or to) the Official Liquidator has been paid in the manner directed by the said order it is ordered that the said. Company be dissolved as from this. day of 19. . . . , and that the recognizance, dated the. day of 19. . . . , entered into by the said Official Liquidator, together with W. B. and T. P. his sureties be vacated.

Judge

FORM 91
Petition for Reduction of Capital

(Title)

The humble petition of. Limited and Reduced.

Showeth—

1. Your petitioner the above-named Company (hereinafter called “the company”) was incorporated on the. day of. 19. . . . , under the provisions of the Indian Companies Act, as a company limited by shares.
2. The registered office of the Company is situated at (state full address).
3. The objects of the Company are as follows : (state principal objects according to Memorandum of Association) and other objects set forth in the Memorandum of Association thereof.
4. The nominal capital of the Company is Rs. divided into. of which. have been issued and are fully paid up or credited as fully paid up.
5. Shortly after its incorporation, the Company commenced to carry on and it has since been and still is carrying on business.
6. By article(s) of the Articles of Association of the Company, it is provided that the Company may (set out Article or Articles of Association authorising a reduction of capital).
7. (set out the reasons for reduction stating all material facts and circumstances).
8. Under the provisions of Section 55 of the Indian Companies Act, 1913, and in pursuance of the powers in that behalf contained in the said Articles of Association the Company by Special Resolution of its share-holders duly passed at Extraordinary General Meeting duly convened and held on the. day of. 19. . . . , resolved:

(Set out the special resolution for reduction of capital).

9. The reduction of capital does not involve either diminution of liability in respect of unpaid capital or the payment to any share holder of any paid-up capital and in consequence no creditor is entitled to object to the reduction under the provision of section 58 of the said Act.

10. (If the petition asks that the use of the words “and reduced” be dispensed with, here state reasons).

11. The form of minute proposed to be registered under the provisions of Section 61 of the said Act is as follows :

(Set out proposed Minute of Reduction).

Your petitioner, therefore, humbly pray—

¹(1) That the reduction of capital to be effected by the Special Resolution set out in paragraph 8 hereof be confirmed and that the minute set forth in paragraph 11 hereof be approved by the Court.

(2) That the addition of the words “and reduce” to the Company’s name be dispensed with.

(3) That the obtaining of the certificate provided for by Rule 180 of the Rules of this Hon’ble Court may be dispensed with and that in accordance with Rule 169 of the said Rules a day may be fixed for the hearing of this petition and directions given as to the advertisements to be published.

(4) That such other order may be made/passed in the premises as the Court shall thinks fit.

Petitioners

Verification

I, of. make oath (or solemnly affirm) and say as follows:

(1) That I am a (director) of the petitioner Company and as such I am fully acquainted with the affairs of the said Company.

(2) That the facts stated in the foregoing petition are true to my knowledge.

Sworn (or solemnly affirmed), etc.

1. Omit or alter paragraphs (2) and (3) according to circumstances.

FORM 92

Advertisement of Presentation of Petition

(Title)

Notice is hereby given that a petition has been presented to the above-named Court for an order confirming the reduction of the share capital of the above-named Company from Rs. to Rs. resolved on by the special resolution passed at extraordinary general meeting of the said Company, held, on the. day of. 19.

The said petition is directed to be heard by the said Court at the Court House, at on the day of.
. . . . 19. . . .

Attorney(s) for the Company

FORM 93
Order Where Creditors are Entitled to Object

(Title)

Upon the application by summons, dated. 19. . . . of. Limited, and upon hearing. for the Company and upon reading the petition presented to this Court on the. day of 19. . . . , and the affidavit in verification thereof, it is ordered that an enquiry be made as to what are the debts, claims and liabilities of or affecting the said Company as on the day of. 19. . . . and it is further ordered a list of creditors of the said Company be made out as at the said. day of. 19. . . . , and that such list shall (not) disclose the amounts due to the creditors respectively and that such list be filed by the said Company in this Court on or before the. day of. 19. . . . , and that a copy of such lists shall be kept at the registered office of the said Company and at the office of its attorney; and that notice of the said application shall be sent to each creditor on or before the day of. 19. . . . , and that such notice in the cases of those creditors whose addresses are not known to the said Company shall be given advertisements to be published in [newspaper(s)]; and that any creditor whose name does not appear in such list or who claims to be a creditor for a larger amount than that stated in the said list shall give notice thereof in manner prescribed in Rule 174, and send his name and address of his attorney if any to the attorney of the said Company within 14 days (or such period as the Judge may direct) from the date of the said notice; and that notice of the filing of the said list shall be advertised by the said Company in (newspaper) (or as the Judge may direct); and that the said Company shall on or before the. day of. 19. . . . , file an affidavit verifying such list of creditors, if any as may have given such notice (or, made such claim as aforesaid) distinguishing which, if any, of such claims are wholly or as to any and what part thereof admitted by the said Company and which, if any, of such claims are wholly or at/to any what part thereof disputed by the said Company.

Dated. 19. . . .

Judge

FORM 94
Affidavit in Verification on List of Creditors

(Title)

I, of. make oath (or solemnly affirm) and say as follows:

1. I am a (director) of the Company above-named and duly authorised to make this affidavit.
2. The schedule hereto annexed is a list containing the names of the creditors of, and persons having claims upon the said Company on the. day of. 19. . . . together with their respective addresses and stating the nature and amount of the debts or claims due to or had by them respectively and such list is, to the best of my

knowledge, information and belief, a complete, true and accurate list of such creditors and persons, and in the cases of debt's payable on a contingency or not ascertained, and of claims admissible to proof in a winding up of the said company, the values thereof as stated in such list, are, in my belief, just estimates of the values of such debts and claims, respectively.

3. To the best of my knowledge, information and belief, there was not, at the date aforesaid, any debt, claim or liability which, if such date were the commencement of the winding up of the said company, would be admissible in proof against the said Company other than and except the debts and claims set forth in the said list. I make this statement upon facts within my knowledge as such (director) of the said Company, and upon information derived by me from my investigation of the affairs and the books, documents and papers of the said Company.

Sworn (solemnly affirmed).

Schedule

(1) Ascertained Debts and Liquidated Claims.

Name, addresses and descriptions of the creditors of claimants	Nature of debt or claim	Amount of debt or claim
1	2	3

(2) (a) Debts payable on a contingency, or not ascertained.

(b) Claims not liquidated, but admissible to proof in a winding up of the Company.

Name, addresses and descriptions of the creditors of claimants	Nature of debt or claim	Amount of debt or claim
1	2	3

Signature of Deponent

FORM 95
Notice to Creditors

(Title)

Notice is hereby given that a petition has been presented to the above-named Court praying for an order confirming the reduction of the share capital of the above named Company from Rs. to Rs. resolved on by the special resolution passed and confirmed at extraordinary general meeting of the said company held respectively, on the day of 19 and the day of 19

Take notice that your name has been entered in the list of creditors of the said Company as a creditor (or, as claiming to be a creditor) of the said Company for the sum (or, for the estimated sum) of Rs in respect of (here state nature of debts or claims as in list of creditors).

If you claim to be a creditor for a large amount than the said sum, you must within 14 days (or, as the Judge may allow) from the date of this notice send to the under-signed particulars or your debt or claim, together with your name and address, as also the name and address of your attorney, if any.

Attorney for the Company

Dated 19

FORM 96
Advertisement of List of Creditors

(Title)

Notice is hereby given that a list of the creditors of the above-named Company has been filed in Court.

Any person may, upon payment of the sum of Re. 1, inspect a copy of such list during the usual hours of business, either at the registered office of the above-named Company, at No. or at the office of the undersigned.

Dated.

Attorney for the Company

FORM 97
Affidavit in Verification of List of Creditors

(Title)

We, of and of make oath (or, solemnly affirm) and say as follows:

1. I, the said, make oath (or solemnly affirm) and say as follows:

I am the attorney (or a partner, or an assistant of Messrs the attorneys) of the Company above-named. The annexure hereto marked 'A' is a list containing the names and addresses of all persons who have sent in particulars of their debts or claims in pursuance of notice given in accordance with Rule 174 and the amounts of such debts or claims (or, no creditor has sent in particulars of any debts or claim in pursuance of notice given in accordance with Rule 174).

2. And I, the said, make oath (or solemnly affirm and say as follows:

I am a (director) of the Company above-named. Notice complying in all respects with the requirements of Rule 174 has been duly given to all the creditors whose names are entered in the list of creditors of the Company above-named in Court.

In the cases of notices sent by prepaid letter post, such notices were despatched by posting the same at the post office at on the day of 19 before the hour of

In the cases of notices directed by the Court to be given otherwise than by sending the same by post, such notices were given in the manner directed, namely:

(Here state particulars. If by advertisement, state names of publications and dates thereof).

In the said annexure 'A', I have truly stated the particulars required by Rule 177 in respect of each of the debts of claims therein mentioned.

Sworn (or solemnly affirmed), etc.

FORM 98
Notice to Creditors to Prove Debt

(Title)

Notice to Place and date

Sir,

You are hereby required to prove (such part of) the debt claimed by you against the above-named Company (as is not admitted by the Company) by filing your affidavit and giving notice thereof to of the attorney of the Company on or before the day of 19, the day appointed for adjudication and you are to attend in person or by your attorney at the Court house on the said date being the date appointed for hearing and adjudicating upon the claim and to produce any documents or securities relating thereto.

In default of compliance with the above directions, you will be precluded from objecting to the proposed reduction of the capital of the Company (or, in all proceedings relative to the proposed reduction of the capital of the Company be treated as a creditor for such amount only as is set against your name in the list of creditors).

Attorney for the said Company

FORM 99
Affidavit of Creditor in Proof of Debt

(Title)

I, of make oath (or solemnly affirm) and say as follows:

1. (If not made by the creditor personally, the deponent must state his authority for making the affidavit and his means of knowledge).
2. The above-named Company is justly and truly indebted to me (or the said. . . .) in the sum of Rs. for, etc. (describe shortly the nature of the debt and exhibit any security for it and in the case of a trade debt, exhibit vouchers).
3. I have not, nor has, nor have, any person or persons by my order to my knowledge or belief for my use received the said sum of Rs. or any part thereof or any security or satisfaction for the same or any part thereof (except the said security hereinbefore referred to).¹

Sworn (or solemnly affirmed), etc.

1. This paragraph to be adopted in the case of a person other than the creditors being the deponent.

FORM 100
**Notice of the Day Appointed to Hear the Petition
for Reduction of Capital**

(Title)

Notice is hereby given that a petition presented to the said Court on the day of19, for an order confirming the reduction of the capital of the Company from Rs. to Rs. is directed to be heard by the said Court on the day of19

Attorney for the Company

(High Court Notification No. 55-R, dated the 14th March, 1946).

Part B
THE BANKING COMPANIES (LIQUIDATION) PUNJAB & DELHI RULES, 1957

In exercise of the powers conferred by Section 45-N (2) and Section 45-U of the Banking Companies Act, 1949 (Act X of 1949), as amended, and in supersession of the Banking Companies, Punjab & Delhi Rules, 1952, as published in Notification No. 156-XVI-A-101/Liqn. dated the 31st July, 1952, the Punjab High Court hereby makes the following rules:—

1. Short title—These rules may be called “The Banking Companies (Liquidation) Punjab and Delhi Rules, 1957”.

General

2. Definition—In these rules, unless there is anything repugnant in the subject or context:—

(i) ‘Act’ means the Banking Companies Act, 1949 (X of 1949) as amended from time to time.

(ii) ‘Company’ means a company to which the provisions of the Act apply.

(iii) ‘Form’ means a form given in the Appendix to these rules.

(iv) References to Indian Companies Act, 1913 in these rules shall be deemed to be references to corresponding provisions of the Indian Companies Act, 1956, in relation to banking companies wound up on or after the 1st of April, 1956.

3. Presentation of Petition—Applications under Part III or Part III-A of the Act in respect of a Company shall be presented by litigants or their Advocates by depositing them in the petition box of the Court outside the room of the Deputy Registrar.

4. General Heading—Applications under Part III or Part III-A of the Act shall be instituted in the matter of the Act and in the matter of the Banking Company and where necessary in the matter of the Act under which the Banking Company has been ordered to be wound Up as follows:—

The Punjab High Court.

