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VARIABLE CAPITAL COMPANIES ACT 2018
(ACT 44 OF 2018)

VARIABLE CAPITAL COMPANIES
(WINDING UP)
RULES 2020

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In exercise of the powers conferred by section 164 of the Variable Capital Companies Act 2018 and all other powers enabling us under any written law, we, the Rules Committee, make the following Rules:

PART 1
PRELIMINARY

Citation and commencement

1. These Rules are the Variable Capital Companies (Winding Up) Rules 2020 and come into operation on 1 July 2020.

Application of Rules

2. These Rules apply to the proceedings in every winding up under the VCC Act of a VCC or a sub-fund of an umbrella VCC.

Definitions

3.—(1) In these Rules, unless the context otherwise requires —

“applicant” means —

(a) in relation to the winding up of a VCC, a person applying to wind up the VCC; or

(b) in relation to the winding up of a sub-fund, a person applying to wind up the sub-fund;

“Assessing Master” means the Registrar or other officer of the Court whose duty it is to assess costs in the proceedings of the Court under its ordinary jurisdiction;

[S 198/2022 wef 01/04/2022]

“Cash Book” has the meaning given by rule 158(1);

“creditor” includes a corporation and a firm of creditors in partnership;

“filed” means filed in the Court;

“liquidator” includes a provisional liquidator;

“proceedings” means proceedings in the winding up of the VCC or sub-fund, as the case may be;

“Record Book” has the meaning given by rule 157;

“Registrar” means the Registrar of the Supreme Court and includes a Deputy Registrar and an Assistant Registrar;

“sealed” means sealed with the seal of the Court;

[Deleted by S 198/2022 wef 01/04/2022]

“VCC Act” means the Variable Capital Companies Act 2018;

“winding up” —

(a) in relation to a VCC, means the winding up of the VCC under section 130(1) of the VCC Act; or

(b) in relation to a sub-fund, means the winding up of the sub-fund under section 33(2) of the VCC Act.

(2) A reference in these Rules to a provision of or a Schedule (including a part of a Schedule) to the Companies (Winding Up) Rules (Cap. 50, R 1), is to that provision, Schedule or part as in force immediately before the date of commencement of the Insolvency, Restructuring and Dissolution Act 2018 (Act 40 of 2018).

Use of forms

4.—(1) Subject to rule 83, the forms to be used for the purposes of these Rules are those set out in the First Schedule to the Companies (Winding Up) Rules as modified in accordance with the First Schedule to these Rules (called in these Rules a Modified Form), and any reference in these Rules to a numbered form is to the current version of the Modified Form bearing the corresponding number.

(2) For the purpose of these Rules, where a form is not applicable, a form of the same character, with such variations as circumstances may require, is to be used.

(3) All forms used for the purposes of these Rules must be completed in the English language and in accordance with the directions specified in the form or by the Court.

PART 2
COURT AND CHAMBERS

Office of Registrar

5.—(1) All proceedings in the winding up of a VCC or a sub-fund in the Court must be attached to the Registrar, who, together with the necessary clerks and officers, and subject to the VCC Act and these Rules, is to act under the general or special directions of the Judge.

(2) In every cause or matter within the jurisdiction of the Judge, whether by virtue of the VCC Act or by transfer, or otherwise, the Registrar, in addition to his or her powers and duties under these Rules, has all the powers and duties assigned to him or her under section 62 of the Supreme Court of Judicature Act (Cap. 322).

Matters to be heard in Court and chambers

6.—(1) The following matters and applications in Court are to be heard before the Judge in open Court:

- (a) winding up applications of a VCC or a sub-fund;
- (b) appeals to Court;
- (c) applications under section 343 of the Companies Act (Cap. 50) as applied by section 130(1) of the VCC Act;
- (d) applications under section 343 of the Companies Act as applied by section 33(2) of the VCC Act;
- (e) applications for the committal of any person to prison for contempt;
- (f) applications to rectify the register of members;
- (g) any matter or application that the Judge from time to time directs by any general or special order that it is to be heard before him or her in open Court.

(2) Every other matter or application to the Court under the VCC Act to which these Rules apply may be heard and determined in chambers.

Applications in chambers

7. Subject to the provisions of the VCC Act and these Rules —
- (a) the Registrar may under the general or special directions of the Judge hear and determine any application or matter which under the VCC Act or these Rules may be heard and determined in chambers;
 - (b) any matter or application before the Registrar may at any time be adjourned by him or her to be heard before the Judge either in chambers or in Court; and
 - (c) any matter or application may if the Judge or the Registrar (as the case may be) thinks fit be adjourned from chambers to Court, or from Court to chambers.

Originating applications and summonses

8.—(1) Every winding up application and any other application by which any proceedings are commenced in Court must be made by originating application supported by an affidavit.

[S 198/2022 wef 01/04/2022]

(2) Subject to the provisions of these Rules, the originating application and supporting affidavit must be served on the party affected by it not less than 8 days before the date appointed for the hearing of the application.

[S 198/2022 wef 01/04/2022]

(3) Every interlocutory application must be made by summons in Form 1, and the summons must, unless otherwise ordered —

- (a) be served on every person against whom an order is sought;
- (b) require that person or the persons to whom the summons is addressed to attend at the time and place named in the summons; and
- (c) be served not less than 8 days before the day specified in the summons.

[S 198/2022 wef 01/04/2022]

Title of proceedings

9.—(1) Every proceeding in a winding up matter must be dated and (with the necessary additions) intituled as follows:

“IN THE GENERAL DIVISION OF THE HIGH COURT OF
THE REPUBLIC OF SINGAPORE

O.A. No.)
of 20)
(Seal)

In the Matter of the Variable Capital Companies Act 2018 (Act 44 of 2018)

AND

In the matter of

[S 198/2022 wef 01/04/2022]

[S 1038/2020 wef 02/01/2021]

(2) The first proceeding in every winding up matter must have a distinctive number assigned to it in the office of the Registrar, and all proceedings in any matter subsequent to the first proceeding must bear the same number as the first proceeding.

Written or printed proceedings

10. All proceedings must be written or printed or partly written or partly printed.

Process to be sealed

11. All orders, summonses, applications, warrants, process of any kind (including notices when issued by the Court) and office copies in any winding up matter must be sealed.

Issue of originating application, etc.

12. Every originating application and summons in a winding up matter in the Court must be prepared by the person making the application or his or her solicitor and issued from the office of the Registrar.

[S 198/2022 wef 01/04/2022]

PART 3
ORDERS

Orders

13.—(1) Every order whether made in Court or in chambers in the winding up of a VCC or a sub-fund must be drawn up by the person making the application or the person’s solicitor and signed by the Registrar, unless in any proceedings or class of proceedings the Judge or the Registrar who makes the order directs that no order need be drawn up.

(2) Where a direction is given that no order need be drawn up, the note or the memorandum of the order, signed or initialled by the Judge or the Registrar making the order, is sufficient evidence of the order having been made.

File of proceedings in office of Registrar

14. All originating applications, affidavits, summonses, orders, proofs, notices, depositions, bills of costs and other proceedings in the Court in a winding up matter must be kept and remain of record in the office of the Registrar.

[S 198/2022 wef 01/04/2022]

Office copies

15. All office copies of originating applications, affidavits, depositions, papers and writings, or any part of these, required by the Official Receiver or any liquidator, contributory, creditor, officer of a VCC, or other person entitled to them, must be provided by the Registrar duly certified by him or her.

[S 198/2022 wef 01/04/2022]

Use of file by Official Receiver

16. When, in the exercise of his or her functions under the VCC Act or these Rules, the Official Receiver requires the inspection or use of the file of proceedings the Registrar must, on request, transmit the file of proceedings to the Official Receiver.

Defacement of stamps

17. Every officer of the Court who receives any document to which an adhesive stamp is affixed must immediately upon receipt of the document deface the stamp on it.

Service of originating application or summons and supporting affidavit

18.—(1) Subject to any order to the contrary, every originating application and summons and the affidavit in support of it must be served upon every person against whom any order or other relief is sought, but the Court may at any time —

- (a) direct that service be effected or notice of proceedings be given to any person who may be affected by the order or other relief sought; and
- (b) direct the manner in which such service is to be effected or such notice given,

and any person so served or notified is entitled to be heard.

[S 198/2022 wef 01/04/2022]

(2) Any document referred to as an exhibit in an affidavit must be made available for inspection by any person upon whom service of the affidavit is required.

[S 198/2022 wef 01/04/2022]

Duration and renewal of originating application for purpose of service

19.—(1) Subject to the other provisions of these Rules, for the purposes of service, an originating application is valid in the first instance for 6 months beginning with the date of its issue.

[S 198/2022 wef 01/04/2022]

(2) Subject to paragraph (3), where an originating application has not been served on a defendant, the Court may by order extend the validity of the originating application from time to time for such period, not exceeding 6 months at any one time, beginning with the day next following that on which it would otherwise expire, as

specified in the order, if any application for extension is made to the Court before that day.