In the matter of the Banking Companies Act X of the 1949 (and in the matter of. Act) and of the Limited

Petition under Section(s).

..... Petitioner.

Versus

..... Respondents.

5. Drafting of Petition—The Petition shall contain a statement of facts relied and the nature of the relief asked for, and shall be signed and verified in the same manner as a plaint under the Code of Civil Procedure and shall be supported by an affidavit.

6. Notice of Petition—Where a notice is directed to be given to any party, it shall be served together with a copy of the petition and the petition shall not be heard until fourteen days after the service of the notice, unless the Court otherwise directs.

7. General duties and Powers of the Special Officer—Without prejudice to the generally of the powers of the Court under Section 37(3) of the Act;

(a) A Special Officer appointed under Section 37(3) of the Act shall furnish security in such amount as may be ordered by the Court.

(b) He shall generally have all the powers and shall take all the steps to do all the things necessary or expedient to protect the rights and interest of all the creditors and share-holders of the Banking Company and to conserve and ensure the proper disposition according to law of the assets of the Banking Company.

(c) The Special Officer may be empowered to represent the Banking Company in proceedings before any Court, Tribunal or Public Officer.

(d) The Special Officer shall, where his duties so require, maintain proper accounts.

(e) The Special Officer may apply to the Court for such directions as he may deem necessary.

(f) The Special Officer shall be paid such remuneration as may be determined by the Court, which shall be paid, unless the Court, otherwise directs, from the assets of the Banking Company.

(g) The Special Officer shall continue to supervise the affairs of the Banking Company until he is removed from office, or the term of his appointment terminates, or until the Banking Company resumes business or until a Liquidator is duly appointed to wind up the business of the Banking Company.

(h) An order appointing the Special Officer shall be in Form No. 1.

8. Inspection of the Report of the Reserve Bank of India—No person, other than the parties to the proceedings and the Official Liquidator, shall be entitled to inspection of any report made by the Reserve Bank of India or be entitled to receive a copy thereof, without an order of the Court.

9. Application in winding up to be by petition—Applications for the determination of all questions of priorities and all other questions whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of a Banking Company, shall be made by petition. The petition shall contain a statement of facts relied on and the nature of the relief asked for. The petition shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit.

10. Interim Orders—The Court on hearing the application may pass such interim orders as it deems proper.

11. Affidavit in Answer—An answer to the petition under the Act shall be made by filing an affidavit and a copy thereof shall be furnished to the petitioner or his Advocate at least two clear days before the returnable date of the notice.

12. Directions for the hearing of the petition—(a) On the date fixed for the hearing of the petition, the Court may proceed to hear the petition or give such directions as it may think proper as to discovery and inspection, examination of witness in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the petition.

(b) An order for the winding up of a company under the Act shall be in Form No. 2.

13. Transfer of suits and proceedings to the High Court—When the Official Liquidator submits to the Court a report under Section 45-C(2) of the Act, he shall apply to the Judge for the time being dealing with the proceedings for the winding up of the Company or to such other Judge as the Chief Justice may direct, for directions as to the parties to whom notice may be given and the date and time for holding an inquiry whether or not the suits and proceedings mentioned in the report should be transferred to the High Court. The notice shall contain particulars of the suit or proceeding in which the party may be concerned and require him to appear and show cause why it should not be transferred to the High Court. The notice shall be served fourteen days before the date appointed for holding the inquiry.

14. Affidavit in reply—Any party desiring to oppose the transfer of the suit or proceeding to the High Court shall file an affidavit and furnish a copy thereof to the Official Liquidator or his advocate at least two clear days before returnable date of the notice.

15. When proceedings not transferred, Court may request expedition of the same—If any proceeding in any Court is not transferred to the High Court under Section 45-C(3) the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or such other Judge as the Chief Justice may direct, may issue directions to the Deputy Registrar to write a letter of request to the Court in which the proceeding is pending, requesting that the proceeding may be disposed of as expeditiously as possible.

16. List of Debtors—(1) When the Official Liquidator files in the Court a list of debtors under Section 45-D(2) of the Act, he shall obtain an appointment from the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or from such other Judge as the Chief Justice may direct to settle the same and shall give notice in writing of such appointment to every person mentioned in such list. The notice shall contain such of the particulars mentioned in the list of debtors as are applicable to such person. In case any variation or addition to such list is made by the Official Liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies. All such notice shall be served four weeks before the date appointed to settle such list, variation or addition.

(2) The Official Liquidator shall file in Court a sufficient number of copies of the list of Debtors to enable the Court of supply all Debtors and the parties with a copy each of the list. In addition to the above two copies for the use of the Court shall also be filed.

17. Service of Notice—(a) Service of notice upon the debtors shall be effected by sending the notice through post by a Registered letter or if the Court so directs under certificate of posting. The notice shall be addressed to the party to his last known address or place of abode and such

notice shall be considered as served at the time the same ought to be delivered in due course of delivery by the Post Office and notwithstanding the same may be returned by the Post Office.

(b) If a debtor desires to show cause against the inclusion of his name in the list of debtors he shall file an affidavit and furnish a copy thereof to the Official Liquidator or his attorney or advocate at least seven clear days before the day appointed for the settlement of the list.

18. Statement of the list of Debtors—On the date fixed for settlement of the list of debtors, the Court may settle the list or such part thereof as it may think proper. If the Court is of opinion that it is not immediately possible to adjudicate upon any particular debt mentioned in the list, it may give such directions as it may think proper as to discovery and inspection, examination of witness in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy adjudication of the debt. The Court may in a special case refer the Official Liquidator to a regular suit.

19. Official Liquidator to Report, if he contest claims of depositors—If the Official Liquidator desires to contest a claim shown in the books of the company as due to a depositor on the ground that there is reason for doubting the correctness of any particular entry in the books, he shall make a report to the Judge for the time being dealing with the proceedings for the winding up to the Banking Company or to such other Judge as the Chief Justice may direct stating his reason for doubting the correctness of such entry; and if, upon such report, the Court is satisfied that there is *prima facie* reason for doubting the correctness of the entry, the Judge may cause notice to be given to the depositor concerned to come in and prove his claim.

20. Register of suits in winding up matters—Suits in respect of claims made by or against any Company in Liquidation including claims by or against any of its Branches in India which are filed in the High Court or transferred to it under the Act shall be entered in a separate list to be maintained by the Deputy Registrar and shall be treated as expedited suits. If such suits have been filed before the date of the order for winding up, the Official Liquidator shall furnish to the Deputy Registrar a list of such suits.

21. Hearing of suits and matter—All suits referred to in the preceding rule and all matters and proceedings connected with the suits shall be heard by the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or by such other Judge as the Chief Justice may direct.

22. Procedure in such suits—(a) In all such suits the following procedure shall be followed:— Within ten days of the service of the summons or such longer period as the Court may direct on the application of the plaintiff in that behalf, the plaintiff shall take out a summons for directions and the Court shall give such directions as it may think proper as to filing the written statement and counter-claim, if any, or points of defence, discovery, inspection, examination of witness in Court or in chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the suit.

(b) As soon as practicable after the list of debtors has been settled and signed by the Judge under sub-section (4) of Section 45-D of the Act, a certificate in Form No. 3 shall issue under the seal

of the Court and signed by the Deputy Registrar in terms of sub-section (6) of Section 45-D of the Act in respect of each debtor placed on the list setting out the relevant particulars.

23. Application for inspection of records—The Reserve Bank of India may apply to the Judge for the time being with the proceedings for the winding up of a Company or to such other Judge as the Chief Justice may direct, for permission to inspect the records of the Company or of the High Court in the matter of the Company, and such permission may be granted by the Judge in his discretion.

24. Recovery of dues as arrears of Revenue—When the Court grants leave under Section 45-T(3) of the Act for recovery of any amount found due to the Company, the Official Liquidator may apply to the proper Revenue Authorities to recover the said amount as an arrear of land revenue.

25. Supervision of carrying out of compromise of arrangement—Where an order under Section 153 of the Indian Companies Act, 1913 (Act VII of 1913), sanctioning a compromise or arrangement in respect of a Banking Company is passed, the Court may direct the Official Liquidator or any other person to supervise the carrying out of the compromise or arrangement and to make a report to the Court in regard thereto.

Civil Appeal

26. Appeal to the High Court to be heard by Division Bench—(a) Subject to the provisions of Section 45-N (1) of the Act, an appeal shall lie from an order or decision of a Judge in a civil proceeding under the Act to a Division Bench of the High Court.

(b) Rules relating to appeals contained in the Punjab High Court Rules and Orders, Volume V, shall apply *mutatis mutandis* to such appeals.

27. Period for filing appeals—The appeal shall be filed within 20 days from the date of the decree or order appealed from the Court.

Criminal Complaints and Public Examination

28. (1) As soon as practicable after the order of winding up is made or within such time as the Court may grant, the Official Liquidator shall file into Court the report required by sub-section (1) of Section 45-G of the Act, for directions.

(2) After hearing the Official Liquidator, the Court may direct notice to issue to person concerned to show cause why they should not be publicly examined.

(3) After hearing all the parties on the day fixed in the notice, or on such other day to which the matter may be adjourned, the Court may, if it desires to direct the public examination of any one or more person(s), fix a date for such examination.

(4) The Official Liquidator shall notify the creditors and contributories of the company of the original date fixed under the preceding sub-rule by advertisement in a newspaper or in such other manner as the Court may direct.

29. Presentation of complaints and issue of process—Proceedings under Section 45-J of the Act shall commence with a complaint being presented by the Official Liquidator to such Judge as the Chief Justice may direct. On presentation of the complaint the Judge may issue a summons or a bailable or non-bailable warrant against the accused and shall fix a date for the trial, or may, if he thinks fit postpone the issue of process for compelling the attendance of the person complained against and may direct an inquiry or investigation to be made by the Inspector-General of Police or by such other person as he thinks fit, or may dismiss the complaint as he may in his discretion think fit.

30. Process in Criminal Cases—All complaints shall be filed with the Deputy Registrar and all process shall issue from the Court.

31. What offences to be tried summarily—”Offences punishable under Indian Companies Act, 1913 (Act 7 of 1913), or under the Banking Companies Act, 1949 (Act X of 1949), with imprisonment for a term which does not exceed three years and or with fine which does not exceed one thousand rupees may be tried in a summary way.

An offence triable under Section 45-J(2) of the Act jointly with the offences mentioned in this rule may also be tried summarily provided that it is punishable with imprisonment for a term which does not exceed three years or with fine which does not exceed one thousand rupees.”

32. Procedure in Summary trials—Where an offence triable under section 45-J(1) is tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of Summons cases shall, so far as it is not inconsistent with the provision of the Act, be applicable. Where, however, the offence to be tried summarily under Section 45-J(1) is tried jointly with an offence under Section 45-J(2), the procedure provided in the Code of Criminal Procedure for the trial of Warrant cases shall be applicable provided that it shall not be necessary to adjourn the case under Section 256(1) of the Code of Criminal Procedure before requiring the accused to enter upon his defence or inquiring of him whether he wishes to further cross-examine any witness whose evidence has been taken.

33. Procedure in Non-Summary trials—Where the offence, triable under Section 45-J are not tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of Warrant cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable.

34. Bail—The Court may at any time grant bail to the accused on such terms as it thinks proper.

35. Accused person to be competent witness—Any person against whom a complaint is filed by the Official Liquidator under the Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial.

Provided that.

(a) He shall be called, as examined as witness except with his consent;

(b) His failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial.

(c) He shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character unless—

(i) The proof that he has committed or been convicted of such offence is admissible in evidence to show that he is guilty of the offence with which he is charged, or

(ii) He has personally or by his Advocate asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character or the nature or conduct of the defence is such as to involve imputations on character of the prosecutor or of any witness for the prosecution, or

(iii) He has given evidence against any other person charged with the same offence.

36. Compounding offences—All offences triable under Part II-A of the Act may be compound with the leave of the Court.

Criminal Appeals

37. Appeal against conviction—(a) Any person convicted on a trial held by the High Court in the exercise of its jurisdiction under Section 45-J of the Act may appeal to the High Court, where he has been sentenced to imprisonment exceeding six months or fine exceeding five hundred rupees.

(b) The Official Liquidator may appeal to the High Court against any order of acquittal on any grounds which involves a matter of law only.

38. Period of limitation—An appeal under the last preceding rule shall be filed within 30 days from the date of the order appealed from.

39. Appeal to be filed with the Deputy Registrar—Appeals shall be filed with the Deputy Registrar of the Court.

40. Memorandum of appeals—The memorandum of appeal shall be made in the form of a petition giving the grounds of objection numbered consecutively. It shall also show that the appeal is within time, and shall be accompanied by a certified copy of the Judgment or order of the Court.

41. Procedure in Appeals—On presentation of an appeal, the date of such presentation shall be marked thereon, and it shall be accepted, if within time, and placed on a register of appeals to be kept for the purpose. When an appeal appears to the Deputy Registrar to be beyond time, it shall be returned to the party or his advocate, unless the party or his advocate applies for it to be placed before the Court for orders. An application for excusing the delay in presenting the appeal may be made to the Deputy Registrar within a fortnight of the date of such return, and such application shall be placed before the Court for orders.

42. Admission of appeals—Applications referred to in the preceding rule together with the memorandum of appeal in question and appeals which have been accepted by the Deputy Registrar being within time shall be placed for admission before a Division Bench constituted by the Chief Justice and composed of not less than 2 Judges, being Judges other than the Judge by whom the original trial was held.

43. Application for bail in appeals—(a) Applications for bails shall ordinarily be heard by the Bench referred to in the preceding rule.

(b) Applications mentioned in sub-rule (a) above may be made on a shorter notice than 48 hours, if the Court so permits. Ordinarily a copy of the application shall be supplied to the Official Liquidator at least 48 hours before the application is heard.

44. Paper-books to be prepared by appellant—In appeal, paper books shall be prepared at the cost of the appellant and shall be printed except where such printing is dispensed with by the Appellate Court, in which case the paper books shall be type-written.

45. Contents of paper books—*Note*—Normally ten copies of printed paper books or six copies of typed books will be prepared. The paper book shall contain the following papers arranged in two parts in the same volume where practicable in the following order.

Part I

- (1) Complaint.
- (2) Charge or charges against the accused in the trial Court.
- (3) Notes of evidence including statement of the accused.
- (4) Judgment including sentence or order.
- (5) Memorandum of appeal.
- (6) Order admitting the appeal.
- (7) Such other papers as may be deemed necessary by the Court.

Part II

Exhibits.

46. Hearing of Appeals—After the paper books have been prepared, the appeal shall be set down for hearing and final disposal before a Division Bench constituted by the Chief Justice and composed of not less than 2 Judges, being Judges other than the Judge by whom the original trial was held.

Miscellaneous

47. Section 5 Limitation Act Applicable—The provisions of Section 5 of the Indian Limitation Act shall apply to appeals—Civil or Criminal under the Act.

48. Filing of appeals—All appeals—Civil or Criminal shall be filed with the Deputy Registrar and shall be registered if within time and are otherwise in conformity with the Rules.

49. Procedure regarding appeal which are beyond time—When an appeal—Civil or Criminal—appears to the Office to be beyond time, it shall be returned to the party or his advocate unless it is accompanied by a separate petition for excuse of delay or the party or his Advocate applies for it to be placed before the Court for orders.

50. Application for excusing delay—An application for excusing the delay in presenting the appeal shall be filed within a fortnight of such application shall be placed before the Court for orders soon as practicable.

51. Returns of petition for removal of defects—The Deputy Registrar may return for amendment, within a time to be specified in an order to be recorded by him on the petition, any petition not drawn up in conformity with these rules.

52. Appeal not prosecuted diligently—Where an appellant after the admission of an appeal does not prosecute the appeal diligently the appeal shall be placed before the Appellate Court for orders. The appellate Court may dismiss the appeal or pass such orders as it may deem fit.

53. Applicability of Civil Procedure Code, Criminal Procedure Code and High Court Rules—The provisions of the Code of Civil Procedure, the Code of Criminal Procedure and the High Court Rules and Orders, unless inconsistent with these Rules, shall apply *mutatis mutandis* to Civil and Criminal proceedings or Appeals under these Rules.

54. Fees to be charged by Official Liquidator—Unless otherwise ordered by the Judge, the Official Liquidator shall charge fees according to the following scale:—

(1) (a) The High Court, upon the total assets except as provided in clause (1)(b) including produce of calls on contributories, realised or brought to credit and not being moneys received and spent on carrying on the business:—

On the first Rs. 10,000 or fraction thereof 5%

On the next Rs. 15,000 or fraction thereof 3%

On the next Rs. 25,000 or fraction thereof 2 ½%

On the next Rs. 50,000 or fraction thereof 2%

On any sum above Rs. 1,00,000 1%

(b) On rents recovered 5%

(2) When the Official Liquidator collects, calls or realized property for debenture holders or other secured creditors, the same rate of fees as under clause (1) above to be paid out of the proceeds of such calls or property.

(3) When the Official Liquidator acts as Trustee under a scheme of arrangement such remuneration not exceeding the rate of fees under clause (1)(a) above as the Court shall allow.

(4) When the Official Liquidator performs any special duties not provided for above, such amount as the Court on the application of the Official Liquidator may consider reasonable.

APPENDIX

FORM 1

[Rule 7 (h)]

Order Appointing Special Officer

{For general heading, see Rule 4}

Upon the petition of . . . filed on the . . . day of 19 . . . , under sub-section (1) of Section 37 of the Banking Companies Act, 1949, as amended, upon hearing, Advocate for the petitioner,. Advocate for the respondent, upon reading the petition and the affidavits of and filed on the day of 19 . . .

(Enumerate all affidavits read) and the report of the Manager of the Reserve Bank of India,. dated the . . . day of. 19, and filed on the day of. 19 . . .

It is ordered :—

(1) That A. B.

be and hereby is appointed the Special Officer for the said Bank, Limited, pending disposal of the petition read above, or until further orders.

(2) That the said A. B.

do forthwith take into his custody or under his control all the assets, books, documents, effects and actionable claims to which the said . . . Bank, Limited, is or appears to be entitled and which are found at the registered office of the said Bank at (here enter the address) and at all its branches at (here enter the address of the branches).

(3) That all officers of the said Bank do assist the Special Officer in every aspect in carrying out this order.

(4) That the Special Officer do submit a report to this Court on or before the day of 19 . . .

(5) That the Special Officer be at liberty to apply to this Court for directions, if necessary.

Dated Deputy Registrar

Copy to—

A. B. Advocate

Special Officer.

FORM 2

[Rule 12(b)]

(For general heading see Rule 4)

Upon the petition of the above-named company [(or A. B.). of a creditor (or contributory of the above-named Company) or of the Registrar of the Companies)], filed on the day of 19 . . ., and the verification thereof by A. B., . . . etc., filed, etc., and upon hearing the Advocate for (or attorney or agent of) the petitioner, and for and upon reading the “Local Gazette” of the day of 19 . . ., the newspaper of the day of

19 . . ., (enter any other paper) each containing an advertisement of the said petition. This Court doth order that the said Company be wound up by this Court under provisions of the Banking Companies Act, X of 1949.

And it is ordered that the costs of the said petition be taxed and paid out of the assets of the said Company.

Dated

Deputy Registrar

FORM 3

Form of the Certificate

[Rule 22(b)]

(For general heading, see Rule 4)

O. L. Applicant

Respondent Debtor No.

Certificate under Section 45-D(6) and Rule 22(6).

Whereas in Application No. of 19. . . ., the Official Liquidator, applied for settlement of the list of certain debts of the above-named bank;

And whereas in respect of the debtor above-named an order was made by the Court on day of. . . . 19 . . ., in the presence of. . . . specified for the Liquidator and for the said debtor;

It is hereby certified that the said (Debtor) was placed in the list as Debtor No. and he was adjudged liable to and directed to pay to the Liquidator the sum of money with interest and costs specified hereunder :

1	2	3	4	5	6	7
Serial Number	Name and Address	Description	Amount	Rate of interest	Cost	*Relief granted

*Here set out:

- (a) The relied against any guarantor;
- (b) In the case of debts secured by mortgage the particulars of the mortgage property, the date of the order of sale and any other direction or directions of Court.
- (c) In the case of payment by instalments, the particulars of the order as to payment of the instalments.

Dated

Deputy Registrar

Part C
RULES UNDER THE INDIAN DIVORCE ACT, 1869

In exercise of the powers conferred by Section 62 of the Indian Divorce Act (IV of 1869), the Punjab High Court has made the following rules :—

- 1. Short Title**—These rules may be called the Indian Divorce (Punjab) Rules, 1956.
- 2. How proceedings to be originated**—Proceedings under the Act shall be originated by filing a petition to which shall be attached a certified copy of the certificate of the marriage.

3. Title of petition—(a) All such petitions shall be instituted as follows:—

In the Punjab High Court at. District Court at.

Matrimonial Jurisdiction.

In re: the Indian Divorce Act.

A. B. Petitioner

Versus

C. D. Respondent.

E. F. Co-respondent.

Petition under Section(s)—of the Indian Divorce Act.

(b) *Content of petition.*—In the body of the petition shall be stated :—

(i) The place and date of the marriage and the name, status and domicile of the wife before the marriage;

(ii) Whether the petitioner or respondent professes the Christian religion at the time when the petition is presented;

(iii) The domicile of the husband at the time when the petition is presented, and his occupation and the place or places of residence of the parties respectively at the time of the presentation of the petitions;

(iv) The principal permanent addresses where the petitioner and respondent cohabited within the jurisdiction, and in particular the place where they last resided together;

(v) Whether there is living issue of the marriage and if so, the names, and dates of birth or ages, of such issue;

(vi) Whether there have been in any Court any, and if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage, and the result of such proceedings;

(vii) The matrimonial offences charged, set out in separate paragraphs including particulars of the times and places of their alleged commission.

4. Collusion or Connivance—In cases where the petitioner is seeking a decree of nullity of marriage or of dissolution of marriage or of judicial separation, the petition shall further state that

no collusion or connivance exists between the petitioner and the other party to the marriage, or alleged marriage.

5. Prayer of petition—The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages and any order for custody of children which is sought.

6. Signature of petition—Every petition shall be signed by the petitioner. In the case of a minor it shall be signed both by the minor and his or her next friend and shall be accompanied by the undertaking mentioned in Section 49 of the Act and by a petition for approval of the next friend by the Court. In the case of a petition brought under Section 48 of the Act it shall be signed by the person bringing the suit.

7. Verification of petition—Pursuant to Section 47 of the Act every petition shall be verified in manner provided by Order VI, Rule 15, Civil Procedure Code.

8. Alleged adulterers to be co-respondents—In every husband's petition for dissolution of marriage on the ground of adultery the alleged adulterers shall be made co-respondents in the suit unless the Judge shall otherwise direct by order on a petition, supported by affidavit, pleading one or more of the grounds enumerated in Section 11 of the Act.

9. Respondent includes co-respondents—The term “respondent” in these rules shall include a co-respondent so far as the same is applicable.

10. Copy(ies) for respondent(s) to accompany the petition—Every petition under the Act shall be accompanied by true copy(ies) thereof to be supplied to respondent(s).

11. How served—The notice of petition shall be served by the Court on each respondent by delivery of a copy thereof together with a true copy of the petition in the manner prescribed in the Code of Civil Procedure for the service of summons or notice on a defendant or respondent.

12. Application for substituted Service—Where personal service cannot be effected leave to substitute some other mode of service may be granted upon an application.

13. Service by advertisement—When it is order that a notice to respondent(s) shall be advertised the form of advertisement shall be settled by the Court and a copy of the newspaper containing the advertisement shall be placed on record.

14. Order dispensing with service of petition—No order dispensing with service of a petition upon a party to be affected thereby shall be made by the Court.

15. Application to stay restitution proceedings—At any time after the commencement of proceedings for restitution of conjugal rights the respondent may apply to the Judge for an order to stay the proceedings by reason that he or she is willing to resume or to return to cohabitation with the petitioner.