[S 198/2022 wef 01/04/2022]

(3) Where the Court is satisfied on an application under paragraph (2) that, despite the making of reasonable efforts, it may not be possible to serve an originating application within 6 months, the Court may, if the Court thinks fit, extend the validity of the originating application for such period not exceeding 12 months at any one time, as the Court may specify.

[S 198/2022 wef 01/04/2022]

(4) Before an originating application, the validity of which has been extended under this rule, is served, it must be marked with an official stamp in Form 1A showing the period from which the validity of the originating application has been so extended.

[S 198/2022 wef 01/04/2022]

(5) A note of the renewal must be entered in the cause book.

[S 198/2022 wef 01/04/2022]

Mode of service

20. Except as otherwise provided by the VCC Act, these Rules or any order —

- (a) except those of which personal service is required, a notice, summons or other document, is deemed sufficiently served if left at or sent by prepaid post to the last known address of the person to be served with it or to the address (if any) at which such person has authorised service on the person to be effected; and the notice, summons or document if so sent by prepaid post is considered as served at the time that it ought to be delivered in the ordinary course of post by the post office, and even though it may be returned by the post office;
- (b) no service is to be deemed invalid by reason that the name, or any of the names other than the surname of the person to be served, has been omitted from the document containing the person's name if the Court is satisfied that in other respects the service of the document has been sufficient; and

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- (c) when the solicitor for a party to be served accepts service of a document on behalf of that party and indorses the original or a copy thereof that effect, that service is deemed sufficient.

Publication in the *Gazette*

21. Except as otherwise provided by the VCC Act, these Rules or any order —

- (a) all matters required to be gazetted must be published once in the *Gazette*;
- (b) all matters required to be advertised must be published once in a local newspaper;
- (c) all matters required to be gazetted subsequent to a winding up order must be gazetted by the liquidator; and
- (d) where any winding up order is amended or any matter which has been gazetted has been amended or altered, or where any matter was wrongly or inaccurately gazetted or advertised, the order or matter must be re-gazetted or re-advertised with the necessary amendments and alterations.

Memorandum of advertisements to be filed

22. Unless otherwise expressly provided in the VCC Act, these Rules or unless otherwise expressly ordered, where any matter is gazetted or advertised in connection with any proceedings under the VCC Act or under these Rules —

- (a) a memorandum as in Form 70 referring to and giving the date of the *Gazette* or advertisement, signed by the person responsible for the publication in the *Gazette* or newspaper or the person's solicitor must be filed —
- (i) if the advertisement relates to proceedings for or in connection with a winding up by the Court — by the liquidator; or
- (ii) in any other case — by the party responsible for publishing the advertisement;

- (b) in the case of an advertisement for or in connection with a winding up by the Court, a copy of the newspaper or *Gazette* in which the advertisement appeared must be delivered by the party responsible for publishing the advertisement to —
- (i) the Official Receiver; and
 - (ii) the liquidator; and
- (c) the memorandum is prima facie evidence that the advertisement to which it refers was published in the *Gazette* or in the issue of the newspaper mentioned in it.

Enforcement of judgments or orders

23. Every judgment or order of the Court made in the exercise of the powers conferred by the VCC Act and these Rules may be enforced by the Court as if it were a judgment or order of the Court made in the exercise of its ordinary jurisdiction.

PART 4

WINDING UP APPLICATIONS

Form of winding up application

24.—(1) Every application for the winding up of a VCC or a sub-fund by the Court must be made by originating application.

[S 198/2022 wef 01/04/2022]

(2) The application for the winding up of a VCC or a sub-fund must be —

- (a) in Form 2 if it is made by the VCC or the umbrella VCC of the sub-fund; and
- (b) in Form 3 if it is made by a person other than the persons in sub-paragraph (a).

(3) Where an application to wind up the VCC or the sub-fund is made by a person other than the VCC or the umbrella VCC of the sub-fund, that person must be referred to in Form 3 and all proceedings as the claimant.

[S 198/2022 wef 01/04/2022]

Filing of winding up application

25.—(1) A winding up application must be filed at the office of the Registrar who is to appoint the time and place at which the winding up application is to be heard.

(2) Notice of the time and place appointed for hearing the winding up application must be written on the winding up application and sealed copies of it, and the Registrar may at any time before the winding up application has been advertised, alter the time appointed and fix another time.

Advertisement of winding up application

26.—(1) Every winding up application must be advertised 7 clear days (or such longer time as the Court may direct) before the hearing, in Form 4 as follows:

- (a) once in the *Gazette* and once at least in one English and one Chinese local daily newspaper or in such other newspapers as the Court may direct;
- (b) the advertisement must state the day on which the winding up application was filed and the name and address of the applicant and of the applicant's solicitor and contain a note at the foot of the advertisement, stating that any person who intends to appear on the hearing of the winding up application, either to oppose or support, must send notice of such intention to the applicant or to the applicant's solicitor, within the time and in the manner prescribed by rule 30, and an advertisement of an application for the winding up of a VCC or a sub-fund (as the case may be) by the Court which does not contain such a note is deemed irregular.

(2) If the applicant or the applicant's solicitor does not within the time prescribed or within such extended time as the Registrar may allow duly advertise the winding up application in the manner prescribed by this rule, the appointment of the time and place at which the winding up application is to be heard is to be cancelled by the Registrar, and the winding up application removed from the file, unless the Judge or the Registrar otherwise directs.

Affidavit supporting application for winding up

27.—(1) Every application for the winding up of a VCC or a sub-fund by the Court must be supported by an affidavit.

(2) The affidavit supporting an application to wind up a VCC must state —

- (a) the date of incorporation of the VCC;
- (b) the registered office of the VCC; and
- (c) the grounds on which the application for winding up is made.

(3) The affidavit supporting an application to wind up a sub-fund must state —

- (a) the date when the sub-fund was registered under section 27(3) of the VCC Act;
- (b) the registered office of the umbrella VCC concerned; and
- (c) the ground on which the application for winding up is made.

(4) The affidavit supporting a winding up application must be in Form 5 and must be made by the applicant or by one of the applicants (if more than one) or, in the case where the application is made by a corporation, by some director, manager, secretary or other principal office thereof, and must be filed and served together with the winding up application.

(5) The affidavit mentioned in paragraph (4) is prima facie evidence of the statements in it.

Service of winding up application and supporting affidavit

28.—(1) Every winding up application and supporting affidavit in relation to the winding up of a VCC must, unless filed by the VCC, be served upon the VCC —

- (a) at the registered office of the VCC, by leaving a copy with a member, an officer or an employee of the VCC there;
- (b) if there is no registered office — at the principal or last known principal place of business of the VCC (if any can

be found), by leaving a copy with a member, an officer or an employee of the VCC there;

- (c) if no member, officer or employee can be found at the registered office or principal place of business (as the case may be) — by leaving a copy at the registered office or the principal place of business; or
- (d) in any other case — by serving it on such persons as the Court may direct.

(2) Every winding up application and supporting affidavit in relation to the winding up of a sub-fund must, unless filed by the umbrella VCC, be served upon the umbrella VCC —

- (a) at the registered office of the umbrella VCC by leaving a copy with a member holding shares issued in respect of that sub-fund, an officer or any employee of the umbrella VCC there;
- (b) if there is no registered office — at the principal or last known principal place of business of the umbrella VCC (if any can be found), by leaving a copy with a member holding shares issued in respect of that sub-fund, an officer or an employee of the umbrella VCC there;
- (c) if no such member, officer or employee can be found at the registered office or the principal place of business (as the case may be) — by leaving a copy at the registered office or the principal place of business; or
- (d) in any other case — by serving it on such persons as the Court may direct.

(3) Where a VCC or a sub-fund is being wound up voluntarily, the winding up application and supporting affidavit must also be served upon the liquidator (if any) appointed for the purpose of winding up the affairs of the VCC or the sub-fund, as the case may be.

(4) The affidavit of service of the winding up application and supporting affidavit may be in Form 6 or 7.

(5) Where a winding up application is filed by any person other than the liquidator of the VCC or sub-fund (as the case may be), the

winding up application and supporting affidavit must be personally served upon the liquidator.

(6) A copy of the winding up application and supporting affidavit must also be served upon the Official Receiver.

Copy of winding up application and supporting affidavit to be furnished to creditor or contributory

29. Every contributory or creditor of the VCC or the sub-fund (as the case may be) is entitled to be furnished by the applicant or his or her solicitor with a copy of the winding up application and supporting affidavit within 48 hours after requiring the same, upon payment of 50 cents per folio of 100 words for such copy.

PART 5

HEARING OF WINDING UP
APPLICATIONS AND ORDERS

Notice of intention to appear

30.—(1) Every person who intends to appear on the hearing of a winding up application must serve on the applicant or the applicant's solicitor notice of the person's intention.

(2) The notice must be signed by the person or by the person's solicitor and must give the address of the person signing it, and must be served or (if sent by post) posted in such time as in the ordinary course of post to reach the address not later than 12 noon of the day previous to the day appointed for the hearing of the winding up application.

(3) The notice may be in Form 8 with such variations as circumstances may require.

(4) A person who has failed to comply with this rule must not, without special permission of the Court, be allowed to appear at the hearing of the winding up application.

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List of persons intending to appear

31.—(1) The applicant or his or her solicitor must prepare a list in Form 9 of the names and addresses of the persons who have given notice of their intention to appear at the hearing of the winding up application and of their respective solicitors.

(2) On the day appointed for hearing of the winding up application, a fair copy of the list or, if no notice of intention to appear has been given, a statement to that effect, must be handed by the applicant or his or her solicitor to the Court prior to the hearing of the winding up application.

Affidavits opposing winding up application and affidavits in reply

32.—(1) Affidavits in opposition to an application for the winding up of a VCC or a sub-fund of an umbrella VCC must be filed, and a copy thereof served on the applicant or his or her solicitor, at least 7 days before the time appointed for the hearing of the winding up application.

(2) Any affidavit in reply to an affidavit filed in opposition to a winding up application (including a further affidavit in support of any of the facts alleged in the winding up application) must be filed within 3 days after the date of service on the applicant or his or her solicitor of the affidavit in opposition and a copy thereof served on the party opposing the winding up application or his or her solicitor.

Approved liquidator

33.—(1) When filing the winding up application, the applicant may nominate in writing an approved liquidator who may be appointed liquidator if an order for the winding up of the VCC or the sub-fund (as the case may be) is made by the Court.

(2) Before the hearing of the winding up application, the applicant or his or her solicitor must obtain and file the consent in writing of the approved liquidator nominated.

Attendance on Registrar

34.—(1) After a winding up application has been filed, the applicant or his or her solicitor must on a day to be appointed by the Registrar attend before the Registrar and satisfy the Registrar that —

- (a) the winding up application has been duly published in the *Gazette* and advertised;
- (b) the affidavit supporting the winding up application and the affidavit of service (if any) have been duly filed;
- (c) the consent in writing of the approved liquidator nominated by the applicant has been obtained and filed;
- (d) the provisions of these Rules as to winding up applications have been duly complied with; and
- (e) the prescribed sum has been placed with the Official Receiver to cover the fees and expenses to be incurred by the approved liquidator or the Official Receiver (including any goods and services tax chargeable under the Goods and Services Tax Act (Cap. 117A) on the supply of services to which those fees or expenses relate).

(2) No order, except an order for the dismissal or adjournment of the winding up application, may be made on the application of any person making the winding up application who has not, prior to the hearing of the winding up application, attended before the Registrar at the time appointed and satisfied him or her in the manner required by this rule.

(3) For the purposes of this rule, the prescribed sum mentioned in paragraph (1)(e) is an amount equal to the sum of —

- (a) the preliminary administration fee specified in the second column of item (1) of the Schedule to the Fees (Winding up and Dissolution of Companies and Other Bodies) Order 2005 (G.N. No. S 58/2005); and
- (b) the administration fee specified in the second column of item (2) of the Schedule to the Fees (Winding up and Dissolution of Companies and Other Bodies) Order 2005.

(4) The prescribed sum must, after deducting such amount as may be required for the payment of the fees and expenses of the approved liquidator or the Official Receiver due to insufficiency of the assets of the VCC or the sub-fund (as the case may be) that is being wound up for such payment, be repaid to the applicant.

Substitution of any person as applicant

35.—(1) When an applicant is not entitled to make a winding up application or, whether so entitled or not, where the applicant —

- (a) fails to take all the steps prescribed by these Rules preliminary to the hearing of the winding up application;
- (b) consents to withdraw the winding up application or to allow it to be dismissed or the hearing to be adjourned; or
- (c) fails to appear in support of the winding up application when it is called on in 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 terms of the prayer of the winding up application,

the Court may, upon such terms as it thinks just, substitute as applicant any person who, in the opinion of the Court, would have a right to make the winding up application and who is desirous of proceeding with the winding up application.

(2) An order to substitute an applicant may, where an applicant fails to advertise the winding up application within the time prescribed by or under these Rules or consents to withdraw the winding up application, be made by the Registrar or the Court at any time before the date fixed for the hearing of the winding up application.

Winding up order

36.—(1) When an order is made for the winding up of a VCC or a sub-fund, the applicant must immediately inform the liquidator of the making thereof in Form 10 and within 14 days after the pronouncement thereof publish in the *Gazette* and advertise a notice of the making of the order in Form 11.

(2) Unless otherwise directed by the Court, in relation to the winding up of a VCC, the copy of the winding up order required by section 262(2) of the Companies Act (as applied by section 130(1) of the VCC Act) to be served upon the secretary of the VCC may be served either personally or by prepaid letter addressed to the secretary at the registered office of the VCC or, if there is no such registered office, at its principal or last known place of business.

(3) Unless otherwise directed by the Court, in relation to the winding up of a sub-fund, the copy of the winding up order required by section 262(2) of the Companies Act (as applied by section 33(2) of the VCC Act) to be served upon the secretary of the umbrella VCC may be served either personally or by prepaid letter addressed to the secretary at the registered office of the umbrella VCC of the sub-fund or, if there is no registered office, at its principal or last known place of business.

(4) An order to wind up a VCC or a sub-fund in Form 12 must contain at the foot of it a notice stating that it will be the duty of the persons mentioned in section 270(2) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act, as the case may be), to make out the statement of affairs of the VCC or the sub-fund (as the case may be) and to attend on the liquidator at such time and place as he or she may appoint.

Order appointing provisional liquidator

37.—(1) At any time after the making of a winding up application, the Court may, upon the application of any creditor or contributory of a VCC or of a sub-fund (as the case may be) and upon proof by affidavit of sufficient ground for the appointment of a provisional liquidator, make the appointment upon such terms as the Court thinks just or necessary.

(2) An order appointing a provisional liquidator under section 267 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act, as the case may be) must be in Form 13 and must state the nature and give a short description of the property which the provisional liquidator is ordered to take possession and the duties to be performed by the provisional liquidator.

PART 6
LIQUIDATOR'S REPORTS

Report of liquidator

38. A report made by the liquidator of a VCC under section 271 of the Companies Act as applied by section 33(2) or 130(1) of the VCC Act must state in narrative form the facts and matters which the liquidator is required or desires to bring to the notice of the Court.

Reports of liquidator to be filed

39.—(1) The following reports to be made by the liquidator must be filed and a copy lodged with the Registrar of VCCs and with the Official Receiver:

- (a) under section 271(1) of the Companies Act as applied by section 33(2) or 130(1) of the VCC Act — preliminary report in a winding up by the Court;
- (b) under section 271(2) of the Companies Act as applied by section 33(2) or 130(1) of the VCC Act — further reports in a winding up by the Court;
- (c) under section 279(2) of the Companies Act as applied by section 33(2) or 130(1) of the VCC Act — report in relation to application to stay winding up proceedings.

(2) A further report under section 271(2) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) must not be open to the inspection of any creditor, contributory or other person unless the Court so directs.

Consideration of further report

40.—(1) Any further report under section 271(2) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) must be considered by the Judge in chambers upon the application of the liquidator made by summons without notice, and the Judge may direct service of the summons upon any other person concerned.

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(2) The liquidator must personally or by counsel or solicitor attend when the report is being considered and give the Judge any further

information or explanation with reference to the matters stated in the report which the Judge may require.

PART 7

SPECIAL MANAGER

Appointment of special manager

41.—(1) An application by the liquidator for the appointment of a special manager under section 282 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) must be supported by a report of the liquidator in which must be stated the amount of remuneration which in the opinion of the liquidator ought to be allowed to the special manager.

(2) The remuneration of the special manager must, unless the Court in any special case otherwise directs, be stated in the order appointing him or her, but the Court may at any subsequent time for good cause shown, make an order increasing, reducing or otherwise altering such remuneration.

Accounting by special manager

42. Every special manager must submit an account in the form prescribed under section 225(1) of the Companies Act (as applied by section 125(1) of the VCC Act) to the liquidator on whose application the special manager was appointed by the Court and when such account is approved by the liquidator, the totals of the receipts and payments must be added by the liquidator to his or her accounts.

PART 8

STATEMENT OF AFFAIRS

Preparation of statement of affairs

43.—(1) Every person who, under section 270 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), has been required by the liquidator to submit and verify a statement as to the affairs of the VCC or the sub-fund (as the case may be) must be furnished by the liquidator with a copy of Form VCR10 set out in the

Schedule to the Variable Capital Companies Regulations 2020 (G.N. No. S 20/2020).