16. Answer to petition—A respondent who has entered an appearance may within time limited by the notice file with the Court an answer to the petition. Such answer will be signed and verified in manner required by law for the verification of pleadings. A copy of the answer shall be delivered to the petitioner on the first hearing in the case.

17. Reply to Answer—Where in any suit for the dissolution of marriage it appears from the answer that the respondent prays for relief under Section 15 of the Act, the petitioner shall file a reply to the answer within fourteen days from the date of filing the answer. Save as aforesaid no pleading subsequent to the answer shall be delivered except by the leave of the Court.

18. No answer necessary if question of costs or custody of children—After entering an appearance a respondent in a suit may without filing an answer be heard in respect of any question as to costs and a respondent who is husband or wife of the petitioner may be heard also as to custody of or access to children.

19. Evidence by affidavit—Where any party proposes under Section 51 of the Act to verify his case by affidavit such affidavit or affidavits must be filed and copy(s) supplied to the other party at least two days before the next date fixed for the hearing of the case. The other party shall forthwith apply, if necessary to the Court for directions as to the deponents being produced for cross-examination at the hearing.

20. Security for Costs of Commission—When an order is made for the examination of a witness on commission or *de bene asse*, a wife may apply for security for her costs of the examination at the time of the order or subsequently by petition.

21. Separate trial of issues—A Judge may direct, and any petitioner and any party to a cause who has entered an appearance may apply to the Court for a direction for, the separate trial of any issue or issues of fact, or any question as to the jurisdiction of the Court.

22. Petition to reverse decree—A petition to the Court for reversal of a decree of judicial separation must set out the grounds on which the petitioner relies.

23. Appearance of party praying reversal—Before such a petition can be filed an appearance on behalf of the party praying for a reversal of the decree of judicial separation must be entered in the suit in which the decree has been pronounced.

24. Subsequent pleadings and proceedings—All subsequent pleadings and proceedings arising from such petition and answer shall be filed and carried on in the same manner as before directed in respect of an original petition and answer thereto so far as such directions are applicable.

25. Application to show cause—Any person other than an officer appointed under Section 17-A of the Act wishing to show cause under Section 16 of the Act against making absolute a *decree nisi* shall apply *ex-parte* by petition to the Court for leave to show cause, if the leave be granted such person shall within seven days from the date of the order enter an appearance in the case in which such *decree nisi* has been pronounced and file affidavits setting forth the facts upon which

he relies, and shall within seven days from appearance serve certified copies of such affidavits on the party or the counsel for the party in whose favour the *decree nisi* has been pronounced.

26. Affidavits in answer—The party in the suit in whose favour the *decree nisi* has been pronounced may within fourteen days after delivery of the affidavits file affidavits in answer, and the person showing cause against the *decree nisi* being made absolute may within fourteen days file affidavits in reply.

27. No affidavit in rejoinder without leave—No affidavits shall be filed in rejoinder to the affidavits in reply without leave of the Judge and subject to any direction by the Judge the matter shall be heard and decided in the same manner as provided in the case of an original petition.

28. Six months between *decree nisi* and absolute—The *decree nisi* shall not be made absolute till after the expiry of not less than six months from the day on which the *nisi decree* was pronounced.

29. Petition for alimony—A wife who is petitioner in a suit after service on the husband of the notice of petition, and a wife who is respondent, may after entering appearance, file a petition for alimony pending the suit under Section 36 of the Act.

30. Answer thereto—The husband may within fourteen days or such further time as may be allowed file an answer thereto duly verified as required by law for a pleading.

31. Hearing of summons—Such notice shall be returnable before the Judge who may made an order on the said petition or give such directions as to further evidence as he may think fit.

32. Applications under Sections 37 and 38 of Divorce Act—All applications under Section 37 of the Act shall be made to the Court and shall be supported by affidavit. Such applications must be brought within one month of the completion of the decree absolute declaring a marriage to be dissolved or decree for judicial separation, as the case may be by sub-section (1) of Section 45-G of the Act, for directions, from the Judge on a petition. Applications for the appointment of a new trustee under Section 38 of the Act shall be made by petition to the Court.

33. Date payments under Section 37 to commence—Monthly or weekly sums ordered to be paid to a wife for her maintenance and support under Section 37 of the Act shall, unless otherwise ordered, commence from the date of the decree absolute or decree for judicial separation, as the case may be.

34. Interim order—Pending the final determination of an application under Section 37 of the Act an interim order may be made upon such terms as shall appear to the Court to be just and without prejudice to the effect of the order to be ultimately made.

35. Applications under Sections 39 and 40 of Act—Applications under Sections 39 and 40 of the Act shall be made on petition to the Court. The Court may make such reference for enquiry or report and to such officer as it may think fit but no order for the settlement of a wife's

property or for the settlement of damages or for variation of settlements shall be made except by the Court.

36. Applications under Sections 41 and 43 of Act—Applications for interim orders under Sections 41 and 43 of the Act shall be made by petition to the Judge and shall be supported by affidavit.

37. Applications under Sections 42 and 44 of Act—Applications under Sections 42 and 44 of the Act shall be made by petition, which shall be verified as required by law for a plaint and which together with a notice returnable before the Judge shall be served personally upon the party or parties to be affected thereby except where leave shall have been obtained from the Judge to dispense with such service or to substitute some other form of service.

38. Showing cause—Any such party may show cause against the petition by filing affidavits or by filing an answer verified as required by law in the case of a pleading.

39. Taxation—All bills of costs shall be referred to the Deputy Registrar or the Superintendent in the District Court for taxation and may be taxed by him without any special order for that purpose.

40. Procedure to obtain order for wife's costs—When the pleadings are complete, or by orders of a Judge obtained on petition, at any earlier state, a wife who is a petitioner or has filed an answer, may file her bill or bills of costs for taxation as against her husband and the Judge may ascertain or cause to be ascertained what is a sufficient sum of money to be paid into Court or what is a sufficient security to be given by the husband to cover the cost of the wife for the incidental to the hearing of the cause, and may thereupon, unless the husband shall prove to the satisfaction of the Judge that wife has sufficient separate estate or shows other cause, issue an order to the husband to pay her costs up to the setting down of the cause and to pay into Court or secure the costs of hearing within a time to be fixed by the Judge. The Judge may in his discretion order the costs up to setting down of the cause to be paid into Court.

41. Application under Section 8 of the Act—An application to the High Court to remove a suit or proceeding under Section 8 of the Act shall be made by an application to the Judge in open Court for a Rule upon the party or parties concerned to show cause against such removal.

42. Extension of time—The time fixed by these rules for the performance of any act may in any particular case, be enlarged by the orders of a Judge subject to such terms and conditions as to costs or other matters as the Judge may think fit to impose.

43. Forms—The forms given in the Appendix to these rules may be used in the proceedings under the Indian Divorce Act, 1869.

(High Court Notification No. 291-Rules/XXVII-16, dated the 13th December, 1956).

APPENDIX

FORM A

In the High Court at.

(Rule 11)

Matrimonial Jurisdiction

Suit No. of19

. Petitioner

Versus

. Respondent,

. Co-Respondent.

To

.
.
.

Whereas has instituted a suit in this Court against you for under the provisions of the Indian Divorce Act, Section(s). (a copy of this petition presented by the said petitioner is sent to you herewith) and you are hereby summoned to appear in this Court on the day of. at 10 o'clock in the forenoon to answer the said suit, either in person or by recognized agent duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, or by an advocate/Pleader of this Court similarly instructed or accompanied, and you are directed to produce on that day all the documents upon which you intend to reply in support of your defence. You may file an answer with this Court within day of the service of this notice.

Take notice that, in default of your appearance on the day and in the manner above mentioned the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court this day of.

By order,
Superintendent,/Supdt. Judicial
for District Judge/for Dy. Registrar
at.

Note—Hours of attendance at the Court are from 10 A. M. till 4 P. M., daily, Sundays and holidays excepted.

FORM B

In the High Court at

Judicial Department

Matrimonial Jurisdiction

Reference Side Case No of 19

..... Plaintiff

Versus

..... Respondent

..... Co-Respondent.

Suit—For dissolution of marriage.

To

.....

.....

.....

Whereas a decree for dissolution of marriage between the parties above-named was made by the District Judge of the District on the day of 19, subject to confirmation by the Punjab High Court for which proceedings have been forwarded under Section 17 of the Indian Divorce Act, 1869, Notice is hereby given to you that the day of 19, has been fixed by this Court for the hearing of the reference; you are also hereby informed that unless you move this Court, on or before the said date, either in person or by duly authorised agent fully instructed by you and able to answer all material questions relating to the suit or who shall be accompanied by some person able to answer all such questions or by an Advocate or Vakil of this Court, so instructed, to confirm the said decree, the Court will not take the proceedings into consideration.

Given under my hand and the seal of the Court, this day of, 19

By orders, &c.,
Superintendent, Judicial
for Deputy Registrar.

Part D
RULES TO REGULATE PROCEEDINGS UNDER
THE SPECIAL MARRIAGE ACT, 1954 (CENTRAL ACT NO. 43 OF 1954) HIGH COURT OF DELHI

Notification

Delhi, the 6th October, 1982

No. 261/Gaz./OSD(R)—In exercise of the powers conferred by Section 41 of the Special Marriage Act, 1954 (Central Act No. 43 of 1954) and all other powers enabling in this behalf, the High Court of Delhi hereby makes the following rules to regulate the proceedings under the said Act.

1. Short title—These rules may be called the Special Marriage Act Rules, 1979.

2. Commencement—These rules shall come into force from the date of their publication in the Delhi Gazette.

3. Definitions—In these rules, unless there is anything repugnant in the subject or context:

(i) “Act” means the Special Marriage Act, 1954 as from time to time modified or amended.

(ii) “Code” means the Code of Civil Procedure, 1908 as from time to time modified or amended.

(iii) “Court” means the Court mentioned in Section 2(e) of the Act.

(iv) “Form” means a form prescribed in the Act or appended to these rules.

(v) All other terms and expressions used herein, but not defined shall have the meaning respectively assigned to them in the Act.

4. Petitions to be accompanied by a certificate of marriage—Every petition made under the Act shall be accompanied by a certified copy of the Certificate of Marriage entered in the Marriage Certificate Book about the solemnization of the marriage under the Act, unless the certificate is already on the record or is, for sufficient cause, dispensed with by the Court.

5. Forms of Proceedings—The following proceedings under the Act shall be initiated by petitions:

(i) Under Section 22 for restitution of conjugal rights;

(ii) Under sub-section (1) of Section 23 for judicial separation;

(iii) Under sub-section (2) of Section 23 for rescinding a decree for judicial separation;

- (iv) Under sub-section (1) of Section 24 for declaring a marriage null and void;
- (v) Under sub-section (2) of Section 24 for declaring the registration of marriage to be of no effect;
- (vi) Under Section 25 for annulment of marriage by a decree of nullity;
- (vii) Under Section 27 for divorce;
- (viii) Under Section 28 for divorce for mutual consent;
- (ix) Under Section 38 for making, revoking, suspending or varying orders and provisions with respect to the custody, maintenance and education of minor children.

6. Petition by or against a person suffering from mental disorder—A person suffering from mental disorder will be treated in all respects as a person of unsound mind for the purposes of Order XXXII of the Code.

7. Contents of petition—In addition to the particular required to be given under Order VII, Rule 1 of the Code and Section 32 of the Act, every petition for judicial separation, nullity of marriage or divorce shall contain the following particulars:

- (a) The place and date of marriage.
- (b) The name, status and domicile of the wife and the husband before the marriage and at the time of filing the petition.
- (c) The address where the parties to the marriage reside at the time of the presentation of the petition and last resided together.
- (d) Whether the wife petitioner invokes Section 31(2) of the Act, the address at which she has ordinarily resided during the three years immediately preceding the presentation of the petition, and the length of her residence at each address, and the place of residence of the husband.
- (e) The name of the children, if any, of the marriage, their sex and their dates of birth or ages.
- (f) If prior to the date of the petition there has been any proceedings under the Act between the parties to the petition, full particulars thereof.
- (g) The matrimonial offence or offences alleged or other grounds upon which the relief is sought, setting out with sufficient particularity the time and places of the acts alleged, and other facts relied upon, but not the evidence by which they are intended to be proved, *e. g.*:
- (i) If the petition is for restitution of conjugal rights, the date on or from which and the circumstances under which the respondent withdrew from the society of the petitioner.

(ii) If the petition is under Section 25(ii) of the Act, whether the petitioner was, at the time of the marriage, ignorant of the facts alleged and whether marital intercourse with the consent of the petitioner has taken place since the discovery by the petitioner of the existence of the grounds for a decree;

(iii) If the petition is under Section 25(iii) of the Act, the particulars of coercion or fraud and the circumstances in which coercion or fraud had been practised alongwith the time when the coercion ceased or the fraud was discovered and whether or not the petitioner has with his or her free consent lived with the other party to the marriage as husband and wife after the coercion had ceased or, as the case may be, the fraud had been discovered;

(iv) If the petition is for judicial separation divorce on the ground of adultery, the name, occupation and place of residence of adulterer/ adulterous or adulterers/adultresses, as the case may be, so far as they can be ascertained;

(v) If the petition is on the ground of desertion, the date and the circumstances in which it began;

(vi) If the petition is on the ground of cruelty the specific acts of cruelty and the occasion when and the place where such acts were committed;

(vii) If the petition is on the ground of unsoundness of mind or mental disorder, the time when such unsoundness of mind or mental disorder began to manifest itself and the nature and the period of curative steps taken;

(viii) If the petition is on the ground of venereal disease in a communicable form or leprosy, when such ailment began to manifest itself and the period of the curative steps taken;

(ix) If the petition is on the ground specified in Clause (h) of Section 27 of the Act, the date and the place where the respondent was last seen or heard of alive and the steps, if any, taken to ascertain his or her whereabouts;

(x) If the petition is founded on the ground of bestiality, the occasion when, the place where and the particulars of the beast with whom the husband had been guilty of bestiality;

(xi) If the petition is for divorce under Section 27(IA) (ii) of the Act, the particulars of the decree under Section 18 of the Hindu Adoptions and Maintenance Act, 1956 or of order under Section 125 of the Code of Criminal Procedure, 1973 (or under the corresponding Section 488 of the Code of Criminal Procedure, 1898) together with an affidavit that since the passing of such decree of order, cohabitation between the parties had not been resumed for one year or upwards;

(xii) If the petition is under Section 28 of the Act, the date since when the parties have been living separately and whether or not they have been able to live together and whether the mutual agreement dissolving the marriage is verbal or evidenced by a document in writing.

(h) Every petition under Chapter V or Chapter VI of the Act shall state that there is no collusion between the petitioner and the other party to the marriage.

(i) The claim for damages, if any, with particulars.

(j) The relief or reliefs prayed for.

8. Affidavit of non-collusion—Every petition under Chapter V or Chapter VI of the Act shall be accompanied by an affidavit to the effect that it is not presented in collusion with the respondent. If the petition is founded on the ground specified in clause (a) of sub-section (1) of Section 27, it will also state that the petitioner has not in any manner been accessory to or connived at the act or acts of sexual intercourse complained of.

9. Affidavit of non-condemnation—Where the petition is founded on the ground specified in clause (a) of sub-section (1) of Section 27 of the Act or where the ground of the petition is cruelty, the petition shall be accompanied by an affidavit to the effect that the petitioner has not condoned the act or acts complained of or has not in any manner condoned the cruelty.

10. Affidavit in the petition on the ground of mutual consent—Where divorce is sought on the ground of mutual consent, the petition shall be accompanied to an affidavit to the effect that such consent has not been obtained by force, fraud or undue influence.

11. Affidavit of non co-habitation—Every petition under Section 27(2)(i) shall be accompanied by an affidavit made by petitioner that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties.

12. Affidavit of non-restitution of conjugal rights—Every petition under Section 27(2)(ii) shall be accompanied by an affidavit made by the petitioner of the fact that there has been no restitution of conjugal rights as between the parties to the marriage for a period of one year or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties.

13. Necessary parties—

(a) In every petition for divorce judicial separation on the ground that the respondent has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse, the petitioner shall make the alleged adulterer or adulteress a correspondent to the petition. The petitioner may, however, apply to the Court on application supported by an affidavit, for leave to dispense with the joinder of such person as a co-respondent on any of the following grounds:

(i) That the name of such person is unknown to the petitioner although he/she has made due efforts for discovery.

(ii) That such person is dead;

(iii) That the respondent being the wife is leading a life of a prostitute and that the petitioner knows of no person with whom voluntary sexual intercourse has been committed; or

(iv) Any other reason that the Court considers sufficient.

(b) In every petition under Section 24 of the Act on the ground that the condition specified in clause (a) of Section 4 has not been fulfilled the petitioner shall make the spouse alleged to be living at the time of marriage, a co-respondent.

14. Application for leave under Section 29 of the Act—(1) In support of an application for leave under Section 29 of the Act there shall be filed an affidavit by the applicant stating the grounds on which the application is made, particulars of the exceptional hardships or exceptional depravity alleged, whether there has been any previous application under the said Section, whether there are living any children of the marriage, and if so, the names and dates of birth or ages of such children, their sex where and with whom they are residing, whether any and if so, what attempts at reconciliation have been made and any circumstances which may assist the Court to determine the question whether there is reasonable probability of reconciliation between the parties.

(2) Notice of the application shall be given to the respondent who may contest the same by filing affidavit in opposition.

(3) In exceptional circumstances the Court may, if necessary, order a deponent to be cross-examined on his or her affidavit.

(4) The application shall be accompanied by the petition intended to be filed.

(5) When the Court grants leave, the petition shall be deemed to have been duly filed on the date of the said order provided proper Court-fee thereon is paid within the time allowed by the Court.

15. Notice—The Court shall issue notice in form “A” accompanied by a copy of petition to the respondent and the correspondent, if any. The notice shall require, unless the Court otherwise directs, the respondent or co-respondent to file his or her written statement in Court on or before the date filed in the notice.

16. Counter claim—Where a counter-claim is made in terms of Section 23-A it shall comply with the Rules applicable to petitions on the like grounds.

17. Damages and costs against co-respondent—(1) Whenever in any petition presented by a husband, the person alleged to have committed adultery has been made a co-respondent and the charge of adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings.

Provided that the co-respondent shall not be ordered to pay the petitioners costs:

(a) If the respondent was, at the time of adultery, living apart from her husband and was leading the life of a prostitute; or

(b) If the co-respondent had not, at the time of voluntary sexual intercourse reason to believe the respondent to be a married woman.

(2) The award of costs shall be in the discretion of the Court and the Court shall make an order of the same while passing the decree.

(3) Where damages are claimed, the Court shall assess the same and direct in what manner the damages, if any, awarded shall be paid or applied.

(4) The Court may assess damages and make an order for payment thereof or of costs notwithstanding that the respondent or the co-respondent or both of them have remained *ex parte*.

18. Application for alimony and maintenance—Every application for maintenance *pendente lite*, permanent alimony and maintenance or for custody, maintenance and education expenses of minor children shall be supported by an affidavit and shall state the average monthly income of the petitioner and the respondent, the sources of their income, particulars of other movable and immovable property owned by them jointly or severally, the details of their liabilities, if any, alongwith the number of their dependents, if any, and the names and ages of such dependents.

19. Supply of certified copy of the decree to the parties—(1) In every case where a marriage is dissolved by a decree of divorce, the Court passing the decree shall give a copy thereof free of cost to each of the parties. The copy so supplied shall be authenticated as “true copy” by the Court passing the decree.

(2) The Court shall maintain a register where the particulars of the decree shall be incorporated and signatures of the parties or their Advocates or agents shall be obtained in token of their having received a true copy of the decree.

20. Forms—The forms given in the Appendix to these rules with such variations as the circumstances of each case may require shall be used.

FORM A

In the District Court at

Matrimonial and Divorce Jurisdiction.

Case No Date of Institution

..... Petitioner

Versus

..... Respondent

..... Co-respondent

To

.....

.....

Whereas . . . has presented a petition application against you for under section of the Special Marriage Act, 1954 (No. 43 of 1954). (A copy of the said petition/application is sent herewith). You are hereby summoned to appear in this Court on the , at 10 o'clock in the forenoon to answer the said petition, application, either in person or by recognised agent duly instructed and able to answer all material questions relating to the case, or who shall be accompanied by some other person able to answer all such questions or by an Advocate similarly instructed or accompanied and you are directed to produce on that day all documents upon which you intend to rely in support of your defence. You should file an answer to the petition, application on the date mentioned above.

You are further informed that in default of your appearance on the day in the manner above mentioned the petition/application will be heard and determined in your absence.

Given under my hand the seal of this Court, this day of Nineteen Hundred and.

Dated :

By Order
District Judge

Dated.

FORM B

In the District Court at Petitioner

Versus

..... Respondent.

Petition for the restitution of conjugal rights under Section 22 of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioner prays as follows:

(1) The petitioner is the of the respondent. The marriage between the parties was

. of the Act by the Marriage Officer of at on A certified copy of the certificate of marriage is attached with this petition.

(2) The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

(3) (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

(4) The respondent has, without reasonable excuse, withdrawn from the society of the petitioner with effect from

(The circumstances under which the respondent withdrew from the society of the petitioner be stated).

(5) There has not been any unnecessary or improper delay in filing this petition.

(6) The petition is not presented in collusion with the respondent.

(7) There is no other legal ground why the relief should not be granted.

(8) There has not been any previous proceedings with regard to the marriage by or on behalf of the parties :

There have been or the following previous proceedings with regard to the marriage by or on behalf of the parties.

Serial No.	Name of Parties	Nature of proceedings with section of that Act	Number and year of the case	Name and location of Court	Result
(i)					
(ii)					
(iii)					
(iv)					

(9) The marriage are solemnized at. The parties last resided together at. The parties are now residing at.(within the local limits of the ordinary original jurisdiction of (this Court).

(10) The petitioner submits that this Hon’ble Court has jurisdiction to entertain this petition.

(11) The petitioner, therefore, prays for a decree for restitution of conjugal rights against the respondent.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner’s knowledge and para to are true to the petitioner’s information received and believed to be true by him/her.

Verified at. (place)

Dated

Petitioner

FORM C

In the District Court at Petitioner.

Versus

. Respondent

Petition for judicial separation under section 23 of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioners prays as follows :

(1) The petitioner is the of the respondent.

The marriage between the parties was of the Act by the Marriage Office of. at. on A certified copy of the certificate of marriage is attached with this petition.

(2) The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

(3) (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

(4) The respondent has (any one or more of the grounds available for judicial separation may be pleaded here. The matrimonial offences charged should be set in separate paragraphs with time and places of their alleged commission. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits).

(5) (Where the ground of petition is adultery). The petitioner has not in any manner been accessory to or convinced at or condoned the adultery.

(6) (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

(7) Where has not been any unnecessary or improper delay in filing the petition.

(8) The petition is not presented in collusion with the respondent.

(9) There is no other legal ground why the relief should not be granted.

(10) There has not been any previous proceedings with regard to the marriage by or on behalf of the parties.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					
(ii)					
(iii)					
(iv)					

(11) The marriage was solemnized at. The parties last resided together at.
. The parties are now residing at. (within the local limits of the ordinary original jurisdiction of this Court).

(12) The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

(13) The petitioner, therefore, prays for a decree for judicial separation against the respondent.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to . . . of the petition are true to the petitioner’s knowledge and paras to are true to the petitioner’s information received and believed to be true by him.

Verified at. (place)

Petitioner

FORM D

In the District Court at Petitioner

Versus

. Respondent

Petition for decree of nullity of marriage under Section 24(1) of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioner prays as follows :

(1) The petitioner is the of the respondent. The marriage between the parties was

of the Act by the Marriage Officer of. at. on. A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. (State here on or more of the grounds on which a decree of nullity is sought. Facts on which the claim to relief is founded should be stated in compliance with the Rules and as distinctly the nature of the case permits).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of Parties	Nature of proceedings with section of that Act	Number and year of the case	Name and location of Court	Result
(i)					
(ii)					
(iii)					
(iv)					

6. There has not been any unnecessary or improper delay in filing this petition.

7. The petition is not presented in collusion with the respondent.

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnized at. The parties reside Parties last resided together at. . . .