(2) The liquidator may from time to time hold personal interviews with every person mentioned in section 270(2)(a), (b) and (c) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), for the purpose of investigating the affairs of the VCC or the sub-fund (as the case may be), and it is the duty of that person to attend on the liquidator at the time and place appointed by the liquidator and give the liquidator all information that the liquidator may require.

Extension of time for submitting statement of affairs

44. When any person requires any extension of time for submitting the statement of affairs, the person must apply to the liquidator who may, if the liquidator thinks fit, give a written certificate extending the time, which certificate must be filed in which event an application to the Court becomes unnecessary.

Information subsequent to statement of affairs

45. After the statement of affairs of a VCC or a sub-fund has been submitted to the liquidator, it is the duty of each person who has made or concurred in making it, if and when required, to attend on the liquidator and answer all such questions as may be put to the person and give all such further information as may be required of the person by the liquidator in relation to the statement of affairs.

Default

46. Any default in complying with section 270 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) must be reported by the liquidator to the Court.

As to costs of preparing statement of affairs

47. A person who is required to make or concur in making any statement of affairs of a VCC or a sub-fund must, before incurring any costs or expenses in and about the preparation and making of the statement, apply to the liquidator for the liquidator's sanction, and submit a statement of the estimated costs and expenses which it is

intended to incur and, except by order of the Court, no person may be allowed out of the assets of the VCC or the sub-fund (as the case may be) any costs or expenses which have not, before being incurred, been sanctioned by the liquidator.

PART 9

APPOINTMENT OF LIQUIDATOR IN WINDING UP BY COURT

Appointment of liquidator on report of meetings of creditors and contributories

48.—(1) As soon as possible after the first meetings of creditors and contributories have been held, the Official Receiver or the chairperson of the meetings (as the case may be) must report in Form 19 the result of each meeting of the Court.

(2) After the results of the meetings of creditors and contributories have been reported to the Court, the Court may, upon the application of the Official Receiver, immediately make the appointments necessary for giving effect to the resolutions passed at such meetings if the meetings of the creditors and contributories have each passed the same resolutions, or if the resolutions passed at the 2 meetings are identical in effect.

(3) In any other case, the Court is to fix a time and place for considering the resolutions and determinations (if any) of the meetings, deciding the differences (if any), and making such order as may be necessary.

(4) When a time and place have been fixed for the consideration of the resolutions and determinations of the meetings, the time and place must be advertised by the Official Receiver in the manner directed by the Court, but so that the first or only advertisement must be published not less than 7 days before the time so fixed.

(5) When considering the resolutions and determinations of the meetings, the Court may hear the Official Receiver and any creditor or contributory.

(6) If a liquidator is appointed, a copy of the order in Form 20 appointing the liquidator must be transmitted by him or her to the Official Receiver, and the Official Receiver must, as soon as the liquidator has given security, cause notice of the appointment to be published in the *Gazette*.

(7) The expenses of gazetting such notice are to be paid by the liquidator, but may be charged by him or her on the assets of the VCC or the sub-fund, as the case may be.

(8) Every appointment of a liquidator must be advertised in Form 22 by the liquidator in such manner as the Court directs immediately after the liquidator has given the required security.

PART 10

SECURITY BY LIQUIDATOR IN WINDING UP BY COURT

Provisions as to security

49. Where a liquidator other than the Official Receiver has been appointed, the following provisions as to security have effect:

- (a) the security must be given to the officers or persons, and in such manner as the Official Receiver may from time to time direct;
- (b) it is not necessary that security be given in each separate winding up; but security may be given either specially in a particular winding up, or generally, to be available for any winding up in which the person giving security may be appointed, as liquidator;
- (c) the Official Receiver must fix the amount and nature of such security, and may from time to time, as the Official Receiver thinks fit, either increase or diminish the amount of special or general security which any person has given;
- (d) the certificate of the Official Receiver in Form 21 that a liquidator has given security to the Official Receiver's satisfaction must be filed with the Registrar;

- (e) the cost of furnishing the required security by a liquidator, including any premiums which the liquidator may pay to a guarantee society, must be borne by the liquidator personally, and must not be charged against the assets of the VCC or the sub-fund (as the case may be) as an expense incurred in the winding up.

Failure to give or keep up security

50.—(1) If a liquidator fails to give the required security within the time stated for that purpose in the order appointing him or her, or any extension thereof, the Official Receiver must report such failure to the Court, which may thereupon rescind the order appointing the liquidator.

(2) If a liquidator fails to keep up his or her security, the Official Receiver must report such failure to the Court, which may thereupon remove the liquidator, and make such order as to costs as the Court thinks fit.

PART 11

EXAMINATIONS

Application for examination under section 285 of Companies Act

51.—(1) An application to the Court to summon persons for examination under section 285 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) must be made without notice and may be made by the liquidator or any creditor or contributory.

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(2) If the application is made by a creditor or contributory, the summons and affidavit in support thereof must be served on the liquidator.

Application for public examination under section 286 of Companies Act

52. An application for an order for a public examination under section 286 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) may be made without notice by the liquidator.

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Application for examination under section 313 of Companies Act

53. An application for an order for the examination of the liquidator or other persons under section 313 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) may be made without notice by the Official Receiver, the Registrar of VCC or any creditor or contributory, and must be supported by affidavit.

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Attendance of liquidator or Official Receiver under section 285 of Companies Act

54. The liquidator or the Official Receiver may attend in person or by counsel or solicitor at any examination of a witness under section 285 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), and he or she or his or her counsel or solicitor may take notes of the examination for his or her use, and put such questions to the persons examined as the Court may allow.

Application for appointment

55.—(1) Upon an order directing a person to attend for public examination being made under section 286 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) in Form 23, the liquidator must apply without notice for the appointment of a day on which the public examination is to be held, and such order may be in Form 24.

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(2) The liquidator or his or her solicitor must cause a notice of the day and place appointed for holding the public examination in Form 25 to be served on the person to be examined.

Notice of appointment to creditors and contributories

56.—(1) The liquidator must give notice of the public examination to the creditors and contributories by gazetting and advertising a notice of the time and place appointed for holding the examination.

(2) Where an adjournment of the public examination has been directed, notice of the adjournment must not, unless otherwise directed by the Court, be published in the *Gazette* or advertised.

Examinations under section 285 or 286 of Companies Act

57. Where an order has been made for a private examination or public examination under section 285 or 286 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) —

- (a) the examination must be held in chambers or before a District Judge if the Court so directs, and in the case of an examination under section 285 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), the District Judge may order that the examination not be held in open Court and not be open to the public;
- (b) the Court may either in the order for examination or by such subsequent order give directions as to the matters on which any person is to be examined;
- (c) if a person examined before a District Judge fails or refuses to answer to the satisfaction of the District Judge any question which the District Judge may allow to be put, the District Judge may in respect of such failure or refusal exercise any powers which the Court might have exercised had the failure or refusal been made in an examination before the Court; and
- (d) where on an examination held before a District Judge he or she considers the examination is unnecessarily protracted, or for any other sufficient cause, he or she may adjourn the examination of any person so that the examination may be held before the Court.

Shorthand notes of examination

58.—(1) If the Court or person before whom any examination under the VCC Act or these Rules is directed to be held considers that it would be desirable that a person, other than the person before whom an examination is taken, should be appointed to take down in shorthand or otherwise record the evidence of any person examined, the Court or person before whom the examination is taken may make the appointment.

(2) The person at whose instance the examination is taken must nominate a person for the purpose as in Form 26 and the person so nominated must be appointed unless the Court or person holding the examination otherwise directs.

(3) Every person so appointed must be paid by the person at whose instance the appointment was made or out of the assets of the VCC or the sub-fund (as the case may be) as may be directed by the Court.

Filing of notes of deposition

59.—(1) The notes of the depositions of a person examined under section 285 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), whether before the Court or before any person appointed to take such examination, must be filed, but must not be open to the inspection of any creditor, contributory, or other person, except the liquidator or his or her solicitor, unless the Court so directs, and the Court may from time to time give such general or special directions as it thinks expedient as to the custody and inspection of such notes and the furnishing of copies of or extracts therefrom.

(2) The notes of the depositions of a person examined under section 286 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) must be in Form 27 or 28, and must be filed and open to the inspection of the liquidator and of any creditor or contributory.

Failure to attend or absconding warrant for arrest

60. If any person who has been directed by the Court to attend for public examination fails to attend at the time and place appointed, and

no good cause is shown by the person for such failure or, if before the day appointed for the examination the liquidator satisfies the Court that the person has absconded or that there is reason for believing that the person is about to abscond with a view to avoiding examination, it is lawful for the Court, upon proof to its satisfaction 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 in Form 29 for the arrest of the person required to attend, or to make such other order as the Court thinks just.

PART 12

DISCLAIMER

Disclaimer

61.—(1) Any application for permission to disclaim any part of the property of a VCC or a sub-fund, pursuant to section 332(1) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), must be by summons without notice.

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(2) The summons must be supported by an affidavit showing who are the parties interested and what their interests are.