Or

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner is resident within the territories of India except the State of Jammu and Kashmir and has been ordinarily resident therein for a period of three years immediately preceding the presentation of the petition and the respondent is not resident in the said territories.

10. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

11. The petitioner, therefore, prays that the marriage solemnized between the Act being null and void may be so declared by the Court by a decree of nullity.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner's knowledge and paras to are true to the petitioner's information received and believed to be true by him.

Verified at. (place)

Date. Petitioner

FORM E

In the District Court at Petitioner

Versus

. Respondent

Petition under Section 24(2) of the Special Marriage Act, 1954 (No. 43 of 1954) for having the registration of a marriage under Chapter III of the Act declared to be of no effect.

The petitioner prays as follows :

1. The petitioner is the of the respondent.

The marriage between the parties was registered under Chapter III of the Act by the Marriage Officer of at on and it may be deemed to be a marriage solemnized under the Act by virtue of the provisions of Section 18. A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. (State here one or more of the statutory grounds on which relief is sought. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of the parties.

Or

There have been the following previous proceedings with regard to the marriage by or on . behalf of the. parties:

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					

(ii)					
(iii)					
(iv)					

- 6. There has not been any unnecessary or improper delay in filing this petition.
- 7. The petition is not presented in collusion with the respondent.
- 8. There is no other legal ground why the relief should not be granted.
- 9. The marriage was solemnized at. The parties last resided together at. The parties are now residing at (within the local limits of the ordinary original jurisdiction of this Court).
- 10. The petitioner submits that this Hon'ble Court has jurisdiction to entertain the petition.
- 11. The petitioner, therefore, prays that the registration of the said marriage under Chapter III of the Act may be declared by Court to be of no effect.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner's knowledge and paras to are true to the petitioner's information received and believed to be true by him.

Verified at.(Place)

Dated:

Petitioner

FORM F

In the District Court at.Petitioner

Versus

.Respondent.

Petition for the annulment of a marriage under Section 25 of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioner prays as follows :

1. The petitioner is the _____ of the respondent. The marriage between the parties was

_____ of the Act by the marriage Officer
of at on A certified copy of the certificate of marriage is attached to this
petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the
petition were as follows :

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or
ages).

4. (State here one or more of the statutory grounds on which relief is sought. Facts on which the claim to relief is
founded should be stated as distinctly as the nature of the case permits).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

There have been the following previous proceedings with regard to the marriage by or on behalf of any party :

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					
(ii)					
(iii)					
(iv)					

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnized at The parties reside
at The parties last resided together at

Or

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The
petitioner is resident within the territories of India, except the State of Jammu and Kashmir and has been ordinarily

resident therein for a period of three years immediately preceding the presentation of this petition and the respondent is not resident in the said territories.

10. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

11. The petitioner, therefore, prays that the marriage between the parties being voidable, may be annulled by the Court by a decree of nullity.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner's knowledge and paras to are true to the petitioner's information received and believed to be true by him.

Verified at. (Place)

Date.

Petitioner

FORM G

In the District Court at. Petitioner

Versus

. Respondent

Petition for divorce under Section 27 of the Special Marriage Act, 1954 (No. 43 of 1954). The petitioner prays as follows :

1. The petitioner is the of the respondent. The marriage between the parties was Chapter II of the Act by the Marriage Officer of Chapter II at. . . . on. . . . A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

3. (In this paragraph state the name of the children, if any, of the marriage together with their sex, dates of birth or ages).
4. The respondent has (one or more of the grounds specified in Section 27 of the Act may be pleaded here. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits).
5. (Where the ground of petition is adultery). The petitioner has not in any manner been accessory to or connived at or condoned the adultery.
6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.
7. The petition is not presented in collusion with the respondent.
8. There has not been any unnecessary or improper delay in instituting the proceedings.
9. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial No.	Name of Parties	Nature of proceedings with section of that Act	Number and year of the case	Name and location of Court	Result
(i)					
(ii)					
(iii)					
(iv)					

10. (In petition by a husband for divorce on the ground of adultery where damages are claimed against the co-respondent, grounds on which the claim to damages is founded should be fully and clearly stated and the amount claimed and the mode of assessment should be specified).
11. There is no other ground why relief should not be granted.
12. The marriage was solemnized at. The husband and wife reside at. The husband and wife last resided together at. (within the local limits of the jurisdiction of the Court).

Or

(Where the petition is by wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner is resident within the territories of India except the State of Jammu and Kashmir and has been ordinarily resident therein for a period of three years immediately preceding the presentation of this petition and the respondent is not resident in the said territories. (Give particulars according to the Rules).

13. The petitioner submits that this Hon'ble Court has jurisdiction to entertain the petition.

14. The petitioner, therefore, prays that he may be granted a decree of divorce against the respondent, and (to be scored out if unnecessary) may further be granted a decree for recovery of Rs. as damages against the adulterer co-respondent.

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner’s knowledge and paras to are true to the petitioner’s information received and believed to be true by him.

Verified at.

Date. Petitioner

FORM H

In the District Court at. (Husband).
 (wife) Petitioners Petition for divorce by mutual consent
 under Section 28 of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioners pray together as follows:

1. A marriage between the petitioners was solemnized/registered, under Chapter II/under Chapter III by the Marriage Officer of. at. on. A certified copy of the certificate of marriage is attached to this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. The petitioners have been living separately for a period of one year or more and have not been able to live together and the petitioners have mutually agreed that the marriage should be dissolved.

5. The consent of either party has not been obtained by force, fraud or undue influence.

6. There is no collusion between the petitioners.

7. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					
(ii)					
(iii)					
(iv)					

8. There has not been any unnecessary or improper delay in filing this petition.

9. There is no other legal ground why the relief should not be granted.

10. The marriage was solemnized at. The petitioners reside at.

The petitioners last resided together at.

11. The petitioners submit that this Hon'ble Court has jurisdiction to entertain this petition.

The petitioners, therefore, pray for a decree declaring the marriage to be dissolved with effect from the date of decree.

Sd/.(husband)

Sd/.(wife)

Petitioners

Verification

The above named petitioners state on solemn affirmation that paras 1 to of the petition are true to their knowledge and paras to are true to their information received and believed to be true by them.

Verified at. (Place).

Sd/-(husband)

Sd/- (wife)

Petitioners

FORM I

In the District Court at. Applicant

Versus

. Respondent

Application under Section 29 of the Special Marriage Act, 1954 (No. 43 of 1954) praying that a petition for divorce may be allowed to be presented within one year of the date of entering the certificate of marriage in the Marriage Certificate Book.

The applicant prays as under:

1. The applicant is the husband/wife of the respondent. The marriage between the parties was solemnized under Chapter II/Chapter III of the Act by the Marriage Officer of. at on and a certificate of Marriage was entered in the marriage Certificate Book on A certified copy of the certificate of marriage is attached with this application.

2. The status and place of residence of the parties to the marriage before the marriage and at time of filing the application were as follows:

Husband			Wife		
Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing the petition

3. (In this paragraph state the names of the children, if any, of the marriage together with sex, dates of birth or ages).

4. There is a case of as. (state here in accordance with the Rules and as distinctly as the nature of the case permits all the particulars about the exceptional hardship of depravity, as the case may be.)

5. There have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties.

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					

(ii)					
(iii)					
(iv)					

6. The marriage was solemnized at. . . . The parties reside at The parties last resided together at.

Or

(Where the application is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The applicant is resident within the territories of India excluding the State of Jammu and Kashmir and has been ordinarily resident therein for a period of three years immediately preceding for presentation of this application and the respondent is not resident in the said territories).

7. The applicant, therefore, submits that this Hon'ble Court has jurisdiction to entertain this application.

8. The applicant therefore prays that he/she may be allowed to present a petition for divorce within one year of the date of entering the certificate of marriage in the Marriage Certificate Book.

Applicant

Verification

The above named applicant states on solemn affirmation that paras 1 to of the application are true to the applicant's knowledge and paras to are true to the applicant's information received and believed to be true by him/her.

Verified at. (Place).

Applicant

FORM J

In the District Court at. Application

Versus

. Respondent

Application for alimony *pendente lite* under Section 36 of the Special Marriage Act, 1954 (No. 43 of 1954).

The applicant prays as under:

1. A proceeding under Chapter V/VI of the Act is pending in this Court between the parties. (Give the number and title of the case, date of hearing etc).

2. The applicant owns no other movable or immovable property, and has no other income except (Give full particulars of the applicant's property and income etc).
3. The applicant has no independent income sufficient for her support and for the necessary expenses of the proceedings.
4. The respondent has sources of income and owns property mentioned below : (Give full particulars about respondent's income and property etc.).
5. The only person dependent upon the respondent is the applicant herself or the applicant and.
6. The respondent has not made provision for the applicant's maintenance.
7. The applicant submits that having regard to the respondent's own income and his property and having regard to the fact that the applicant has no independent income sufficient for her support and the necessary expenses of the proceeding, a sum of Rs. per week/month as and by way of her support is the just and proper amount.
8. The respondent may be ordered to pay a sum or Rs. as the applicant's expenses of the proceedings and a sum of Rs. weekly/monthly for applicant's support during the proceedings.

Applicant

Verification

The above named applicant states on solemn affirmation that paras 1 to of the application are true to the applicant's knowledge and paras to are true to the applicant's information received and believed to be true by her.

Verified at (Place).

Dated Applicant

FORM K

In the District Court at. Application

Versus

. Respondent

Application for permanent alimony and maintenance under Section 37 of the Special Marriage Act, 1954 (No. 43 of 1954).

The applicant prays as under :

1. A proceeding between the parties under Chapter V/VI of the Act is pending in this Court/has been decided by (Give particulars like section of the Act, number and title of case, date of decree of hearing).

2. The applicant owns no other movable or immovable property and has no other source of income except.
(Give full details of applicant's income and property etc.).
3. The applicant has no sufficient income for her maintenance and support.
4. The respondent has sources of income and owns property mentioned below: (Give full particulars about respondent's income and property etc.).
5. The only person dependent upon the respondent is the applicant herself or the applicant and.
6. The respondent has not made any provision for the applicant's maintenance and support.
7. The applicant has not conducted herself in any manner which would disentitle her from the receiving maintenance and support from the respondent.
8. The applicant prays that having regard to the income of the parties and their conduct, the respondent may be ordered to secure to the applicant for her maintenance and support until her death gross/monthly/periodical sum of Rs. and (score out if unnecessary) the said sum should be made a charge on the respondent's property.

Applicant

Verification

The above named applicant states on solemn affirmation that paras 1 to of the application are true to the applicant's knowledge and paras to are true to the applicant's information received and believed to be true by her.

Verified at(Place).

Dated : Applicant

Part E

RULES TO REGULATE PROCEEDINGS UNDER THE HINDU MARRIAGE ACT, 1955, CENTRAL ACT NO. 25 OF 1955 HIGH COURT OF DELHI

Delhi, the 6th October, 1980

No. 262/Gaz./OSD (R)—In exercise of the powers conferred by Sections 14 and 21 of the Hindu Marriage Act, 1955 (Central Act No. 25 of 1955) and all other powers enabling in this behalf, the High Court of Delhi hereby makes the following rules to regulate the proceedings under the said Act.

1. Short title—These rules may be called the Hindu Marriage Act Rules, 1979.

2. Commencement—These rules shall come into force from the date of their publication in the Delhi Gazette.

3. Definitions—In these rules, unless there is anything repugnant in the subject or context;

(a) “Act” means the Hindu Marriage Act, 1955 (No. 25 of 1955) as amended from time to time.

(b) “Code” means the Code of Civil Procedure, 1908 as from time to time modified or amended.

(c) “Court” means the Court mentioned in Section 3(b) of the Act.

(d) “Form” means a form appended to these rules.

(e) “Section” and “sub-section” means, respectively, section and sub-section of the Act.

(f) All other terms and expressions used herein but not defined shall have the meaning respectively assigned to them in the Act.

4. Petition—(a) Every petition under the Act shall be accompanied by either a certified extract from the Hindu Marriage Register maintained under Section 8 of the Act where the marriage has been registered under the Act or in the absence of the same, an affidavit of the effect that the petitioner was married to the respondent (unless the certificate or affidavit is already on the record or is for sufficient cause dispensed with by the Court).

(b) Every petition for divorce on any of the grounds mentioned in Clauses (i) and (ii) of sub-section 1-A of Section 13 of the Act shall be supported by certified copy of the decree for judicial separation or for restitution of conjugal rights as the case may be.

5. Forms of proceedings—The following proceedings under the Act shall be initiated by petitions :

(i) Under Section 9 for restitution of conjugal rights;

(ii) Under sub-section (1) of Section 10 for judicial separation;

(iii) Under sub-section (2) of Section 10 for rescinding a decree for judicial separation;

(iv) Under Section 11 for declaring a marriage null and void;

(v) Under Section 12 for annulment of marriage by a decree of nullity;

(vi) Under Section 13 for divorce;

(vii) Under Section 13-B for divorce by mutual consent;

(viii) Under Section 14 for leave to present a petition for divorce before the expiration of one year from the date of marriage;

(ix) Under Section 26 for making, revoking, suspending or varying orders and provisions with respect to the custody, maintenance and education of minor children.

6. Petition by or against a person suffering from mental disorder:

A person suffering from mental disorder will be treated in all respects as a person of unsound mind for the purpose of Order XXIII of the Code.

7. Contents of petition—In addition to the particulars required to be given under Order VII Rule 1 of the Code and Section 20(1) of the Act, all petitions under Section 9 to 13 shall state:

(a) The place and date of marriage;

(b) Whether the petitioner and the respondent were Hindu by religion at the time of marriage and whether they continue to be so up to the date of filing of the petition;

(c) The name, status and domicile of the wife and the husband before the marriage and at the time of filing the petition;

(d) The address where the parties to the marriage reside at the time of the presentation of the petition and last resided together;

(e) The names of children, if any, the marriage, their sex and their dates of birth or ages;

(f) If prior to the date of the petition there has been any proceeding under the Act between the parties to the petition, full particulars thereof;

(g) The matrimonial offence or offences alleged or other grounds, upon which the relief is sought, setting out with sufficient particularity the time and places of the acts alleged, and other facts relied upon, but not the evidence by which they are intended to be proved, *e. g.*:

(i) If the petition is for restitution of conjugal rights the date on or from which and the circumstances under which the respondent withdrew from the society of the petitioner;

(ii) If the petition is for decree of nullity of marriage on the grounds specified in clause (c) and (d) of sub-section (1) of Section 12 of the Act, the particulars of force or fraud and the circumstances in which force or fraud had been practised alongwith the time when the facts relied upon were discovered and whether or not marital intercourse with the consent of the petitioner took place after the discovery of the said facts;

(iii) In every petition for judicial separation/divorce by either the husband or the wife on the ground that the other party has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse, the petitioner shall state the name,

occupation and place of residence of such person or persons so far as they can be ascertained, the specific acts of sexual intercourse and the occasion when and the place where such acts were committed;

(iv) In the case of alleged desertion, the date and the circumstances in which it began; in the case of cruelty, the specific acts of cruelty and the occasion when and the place where such acts were committed;

(v) In the case of unsoundness of mind or mental disorder, the time when such unsoundness of mind or mental disorder began to manifest itself and the nature and the period of the curative steps taken;

(vi) In the case of virulent and incurable form of leprosy or venereal disease in communicable form, when such ailment began to manifest and the nature and the period of the curative steps taken;

(vii) If the petition is on the ground specified in Section 13(1)(vii), the date of renunciation and the particulars of the religious order which the respondent has entered into;

(viii) If the petition is on the ground specified in Section 13(1)(viii), the date and the place where the respondent was last seen or heard of alive and the steps, if any, taken to ascertain his or her whereabouts;

(ix) Where the petition is founded on the ground of rape or sodomy the occasion when, the place where and the names and addresses of persons with whom such acts were committed. In case of conviction for committing rape or sodomy, the particulars thereof;

(x) Where the petition is founded on the ground of bestiality, the occasion when, the place where and the particulars of the beast with whom the husband had been guilty of bestiality;

(xi) In the case of divorce under Section 13(2)(iii) of the Act, particulars of the decree under Section 18 of the Hindu Adoption and Maintenance Act, 1956 or of order under Section 125 of the Code of Criminal Procedure, 1973 (or under the corresponding Section 488 of the Code of Criminal Procedure, 1898) together with an affidavit that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards;

(xii) In the case of divorce under Section 13(2)(iv) the date and the place of birth of the wife together with the date and the place of repudiation and its mode;

(h) The property mentioned in Section 27 of the Act, if any;

(i) The relief or reliefs prayed for.

8. Affidavit of non-collusion—Every petition (excepting petitions under Section 11) shall be accompanied by an affidavit to effect that it is not presented or prosecuted in collusion with the respondent. In the petition seeking judicial separation/divorce on the ground that the party has,

after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse, it will also state that the petitioner has not, in any manner, been accessory to or connived at the act or acts complained of.

9. Affidavit of non-condonation—Where the ground of the petition is the ground specified in clause (i) of sub-section (1) of Section 13 or where the ground for the petition is cruelty, the petition shall be accompanied by an affidavit to the effect that the petitioner has not condoned the act or acts complained of or has not in any manner condoned the cruelty.

10. Affidavit of non-cohabitation—Every petition under Section 13(1A)(i) of the Act shall be accompanied by an affidavit made by the petitioner that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties.

11. Affidavit of non-restitution of conjugal right—Every petition under Section 13(1A) (ii) of the Act shall be accompanied by an affidavit made by the petitioner of the fact that there has been no restitution of conjugal rights as between the parties for a period of one year or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties.

12. Necessary parties—(a) In every petition for divorce/judicial separation on the ground that the respondent has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse, the petitioner shall make the alleged adulterer or adulteress a co-respondent to the petition. The petitioner may, however, apply to the Court, on application supported by an affidavit, for leave to dispense with the joinder of such person as a co-respondent on any of the following grounds:

(i) That the name of such person is unknown to the petitioner although he/she has made due efforts for discovery;

(ii) That such person is dead;

(iii) That the respondent being the wife is leading a life of a prostitute and that the petitioner knows of no person with whom voluntary sexual intercourse has been committed; or

(iv) Any other reason that the Court considers sufficient.

(b) In every petition under Section 13(2)(i) of the Act the petitioner shall make the “other wife” mentioned in that section a co-respondent.

(c) In every petition under Section 11 of the Act on the ground that the condition in Section 5(i) is contravened the petitioner shall make the spouse alleged to be living at the time of the marriage, a co-respondent.

13. Application for leave under Section 14 of the Act—(1) In support of an application for leave under Section 14 of the Act, there shall be filed an affidavit by the applicant stating the

grounds on which the application is made, particulars of the exceptional hardship or exceptional depravity alleged, whether there has been any previous application under the said section, whether there are living any children of the marriage, and, if so, the names and dates of birth or ages of such children, their sex, where and with whom they are residing, whether any, and if so, attempts at reconciliation have been made and any circumstances that which may assist the Court to determine the question whether there is reasonable probability of a reconciliation between the parties.

(2) Notices of the application shall be given to the respondent who may contest the same by filing affidavit in opposition.

(3) In exceptional circumstances the Court may, if necessary, order a deponent to be cross examined on his or her affidavit.

(4) The application shall be accompanied by the petition intended to be filed.

(5) When the Court grants leave, the petition shall be deemed to have been duly filed on the date of the said order provided proper Court fee thereon is paid within the time allowed by the Court.

14. Notices—The Court shall issue notice in Form ‘A’ accompanied by a copy of petition to the respondent and the co-respondent if any. The notice shall require, unless the Court otherwise directs the respondent or co-respondent to file his or her written statement in Court on or before the date fixed in the notice.

15. Written statement in answer to petition—Where a counter-claim is made in terms of Section 23-A, it shall comply with the Rules applicable to petitions on the like grounds.

16. Application for alimony and maintenance—Every application for maintenance *pendente lite*, permanent alimony and maintenance or for custody, maintenance and education expenses of minor children shall be supported by an affidavit and shall state the average monthly income of the petitioner and the respondent, the sources of their income, particulars of other movable and immovable property owned by them jointly or severally, the details of their liabilities, if any, alongwith the number of their dependents, if any, and the names and ages of such dependents.

17. Supply of certified copy of the decree to the parties—(i) In every case where a marriage is dissolved by a decree of divorce, the Court passing the decree shall give a copy thereof free of cost to each of the parties. The copy so supplied shall be authenticated as “true copy” by the Court passing the decree.

(2) The Court shall maintain a register where the particulars of the decree shall be incorporated and signatures of the parties or their advocates or agents shall be obtained in token of their having received a copy of the decree.

18. Forms—The Forms given in the Appendix to these rules with such variations as the circumstances of each case may require shall be used.

FORM A

In the District Court at..... Matrimonial and Divorce
Jurisdiction

Case No..... Date of Institution.....

..... Petitioner

Versus

..... Respondent

.....Co-Respondent

To

.....

.....

Whereas..... has presented a petition, application against you for..... under Section.....
of the Hindu Marriage Act, 1955 (No. 25 of 1955) (A copy of the said petition application is sent herewith), you
are hereby summoned to appear in this Court on the..... at 10 o'clock in the forenoon to answer the said
petition/application, either in person or by recognised agent, duly instructed and able to answer all material
questions relating to the case or who shall be accompanied by some other person able to answer all such questions or
by an Advocate, similarly instructed or accompanied and you are directed to produce on that day all documents upon
which you intend to rely in support of your defence. You should file a written statement/answer to the petition/
application on the date mentioned above.

You are further informed that in default of your appearance on the day and in the manner above mentioned, the
petition/application shall be heard and determined in your absence.

Given under my hand and the seal of this Court, this.....day of..... Nineteen
hundred and.....

Dated.....

District Judge

At.....

FORM B

In the District Court at..... Petitioner

Versus

..... Respondent

Petition for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1955 (No. 25 of 1955).

The petitioner prays as follows :

1. A marriage was solemnized between the parties according to Hindu rites and ceremonies on at The said marriage is registered with the Registrar of marriages. A certified copy of the relevant extract from the Hindu Marriage Register. is filed herewith. An affidavit, duly attested.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing

the petition

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. The respondent has, without reasonable excuse, withdrawn from the society of the petitioner with effect from

(The circumstances under which the respondent withdrew from the society of the petitioner be stated).

5. The petition is not presented in collusion with the respondent.

6. There has not been any unnecessary or improper delay in filing the petition.

7. There is no other legal ground why relief Should not be granted.

8. There have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					

(ii)					
(iii)					
(iv)					

9. The marriage was solemnized at. The parties last resided together at. The parties are now residing at.

(within the local limit of the ordinary original jurisdiction of this Court).

10. The petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition.

11. The petitioner prays for a decree for restitution of conjugal rights against the respondent.

Sd/-

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner's knowledge and paras to are true to the petitioner's information received and believed to be true by him/her.

Verified at. (Place)

Dated.

Petitioner

FORM C

In the District Court at. Petitioner

Versus

. Respondent

. Co-Respondent

Petition for judicial separation under Section 10 of the Hindu Marriage Act, 1955 (No. 25 of 1955).

The petitioner prays as follows :

1. A marriage was solemnized between the parties according to Hindu rites and ceremonies on at. The said marriage is registered with the Registrar of marriages. A certified copy of the relevant extract from the Hindu Marriage Register. is filed herewith.

An affidavit, duly attested.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of residence	Status	Age	Place of residence
(i) Before marriage						
(ii) At the time of filing						

the petition

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. The respondent has (any one or more of the grounds available under Section 10 may be pleaded here. The matrimonial offences charged should be set in separate paragraphs with times and places of their alleged commission. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits).

5. Where the ground of petition is on the ground specified in clause (i) of section 13(1). The petitioner has not in any manner been necessary to or connived at or condoned the acts complained of.

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. The petition is not presented in collusion with the respondent.

8. There has not been any unnecessary or improper delay in filing this petition.

9. There is no other legal ground why the relief should not be granted.

10. There have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					
(ii)					

(iii)					
(iv)					

11. The marriage was solemnized at. The parties last resided together at. The parties are now residing at. (within the local limits of the ordinary original jurisdiction of this Court).