(3) On hearing the summons, the Court is to give such directions as it sees fit and, in particular, directions as to the notices to be given to the parties interested or any of them, and the Court may adjourn the application to enable any such party to attend.

(4) Where a liquidator disclaims a leasehold interest, the liquidator must immediately file the disclaimer in Form 30 with the Registrar.

(5) The disclaimer must contain particulars of the interest disclaimed and a statement of the persons to whom notice of disclaimer as in Form 31 has been given.

(6) Until the disclaimer is filed by the liquidator, the disclaimer is inoperative.

(7) Where any person claims to be interested in any part of the property of the VCC or the sub-fund (as the case may be) which the

liquidator wishes to disclaim, the person must, at the request of the liquidator, furnish a statement of the interest so claimed by him or her.

PART 13

VESTING OF DISCLAIMED PROPERTY

Vesting of disclaimed property

62.—(1) Any application under section 332(6) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) for an order for the vesting of any disclaimed property in or the delivery of any such property to any person must be supported by the affidavit filed on the application for permission to disclaim the property.

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(2) Where the application relates to disclaimed property of a leasehold nature and it appears that there is any mortgagee (including a chargee or caveator having a lien by way of deposit of document of title) or under-lessee of such property, the Court may direct that notice must be given to the mortgagee or under-lessee that, if he or she does not elect to accept and apply for such a vesting order upon the terms required by paragraph (1) and imposed by the Court within a time to be fixed by the Court and stated in the notice, he or she will be excluded from all interest in and security upon the property.

(3) The Court may adjourn the application for the notice to be given and for the mortgagee or under-lessee to be added as a party to and served with the application and, if he or she sees fit, to make such election and application as is mentioned in the notice.

(4) If, at the expiration of the time so fixed by the Court, the mortgagee or under-lessee fails to make such election and application, the Court may make a vesting order in relation to the property and excluding the mortgagee or under-lessee from all interest in or security upon the property.

PART 14
ARRANGEMENT WITH CREDITORS AND
CONTRIBUTORIES IN WINDING UP
BY COURT

Report by liquidator on arrangements and compromises

63. In a winding up by the Court of a VCC or a sub-fund, if application is made to the Court under section 272(1) of the Companies Act (as applied by section 33(2) or 130(1), as the case may be, of the VCC Act) to sanction any compromise or arrangement, the Court may before giving its sanction thereto, hear a report by the liquidator as to the terms of the scheme, and as to the conduct of the directors, the manager of the VCC, the custodian of the VCC or the sub-fund (as the case may be), and other officers of the VCC and as to any other matters which in the opinion of the liquidator, ought to be brought to the attention of the Court.

PART 15
ORDERS

Production of documents for settling order

64.—(1) Subject to any direction to the contrary, every order must be passed and entered immediately and it is the duty of the person making the application or his or her solicitor and of all other persons who have appeared on the hearing of an originating application, not later than the day after the order is pronounced in Court, to leave at the office of the Registrar all the documents required for the purpose of enabling the Registrar to settle the order immediately.

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(2) It is not necessary for the Registrar to make an appointment to settle the order unless in any particular case special circumstances make an appointment necessary.

PART 16
COLLECTION AND DISTRIBUTION
OF ASSETS IN WINDING UP
BY COURT

Collection and distribution by liquidator of assets of VCC or sub-fund of umbrella VCC

65.—(1) The duties imposed on the Court by section 280(1) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) in a winding up by the Court with regard to the collection of the assets of the VCC or the sub-fund (as the case may be), and the application of the assets in discharge of the liabilities of the VCC or the sub-fund (as the case may be) must be discharged by the liquidator subject to the control of the Court.

(2) For the purpose of the discharge by the liquidator of the duties imposed by section 280(1) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) and paragraph (1), the liquidator in a winding up by the Court is, for the purpose of acquiring or retaining possession of the property of the VCC or the sub-fund (as the case may be) in the same position as if he or she were a receiver of the property appointed by the Court, and the Court may, on his or her application, enforce such acquisition or retention accordingly.

Power of liquidator to require delivery of property

66.—(1) The powers conferred on the Court by section 313(5) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) are to be exercised by the liquidator.

(2) Where a VCC is being wound up, any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, manager, or officer of the VCC must on notice from the liquidator in Form 32, within such time as he or she by notice in writing requires, pay, deliver, convey, surrender or transfer to or into the hands of the liquidator any money or property or books and papers which are in his or her hands and to which the VCC is prima facie entitled, and the Court may on the application of the liquidator order the payment, delivery, conveyance, surrender or transfer.

(3) Where a sub-fund is being wound up, any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, manager, or officer of the umbrella VCC, must, on notice from the liquidator in Form 32, within such time as he or she by notice in writing requires, pay, deliver, convey, surrender or transfer to or into the hands of the liquidator any money or property or books and papers which are in his or her hands and to which the umbrella VCC of the sub-fund is prima facie entitled for the purpose of the sub-fund, and the Court may on the application of the liquidator order the payment, delivery, conveyance, surrender or transfer.

PART 17

LIST OF CONTRIBUTORIES IN WINDING UP BY COURT

Liquidator to settle list of contributories

67. The liquidator must with all convenient speed after the liquidator's appointment, settle a list of contributories of the VCC or the sub-fund (as the case may be), and must appoint a time and place for that purpose.

Attendance of contributories at proceedings

68.—(1) Every person for the time being on the list of contributories of a VCC or a sub-fund, and every person whose proof has been admitted is at liberty at his or her own expense to attend proceedings in relation to the winding up of the VCC or the sub-fund (as the case may be) by the Court, and is entitled upon payment of the costs occasioned thereby to have notice of all such proceedings as he or she by written request desires.

(2) If the Court is of the opinion that the attendance of any such person upon any proceedings has occasioned additional costs which ought not to be borne by the funds of the VCC or the sub-fund (as the case may be), it may direct such costs or a gross sum in lieu thereof to be paid by that person, and that person is not entitled to attend any further proceedings until he or she has paid the costs.

(3) The Court may from time to time appoint any one or more of the creditors or contributories to represent before the Court at the expense of the VCC or the sub-fund (as the case may be), all or any class of the creditors or contributories upon any question or in relation to any proceedings before the Court and may remove the person so appointed.

(4) If more than one person is appointed under this rule to represent one class, the persons appointed must employ the same solicitor to represent them.

List of contributories

69.—(1) The list of contributories in Form 33 must contain a statement of the address of, and the number of shares or extent of interest to be attributed to each contributory, and must distinguish the several classes of contributories.

(2) As regards representative contributories, the liquidator must, so far as practicable, observe the requirements of section 280(3) of the Companies Act (as applied by section 33(2) or 130(1), as the case may be, of the VCC Act).

Appointment of time and place for settlement of list

70. The liquidator must give notice in writing of the time and place appointed for the settlement of the list of contributories in Form 34 to every person whom the liquidator proposes to include in the list, and must state in the notice to each person in what character and for what number of shares or interest he or she proposes to include the person in such list.

Settlement of list of contributories

71. On the day appointed for settlement of the list of contributories, the liquidator must hear any person who objects to being settled as a contributory, and after such hearing must finally settle the list in Form 35 which, when so settled, must be the list of contributories of the VCC or the sub-fund, as the case may be.

Notice to contributories

72. The liquidator must immediately after the list of contributories is settled give notice in Form 36 to every person whom the liquidator has finally placed on the list of contributories stating in what character and for what number of shares or interest the person has been placed on the list, and in the notice inform that person that any application for the removal of that person's name from the list, or for a variation of the list, must be made to the Court by summons within 21 days after the date of the service on the contributory or alleged contributory of the notice.

Application to Court to vary list

73.—(1) Subject to the power of the Court to extend the time or to allow an application to be made, despite 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 liquidator may be entertained after the expiration of 21 days after the date of the service of such notice on the person.

(2) The liquidator is not in any case personally liable to pay any costs of or in relation to an application to set aside or vary the liquidator's act or decision in settling the name of a person on the list of contributories of a VCC or a sub-fund.

Variation of or addition to list of contributories

74.—(1) The liquidator may from time to time vary or add to the list of contributories, but any variation or addition must be made in the same manner in all respects as the settlement of the original list.

(2) The supplemental list of contributories must be in Form 37.