12. The petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition.

13. The petitioner therefore prays for a decree for judicial separation against the respondent.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner's knowledge and paras to are true to the petitioner's information received and believed to be true by him/her.

Verified at.(Place)

Dated. Petitioner

FORM D

In the District Court at. Petitioner

Versus

. Respondent

Petitioner for a decree of nullity of marriage under Section 11 of the Hindu Marriage Act, 1955 (No. 25 of 1955).

The petitioner prays as follows:

1. A marriage was solemnized between the parties according to Hindu rites and ceremonies after the commencement of the Hindu Marriage Act on at A certified copy of the relevant extract from the Hindu Marriage Register is filed.

An affidavit, duly attested herewith.

2. The status and the place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

	Husband			Wife		
	Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing

the petition

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. The respondent had a spouse living at the time of the marriage (give full particulars).

The parties are within the degrees of prohibited relationship and there is no custom or usage governing each of them which permits of a marriage between the two. (Specify the exact relationship between the parties).

The parties are sapindas of each other and there is no custom or usage governing each of them which permits of a marriage between the two. (Specify the exact relationship between the parties).

(One or more of the above grounds may be pleaded, and portions which are not applicable should be scored out. Facts on which the claim to relief is founded 'should be stated in compliance with the rules and as distinctly as the nature of the case permits).

5. There has not been any unnecessary or improper delay in filing the petition.

6. There is no other legal ground why the relief should not be granted.

7. There have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					
(ii)					
(iii)					
(iv)					

8. The marriage was solemnized at. The parties last resided together at. The parties are now residing at. (within the local limits of the ordinary original jurisdiction of this Court).

9. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.

10. The petitioner, therefore, prays that the marriage solemnized between the parties being null and void may be so declared by the Court by a decree of nullity.

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner’s knowledge and paras to are true to the petitioner’s information received and believed to be true by him/her.

Verified at. (Place).

Dated.

Petitioner

FORM E

In the District Court at. Petitioner

Versus

. Respondent

Petition for the annulment of marriage, under Section 12 of the Hindu Marriage Act, 1955 (No. 25 of 1955).

The petitioner prays as follows :

1. A marriage was solemnized between the parties according to Hindu rites and ceremonies after the commencement of the Hindu Marriage Act on at

A certified copy of the relevant extract from the Hindu Marriage Register is filed herewith. An affidavit, duly attested.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

	Husband			Wife		
	Status	Age	Place of residence	Status	Age	Place of residence
(i) Before marriage						
(ii) At the time of filing the petition						

(i) Before marriage

(ii) At the time of filing

the petition

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph state the names of the Children, if any, of the marriage together with their sex, dates of birth or ages).

4. (One or more of the grounds as specified in Section 12 of the Act may be pleaded here. Facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits).

5. The petition is not instituted in collusion with the respondent.

6. There has not been any unnecessary or improper delay in filing this petition.

7. There is no other legal ground why the relief should not be granted.

8. There have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					
(ii)					
(iii)					
(iv)					

9. The marriage was solemnized at. The parties last resided together at The parties are now residing at (within the local limits of the ordinary original jurisdiction of this Court).

10. The petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition.

11. The petitioner, therefore, prays that the marriage between the parties being voidable, may be annulled by the Court by a decree of nullity.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petitioner's knowledge and petition are true to the paras to are true to the petitioner's information received and believed to be true by him/her.

Verified at.(Place).

Date.

Petitioner

FORM F

In the District Court at Petitioner

Versus

..... Respondent

..... Co-Respondent

Petition for dissolution of marriage by a decree of Divorce under Section 13 of the Hindu Marriage Act, 1955 (No. 25 of 1955).

The petitioner prays as follows :

1. A marriage was solemnized between the parties according to Hindu rites and ceremonies after the commencement of the Hindu Marriage Act on at

A certified copy of the relevant extract from the Hindu Marriage Register is filed herewith. An affidavit, duly attested.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were on follows :

	Husband			Wife		
	Status	Age	Place of residence	Status	Age	Place of residence
(i) Before marriage						
(ii) At the time of filing						

the petition

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. The respondent. (one or more of the grounds specified in Section 13 may be pleaded here. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits. If ground as specified in clause (i) of Section 13(1) is pleaded, the petitioner should give particulars as nearly as he can, of facts of voluntary sexual intercourse alleged to have been committed. The matrimonial offences/offences charged should be set in separate paragraphs with the times and places of their alleged commission).

5. (Where the ground of petition is the ground Specified in clause (i) of sub-section (1) of Section 13. The petitioner, has not in any manner been accessory to or connived at or condoned the act(s) complained of).

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.
7. The petition is not presented in collusion with the respondent.
8. There has not been any unnecessary or improper delay in filing the petition.
9. There is no other legal ground why the relief should not be granted.
10. There have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :

Serial	Name of	Nature of	Number	Name and	Result
No.	Parties	proceedings with section of that Act	and year of the case	location of Court	
(i)					
(ii)					
(iii)					
(iv)					

11. The marriage was solemnized at. The parties last resided together at. The parties are now residing at (within the local limits of the ordinary original jurisdiction of this Court).
12. The petitioner submits that this Hon'ble Court has jurisdiction to entertain this petition.
13. The petitioner therefore prays that the marriage between the petitioner and the respondent may be dissolved by a decree of divorce.

Petitioner

Verification

The above named petitioner states on solemn affirmation that para 1 to of the petition are true to the petitioner's knowledge and paras to are true to the petitioner's information received and believed to be true by him/her.

Verified at.(Place).

Dated.

Petitioner

FORM G

In the District Court atPetitioner No. 1

.Petitioner No. 2

Petition for dissolution of marriage by a decree of divorce by mutual consent under Section 13-B(1) of the Hindu Marriage Act, 1955 (No. 25 of 1955), as amended by the Marriage Laws (Amended) Act, 1976.

The petitioners pray as follows :

1. A marriage was solemnized between the parties according to Hindu rites and ceremonies on at A certified copy of the relevant extract from the Hindu Marriage Register is filed herewith. An affidavit, duly attested.

1. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

	Husband			Wife		
	Status	Age	Place of residence	Status	Age	Place of residence

(i) Before marriage

(ii) At the time of filing

the petition

(Whether a party is Hindu by religion or not is a part of his or her status).

3. (In this paragraph state the place where the parties to the marriage last resided together and the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. That the parties to the petition have been living separately since. and have not been able to live together since then.

5. That the parties to the petition have mutually agreed that their marriage should be dissolved.

6. That the mutual consent has not been obtained by force, fraud or undue influence.

7. That the petition is not presented in collusion.

8. That there has not been any unnecessary or improper delay in instituting the proceedings.

9. That there is no other legal ground why relief should not be granted.

10. The petitioners submit that this Court has jurisdiction to entertain this petition.

11. The petitioners, therefore, pray that the marriage between the parties may be dissolved by a decree of divorce.

Petitioner

Verification

The above named petitioners state on solemn affirmation that paras 1 to of the petition are true to their knowledge and paras to are true to their information received and believed to be true by them.

Verified at.(Place).

Dated. Petitioners

FORM H

In the District Court at. Petitioner

Versus

. Respondent

Application under Section 14 of the Hindu Marriage Act, 1955 (No. 25 of 1955) praying that a petition for divorce may be allowed to be presented within one year of the marriage.

The applicant prays as under:

1. A marriage was solemnized between the parties according to Hindu rites and ceremonies on at.

A certified copy of relevant extract from the Hindu Marriage Register is filed herewith. An affidavit, duly attested.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

	Husband			Wife		
	Status	Age	Place of residence	Status	Age	Place of residence
(i) Before marriage						
(ii) At the time of filing						

(i) Before marriage

(ii) At the time of filing

the petition

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. This is a case of exception hardship of the petitioner exceptional depravity on the part of the Respondents as (state here in accordance with the Rules and as distinctly as the nature of the case permits all the particulars about the exceptional hardship or depravity, as the case may be).

5. The marriage was solemnized at. The parties last resided together at. (within the local limits of the ordinary original jurisdiction of this Court).

6. The petitioner submits that this Hon'ble Court has jurisdiction to try and entertain the application.

7. The applicant therefore prays that he/she may be allowed to present a petition for divorce within one year of the marriage.

Applicant

Verification

The above named applicant states on solemn affirmation that paras 1 to of the application are true to the applicant's knowledge and paras to are true to the applicant's information received and believed to be true by him/her.

Verified at.(Place).

Dated. Applicant

FORM I

In the District Court at. Petitioner

Versus

. Respondent

Application for maintenance *pendente lite* and for expenses of proceedings under Section 24 of Hindu Marriage Act, 1955 (Act No. 25 of 1955).

The applicant prays as follows :

1. A proceeding for under Section of the Hindu Marriage Act, 1955, is pending between the parties in this Court, the next date of hearing is

2. The petitioner owns no other movable or immovable property and has no other source of income except the following (Give full particulars of the petitioner's property and income).

3. The petitioner has no independent income sufficient for his/her support and the necessary expenses of the proceeding. The respondent has not made any provision for the petitioner's maintenance.

4. The respondent has sources of income and owns movable and immovable property mentioned below:

. (Give full particulars of respondent's income and property).

5. The only person dependent upon the respondent is the petitioner himself/herself or the petitioner and (Give here the details of the liabilities if any, of the parties alongwith the details of the dependents, if any, and the names and ages of such dependents).

6. The petitioner submits that having regard to the Respondent's own income and his/her property and having regard to the conduct of the Respondent and the petitioner, a sum of Rs. per month as and by way of maintenance and support is the just and proper amount for the maintenance and support of the petitioner.

7. The petitioner prays that the respondent should be ordered to pay a sum of Rs as the petitioner's expenses of the proceeding and a sum of Rs. monthly for petitioner's maintenance during the proceeding.

Petitioner

Verification

The above named petitioner states on solemn affirmation that paras 1 to of the petition are true to the petitioner's knowledge and paras to are true to the petitioner's information received and believed to be true by him/her.

Verified at.(Place).

Dated. Petitioner

FORM J

In the District Court at. Petitioner

Versus

. Respondent

Application for permanent alimony and maintenance under Section 25 of the Hindu Marriage Act, 1955 (No. 25 of 1955).

The applicant prays as follows :

1. A proceeding between the parties for. under Section of the Hindu Marriage Act, 1955, is pending in this Court, was decided, particulars of which are given below :

(In case main proceeding is pending give only the next date of hearing).

Name and year of the Case	Name of parties	Date of decision	Remarks

2. The applicant owns no other movable or immovable property and has no other source of income except the following

(Give full particulars about applicant's income and property).

3. The respondent has sources of income and owns movable and immovable property mentioned below:

..... (Give full particulars of respondent's income and property).

4. The only person dependent upon the respondent is the applicant himself/herself or the applicant and (Give here the details of the liabilities if any, of the parties alongwith the details of the dependents).

5. The respondent has not made any provision for the applicant's maintenance.

6. The applicant has not remarried and has not been guilty of any conduct which would disentitle him/her to receive maintenance from the respondent.

7. The applicant submits that he/she is entitled to alimony for his/her maintenance and support in any amount sufficient to maintain the applicant in the standard of life to which he/she is accustomed.

8. The applicant prays that having regard to the income of the parties, their conduct, and other circumstances of the case, the respondent may be ordered to pay to the applicant or his/her maintenance and support until death or remarriage a gross/monthly/periodical sum of Rs. (score out portion not necessary) and such payment may be secured by a charge on the immovable property of the respondent.

Applicant

Verification

The above named applicant states on solemn affirmation that paras 1 to. of the application are true to the applicant's knowledge and paras to are true to the applicant's information received and believe to be true by him/her.

Verified at.(Place).

Dated. Applicant.

1. The Indian Companies Act, 1913, was repealed by the Companies Act, 1956 [No. 1 of 1956]. In view of Section 645 of Act I of 1956, the rules framed under the previous company law continue in force in so far as these could have been made under or in pursuance of Act I of 1956 and shall have effect as if made under or in pursuance of Act I of 1956.

2. In the case provisional liquidator.

1. Insert here 'general' or 'adjourned general' or 'first' meeting of creditors (or contributories) as the case may be.

3. Omit if creditors are entitled to object to the reduction.