PART 18

CALLS

Calls by liquidator

75. The powers and duties of the Court in relation to making calls upon contributories conferred by section 281(2) of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), are to be

exercised by the liquidator as an officer of the Court subject to the following provisions:

- (a) where the liquidator desires to make any call on the contributories or any of them for any purpose authorised by the VCC Act, he or she may summon a meeting of the committee of inspection, if any, for the purpose of obtaining their sanction to the intended call;
- (b) the notice of the meeting set out in Form 38 must be sent to each member of the committee of inspection in sufficient time to reach him or her not less than 7 days before the day appointed for holding the meeting, and must contain a statement of the proposed amount of the call and the purpose of which it is intended;
- (c) the notice of the intended call and the intended meeting of the committee of inspection in Form 39 must also be published in the *Gazette* and advertised stating the time and place of the meeting of the committee of inspection and that each contributory may either attend the meeting and be heard, or make any communication in writing to the liquidator or members of the committee of inspection to be laid before the meeting in reference to the intended call;
- (d) at the meeting of the committee of inspection any statement or representations made either to the meeting personally or addressed in writing to the liquidator or members of the committee by any contributory must be considered before the intended call is sanctioned;
- (e) the sanction of the committee must be given by resolution in Form 40 which must be passed by a majority of the members present;
- (f) when there is no committee of inspection the liquidator must not make a call without obtaining the permission of the Court.

[S 198/2022 wef 01/04/2022]

Application to Court for permission to make call

76.—(1) An application to the Court for permission to make any call for a purpose authorised by the VCC Act, must be made by summons in Form 42 stating the proposed amount of such call, which summons must be served at least 4 clear days before the day appointed for making the call on every contributory proposed to be included in such call, or if the Court so directs, notice of such intended call may be given by advertisement in Form 44 without a separate notice to each contributory.

[S 198/2022 wef 01/04/2022]

(2) The copy of the summons served on each contributory must contain a statement of the amount claimed as due from the contributory served.

(3) The affidavit of the liquidator in support of the proposal for the call must be in Form 43.

(4) Upon the hearing of the summons, the Court may give permission to the liquidator to make the call and may also order in Form 45 the payment by the contributories respectively of the amounts due in respect of the call within a time to be named in the order.

[S 198/2022 wef 01/04/2022]

[S 198/2022 wef 01/04/2022]

Document making call

77. When the liquidator is authorised to make a call on the contributories, he or she must file with the Registrar a document making the call in Form 46 with such variations as circumstances may require.

Service of notice of call

78. When a call has been made by the liquidator in a winding up by the Court, a copy of the resolution of the committee of inspection or order of the Court (as the case may be) must, after the call has been made, be served upon each of the contributories included in the call, together with a notice from the liquidator in Form 41 or 47 specifying the amount of balance due from the contributory in respect of the call,

but the resolution or order need not be advertised unless for any special reason the Court so directs.

Enforcement of call

79. The payment of the amount due from each contributory on a call may be enforced by order of the Court, to be made in chambers on summons by the liquidator.

PART 19

PROOFS

Proof of debt

80. In a winding up by the Court, every creditor must prove his or her debt, unless the Judge in any particular winding up gives directions that any creditors or class of creditors is to be admitted without proof.

Mode of proof

81.—(1) A debt must be proved in any winding up by delivering by electronic filing or sending through the post to the liquidator a declaration verifying the debt.

(2) A proof of debt required under paragraph (1) may be filed electronically.

Verification of proof

82. A declaration proving a debt may be made by the creditor himself or herself or by any person authorised by or on behalf of the creditor.

Contents of proof

83.—(1) A declaration proving a debt —

- (a) must be in the form in the Second Schedule or, where it is filed electronically, in such electronic form as may be required by the Official Receiver; and

(b) must be filed by the creditor within 3 months after the winding up order is made.

(2) The documents substantiating the claim specified in the proof of debt must accompany the proof of debt.

(3) If the proof of debt is filed electronically, the documents substantiating the claim specified in the proof of debt must be sent to the Official Receiver within 14 days after the date of submission of the proof of debt.

Statement of security

84. A declaration proving a debt must state whether the creditor is or is not a secured creditor.

Costs of proof

85. A creditor must bear the costs of proving his or her debt unless the Court otherwise orders.

Discounts

86. A creditor proving his or her debt must deduct therefrom all trade discounts, but he or she need not deduct any discounts, not exceeding 5% on the net amount of his or her claim, which he or she may have agreed to allow for payment in cash.

Periodical payments

87.—(1) When any rent or other payment falls due at stated periods, and the winding up order or resolution to wind up is made at any time other than one of those periods, the persons entitled to the rent or payment may prove for a proportionate part thereof up to the date of the winding up order or resolution as if the rent or payment grew due from day to day.

(2) However —

(a) where, in the case of the winding up of a VCC, the liquidator remains in occupation of premises demised to the VCC, paragraph (1) does not affect the right of the landlord of the premises to claim payment from the VCC

or the liquidator, of rent during the period of the VCC's or the liquidator's occupation; or

- (b) where, in the case of the winding up of a sub-fund, the liquidator remains in occupation of premises demised to the umbrella VCC of the sub-fund, paragraph (1) does not affect the right of the landlord of the premises to claim payment from the umbrella VCC or the liquidator, of the proportion of rent allocated to the sub-fund as liabilities of the sub-fund under section 29(3) of the VCC Act, during the umbrella VCC's or the liquidator's occupation.

Interest

88. On any debt or sum, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the winding up order or resolution, the creditor may prove for interest at a rate not exceeding 6% per annum to that date from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then from the time when a demand in writing has been made, giving notice that interest will be claimed from the date of the demand until the time of payment.

Proof for debt payable at future time

89. A creditor may prove for a debt not payable at the date of the winding up order or resolution, as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of 6% per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

Employees' wages

90.—(1) In any case in which it appears that there are numerous claims for wages by persons employed by the VCC, or (as the case may be) by the umbrella VCC of the sub-fund for the purpose of the sub-fund (called in this rule the employees), it is sufficient if one

proof for all the claims is made by a person on behalf of the creditors in accordance with rules 82 and 83.

(2) A schedule setting forth the names and addresses of the employees, and the amounts severally due to them —

- (a) must accompany the proof; or
- (b) where the proof is submitted to the Official Receiver electronically, must be sent to the Official Receiver within 14 days after the submission of the proof.

(3) Any proof made in compliance with this rule has the same effect as if separate proofs had been made by each of the said employee.

Production of bills of exchange and promissory notes

91. Where a creditor seeks to prove in respect of a bill of exchange, promissory note or other negotiable instrument or security on which the VCC or the sub-fund (as the case may be) is liable, the bill of exchange, promissory note, instrument or security must, subject to any special order of the Court made to the contrary, be produced to the liquidator and marked by the liquidator before the proof can be admitted either for voting or for any purpose.

Statement of accounts

92. A moneylender licensed under the Moneylenders Act (Cap. 188) submitting a proof of debt under rule 81 in respect of a loan made by the moneylender must, within 14 days after the date of submission of the proof of debt, submit a copy of the following documents in respect of the loan:

- (a) the note of the contract for the loan, mentioned in section 20(1)(a) of that Act;
- (b) the statement of account mentioned in section 21(1) of that Act.

PART 20
ADMISSION AND REJECTION OF PROOFS
AND APPEAL TO COURT

Notice to creditors to prove

93.—(1) Subject to the provisions of the VCC Act, and unless otherwise ordered by the Court, the liquidator in any winding up may from time to time fix a day (which must not be less than 14 days after the date of the notice) on or before which the creditors of the VCC or the sub-fund (as the case may be) are to prove their debts or claims, or be excluded from the benefit of any distribution made before the debts are proved.

(2) The liquidator must give notice of the day so fixed by advertisement in the *Gazette* in Form 69 and in such newspaper as he or she thinks convenient, and also notice in writing of such day in Form 49 or 50 to every person who, to the knowledge of the liquidator, claims to be a creditor of the VCC or the sub-fund (as the case may be) and whose claim has not been admitted or (in a winding up by the Court) to every person mentioned in the statement of affairs as a creditor who has not proved his or her debt.

Examination of proof

94.—(1) The liquidator must examine every proof of debt lodged with the liquidator and the grounds of the debt, and must in writing admit or reject it, in whole or in part, or require further evidence in support of it.

(2) If the liquidator rejects a proof, he or she must state in writing in Form 48 to the creditor the grounds of the rejection.

Appeal by creditor

95. If a creditor or contributory is dissatisfied with the decision of the liquidator in respect of a proof, the Court may, on the application of the creditor or contributory, reverse or vary the decision; but, subject to the power of the Court to extend the time, no application to reverse or vary the decision of the liquidator in a winding up by the Court rejecting a proof sent to him or her by a creditor, or person claiming to be a creditor, may be entertained, unless notice of the

application is given before the expiration of 21 days after the date of the service of the notice of rejection.

Expunging at instance of liquidator

96. If the liquidator thinks that a proof has been improperly admitted, the Court may, on the application of the liquidator, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

Expunging at instance of creditor

97. The Court may also expunge or reduce a proof upon the application of a creditor or contributory if the liquidator declines to interfere in the matter.

Oaths

98. For the purpose of any of the liquidator's duties in relation to proofs, the liquidator, in a winding up by the Court, may administer oaths and take affidavits.

Procedure where creditor appeals

99. The liquidator in a winding up by the Court must, within 3 days after receiving notice from a creditor of his or her intention to appeal against a decision rejecting a proof, file such proof with the Registrar, with a memorandum thereon of his or her disallowance thereof.

Time for dealing with proofs

100. The liquidator must, within 14 days after the latest date for lodging proofs mentioned in the notice of his or her intention to declare a dividend, in writing either admit or reject wholly or in part, every proof lodged with him or her, or require further evidence in support thereof.

Creditor's proof which has been admitted

101. Where a creditor's proof has been admitted, the notice of dividend is sufficient notification to the creditor of the admission.

Costs of appeal against rejection

102. The liquidator is in no case personally liable for costs in relation to an appeal from his or her decision rejecting any proof wholly or in part.

PART 21**DIVIDENDS****Dividends to creditors**

103.—(1) Not more than 2 months before declaring a dividend, the liquidator in any winding up must publish in the *Gazette* in Form 69(3) a notice of his or her intention to do so, and at the same time send the notice to every creditor mentioned in the statement of affairs who has not proved his or her debt, and the notice must specify the latest date up to which proofs must be lodged, which must not be less than 14 days after the date of the notice.

(2) Where a creditor, after the latest date for lodging proofs mentioned in the notice of intention to declare a dividend, appeals against the decision of the liquidator rejecting a proof —

- (a) the appeal must be commenced and notice thereof given to the liquidator within 7 days after the date of the notice of rejection against which the appeal is made; and
- (b) the liquidator must make provision for the dividend payable upon the proof and the probable costs of the appeal in the event of the proof being admitted.

(3) If no appeal has been commenced within the prescribed time, the liquidator must exclude the proof which has been rejected from participation in the dividend.

(4) Immediately after the expiration of the time fixed by this rule for appealing against the decision of the liquidator, he or she must proceed to declare a dividend, and must publish in the *Gazette* a notice in Form 69(4) and must also send a notice of dividend to each creditor whose proof has been admitted specifying the percentage of dividend payable and the amount of dividend payable to him or her.

(5) If it becomes necessary, in the opinion of the liquidator, to postpone the declaration of the dividend beyond the prescribed limit of 2 months, he or she must cause a fresh notice of his or her intention to declare a dividend to be published in the *Gazette*, and thereafter the same procedure must be followed as in the case of the original notice; but no fresh notice need be given to creditors mentioned in the statement of affairs who have not proved their debts.

(6) If a person to whom dividends are payable desires that they be paid to some other person, he or she may lodge with the liquidator a document in Form 52 which is sufficient authority for payment of the dividend to the person therein named.

Return of capital to contributories

104.—(1) Every order by which the liquidator in a winding up by the Court is authorised to make a return to contributories of the VCC or the sub-fund (as the case may be) must, unless the Court otherwise directs, contain or have appended to it a schedule or list (which the liquidator must prepare) setting out in tabular form the full names and addresses of the persons to whom the return is to be paid, and the amount of money payable to each person, and particulars of the transfers of shares (if any) which have been made or the variations in the list of contributories which have arisen since the date of the settlement of the list of contributories, and such other information as may be requisite to enable the return to be made.

(2) The schedule or list must be in Form 54 with such variations as circumstances require, and the notice of return to each contributory must specify the amount payable per share and the amount payable to each contributory.

PART 22
PAYMENTS INTO AND OUT OF
LIQUIDATION ACCOUNT OF VCC OR SUB-FUND

**Remittances to VCC Liquidation Account or Sub-fund
Liquidation Account**

105.—(1) Unless otherwise directed by the Court, every liquidator of a VCC or a sub-fund which is being wound up by the Court must pay, without deduction, all moneys received by him or her, as liquidator of the VCC or the sub-fund (as the case may be), to the VCC Liquidation Account or the Sub-fund Liquidation Account, as the case may be.

(2) Such remittances are to be made once a week, or immediately if a sum of \$1,000 or more has been received by the liquidator.

(3) In relation to the winding up of a VCC, the remittances may be made by cheque crossed “Official Receiver, credit of VCC Liquidation Account”.

(4) In relation to the winding up of a sub-fund, the remittances may be made by cheque crossed “Official Receiver, credit of Sub-fund Liquidation Account”.

**Mode of payments out of VCC Liquidation Account or
Sub-fund Liquidation Account**

106.—(1) All payments out of the VCC Liquidation Account or Sub-fund Liquidation Account must be made by the Official Receiver.

(2) All necessary disbursements made by a liquidator on account of a VCC or a sub-fund which is being wound up by the Court to the date of his or her application for release must be repaid to him or her out of any moneys standing to the credit of the VCC or the sub-fund (as the case may be) in the VCC Liquidation Account or the Sub-fund Liquidation Account (as the case may be), on application to the Official Receiver.

(3) After the liquidator has declared a dividend, he or she may apply to the Official Receiver for funds available for the purpose standing to the credit of the VCC or the sub-fund (as the case may be) in the VCC

Liquidation Account or the Sub-fund Liquidation Account (as the case may be), the application to be supported by a certified list of creditors showing the amounts of their proofs and the moneys they are due to receive by way of dividend.

(4) The Official Receiver is in no case to be held liable for any payments made on the requisition of a liquidator.

Court may give directions

107. Despite any other provisions in these Rules, the Court may in any case give special directions with respect to the payment, deposit or custody of moneys or securities payable to or coming into the possession of a liquidator.

PART 23

GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN RELATION TO WINDING UP BY COURT

First meetings of creditors and contributories

108. The meetings of creditors and contributories under section 263 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) (called in these Rules the first meetings of creditors and contributories) must be held within 21 days or, if a special manager has been appointed then within one month, after the date of the winding up order or within such further time as the Court may approve.

Notice of first meetings

109. The Official Receiver must give notice of the dates fixed by him or her for the first meetings of creditors and contributories by advertisement in the *Gazette*.

Summoning of first meetings

110. The first meetings of creditors and contributories must be summoned in accordance with rule 111.

Form of notices of first meetings

111. The notices of first meetings of creditors and contributories must be in Forms 14 and 15, respectively, and the notices to creditors must state a time within which the creditors must lodge their proofs in order to entitle them to vote at the first meeting.

Notice of first meetings to manager and officers of VCC and custodian of VCC or sub-fund

112.—(1) The Official Receiver must also give each of the following persons who, in his or her opinion, ought to attend the first meetings of creditors and contributories, 7 days' notice, in Form 16, of the time and place appointed for each meeting, such notice to be delivered personally or sent by prepaid post, as may be convenient:

- (a) the manager of the VCC;
- (b) any director or other officer of the VCC;
- (c) the custodian of the VCC or the sub-fund, as the case may be.

(2) It is the duty of every manager, director or officer or custodian who receives notice of such meeting to attend if so required by the Official Receiver, and if any such manager, director or officer fails to attend the Official Receiver must report the failure to the Court.

Summary of statement of affairs

113.—(1) The Official Receiver must also, as soon as practicable, send to each creditor mentioned in the statement of affairs of the VCC or sub-fund (as the case may be), and to each person appearing from the books of the VCC or the sub-fund (as the case may be) or otherwise to be a contributory of the VCC or the sub-fund (as the case may be), a summary of the statement of affairs of the VCC or the sub-fund (as the case may be), including the causes of its failure and any observations which the Official Receiver may think fit to make.

(2) The proceedings at a meeting are not invalidated by reason of any summary or notice required by these Rules not having been sent or received before the meeting.

(3) Where prior to the winding up order the VCC or the sub-fund (as the case may be) had commenced to be wound up voluntarily, the Official Receiver may, if he or she sees fit to do so, send to the persons mentioned in paragraph (1) or any of them an account of such voluntary winding up showing how the winding up had been conducted and how the property of the VCC or the sub-fund had been disposed of and any observations which the Official Receiver may think fit to make on such account or on the voluntary winding up.

Liquidator's meetings of creditors and contributories

114.—(1) In addition to the first meetings of creditors and contributories and in addition also to meetings of creditors and contributories directed to be held by the Court under section 325 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) (called in these Rules Court meetings of creditors and contributories), the liquidator in any winding up by the Court may himself or herself from time to time subject to the provisions of the VCC Act and the control of the Court summon, hold and conduct meetings of the creditors or contributories (called in these Rules liquidator's meetings of creditors and contributories) for the purpose of ascertaining their wishes in all matters relating to the winding up.

(2) The notice calling for such meeting must be in Form 55.

Application of rules as to meetings

115. Except where and so far as the nature of the subject matter or the context otherwise requires, the rules as to meetings under rules 116 to 132 apply to first meetings, Court meetings and liquidator's meetings of creditors and contributories, but so nevertheless that the rules take effect as to first meetings subject to and without affecting any express provisions of the VCC Act and as to Court meetings, subject to and without affecting any express directions of the Court.

Summoning of meetings

116.—(1) The liquidator must summon all meetings of creditors and contributories by giving not less than 7 days' notice of the time and place of the meeting in the *Gazette* and in one local newspaper;

and must not less than 7 days before the day appointed for the meeting send by post to every person appearing, by the books of the VCC or the sub-fund (as the case may be) to be a creditor of the VCC or the sub-fund (as the case may be), notice of the meeting of creditors, and to every person appearing, by the books of the VCC or the sub-fund (as the case may be), or otherwise, to be a contributory of the VCC or the sub-fund (as the case may be) notice of the meeting of contributories.

(2) The notice to each creditor must be sent to the address given in his or her proof, or, if he or she has not proved, to the address given in the statement of affairs of the VCC or the sub-fund (as the case may be) or to such other address as may be known to the person summoning the meeting.

(3) The notice to each contributory must be sent to the address mentioned in the books of the VCC or the sub-fund (as the case may be) as the address of such contributory, or to such other address as may be known to the person summoning the meeting.

(4) This rule does not apply to meetings under section 296 or 308 of the Companies Act, as applied by section 33(2) or 130(1) of the VCC Act.

Proof of notice

117. An affidavit in Form 56 by the liquidator or his or her solicitor or the clerk of either of such persons, that the notice of any meeting has been duly posted, is sufficient evidence of such notice having been duly sent to the person to whom the notice was addressed.

Place of meetings

118. Every meeting must be held at such place as, in the opinion of the person convening the meeting, is most convenient for the majority of the creditors or contributories or both and different times or places or both may if thought expedient be named for the meetings of creditors and for the meetings of contributories.

Costs of calling meeting

119.—(1) The costs of summoning a meeting of creditors or contributories at the instance of any person other than the liquidator must be paid by the person at whose instance it is summoned and the person must, before the meeting is summoned, deposit with the liquidator such sum as may be required by the liquidator as security for the payment of such costs.

(2) The costs of summoning the meetings of creditors or contributories, including all disbursements for printing, stationery, postage and the hire of room, are to be calculated at the following rate for each creditor or contributory to whom notice is required to be sent:

- (a) \$1 per creditor or contributory for the first 50 creditors or contributories;
- (b) 75 cents per creditor or contributory for the next 50 creditors or contributories;
- (c) 50 cents per creditor or contributory for any number of creditors or contributories after the first 100 creditors or contributories.

(3) The costs must be repaid out of the assets of the VCC or the sub-fund (as the case may be) if the Court by order or if the creditors or contributories (as the case may be) by resolution, so direct or directs.

(4) This rule does not apply to meetings under section 296 or 297(5) of the Companies Act, as applied by section 33(2) or 130(1) of the VCC Act.

Chairperson of meeting

120.—(1) Where a meeting is summoned by the liquidator, the liquidator, or a person nominated by the liquidator, is to be chairperson of the meeting.

(2) At every other meeting of creditors or contributories the chairperson is to be such person as the meeting by resolution appoints.

(3) This rule does not apply to meetings under section 296 of the Companies Act as applied by section 33(2) or 130(1) of the VCC Act.

Ordinary resolution of creditors and contributories

121. At a meeting of creditors, a resolution is deemed to be passed when a majority in number and value of the creditors present, personally or by proxy, and voting on the resolution, have voted in favour of the resolution, and at a meeting of the contributories a resolution is deemed to be passed when a majority in number and 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 VCC.

Copy of resolution to be filed

122. The liquidator must file with the Registrar a copy, certified by the liquidator, of every resolution of a meeting of creditors or contributories.

Non-reception of notice by creditor

123. Where a meeting of creditors or contributories is summoned by notice, the proceedings and resolutions at the meeting is (unless the Court otherwise orders) valid, even if some creditors or contributories may not have received the notice sent to them.

Adjournment

124. The chairperson may, with the consent of the meeting, adjourn it from time to time and from place to place, and then must issue a memorandum in Form 57, but the adjourned meeting must be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified or unless the Court otherwise orders.

Quorum

125.—(1) A meeting may not act for any purpose except the election of a chairperson, the proving of debts and the adjournment of the meeting unless there are present or represented at the meeting, in

the case of a creditors' meeting, at least 3 creditors entitled to vote or, in the case of a meeting of contributories, at least 3 contributories or all the creditors entitled to vote or all the contributories, if the number of the creditors entitled to vote or the contributories (as the case may be) does not exceed 3.

(2) 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 must be adjourned to the same day in the following week at the same time and place or to such other day as the chairperson may appoint, not being less than 7 nor more than 21 days after the day from which the meeting was adjourned.

(3) If within half an hour from the time appointed for the adjourned meeting, a quorum of creditors or contributories is not present or represented, the adjourned meeting must not be further adjourned, and the chairperson must issue a memorandum of proceedings as set out in Form 17.

(4) The list of creditors assembled to be used at every meeting must be in Form 18.

Creditors entitled to vote

126.—(1) In the case of a first meeting of creditors or of an adjournment thereof, a person is not entitled to vote as a creditor unless he or she has duly lodged with the Official Receiver not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting a proof of the debt which he or she claims to be due to him or her from the VCC or the sub-fund, as the case may be.

(2) In the case of a Court meeting or liquidator's meeting of creditors, a person is not entitled to vote as a creditor unless he or she has lodged with the liquidator a proof of the debt which he or she claims to be due to him or her from the VCC or the sub-fund (as the case may be), and such proof has been admitted wholly or in part before the date on which the meeting is held.

(3) Paragraph (2) and rules 127, 128, 129 and 130 do not apply to a Court meeting of creditors held prior to the first meeting of creditors.

Cases in which creditors may not vote

127. A creditor must not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained, nor must a creditor vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him or her unless he or she is willing to treat the liability to him or her thereon of every person who is liable thereon antecedently to the VCC or the sub-fund (as the case may be), and against whom a receiving order in bankruptcy has not been made, as a security in his or her hands, and to estimate the value thereof, and for the purpose of voting, but not for the purposes of dividend, to deduct it from his or her proof.

Votes of secured creditors

128.—(1) For the purpose of voting, a secured creditor must, unless he or she surrenders his or her security, state in his or her proof the particulars of his or her security, the date when it was given, and the value at which he or she assesses it, and is entitled to vote only in respect of the balance (if any) due to him or her after deducting the value of his or her security.

(2) If the secured creditor votes in respect of his or her whole debt, he or she is deemed to have surrendered his or her security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

Creditor required to give up security

129.—(1) The liquidator may, within 28 days after a proof estimating the value of a security under rule 128 has been used in voting at a meeting, 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%.

(2) However, where a creditor has valued his or her security, he or she 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 or her debt, but in that case the addition of 20% must not be made if the security is required to be given up.

Admission and rejection of proofs for purpose of voting

130.—(1) The chairperson has power to admit or reject a proof for the purpose of voting, but his or her decision is subject to appeal to the Court.

(2) If the chairperson is in doubt whether a proof is to be admitted or rejected, he or she must 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.

Statement of security

131. For the purpose of voting at any meeting in a voluntary liquidation, a secured creditor must, unless he or she surrenders his or her security, lodge with the liquidator or, where there is no liquidator, at the registered office of the VCC, before the meeting a statement giving the particulars of the security, the date when it was given and the value at which he or she assesses it.

Minutes of meeting

132.—(1) The chairperson must 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 must be signed by him or her or by the chairperson of the next ensuing meeting.

(2) A list of creditors and contributories present at every meeting must be made and kept in Form 18.

PART 24**PROXIES IN RELATION TO WINDING UP
BY COURT, AND TO CREDITORS'
VOLUNTARY WINDING UP****Proxies**

133.—(1) A creditor or a contributory may vote either in person or by proxy.

(2) Where a person is authorised in the manner provided by section 179(3) of the Companies Act (including that provision as

applied by section 80(1) of the VCC Act) to represent a corporation at any meeting of creditors or contributories, that person must produce to the liquidator or the chairperson of the meeting a certificate under section 179(5) of the Companies Act (including that provision as applied by section 80(1) of the VCC Act).

(3) The succeeding rules as to proxies do not (unless otherwise directed by the Court) apply to a Court meeting of creditors or contributories prior to the first meeting.

Form of proxies

134. Every instrument of proxy must be in accordance with Form 58 or 59.

Forms of proxy to be sent with notices

135. General and special forms of proxy must be sent to the creditors and contributories with the notice summoning the meeting, and neither the name nor description of the Official Receiver or liquidator or any other person may be printed or inserted in the body of any instrument of proxy before it is so sent.

General proxies to managers or clerks

136. A creditor or a contributory may give a general proxy to his or her manager or clerk or any other person in his or her regular employment.

Special proxies

137. A creditor or a contributory may give a special proxy to any person to vote at any specified meeting or adjournment thereof —

- (a) for or against the appointment or continuance in office of any specified person as liquidator or member of the committee of inspection; and
- (b) on all questions relating to any matter other than those referred to in paragraph (a) and arising at the meeting or an adjournment thereof.

Solicitation by liquidator to obtain proxies

138. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a liquidator in obtaining proxies or in procuring his or her appointment as liquidator except by the direction of a meeting of creditors or contributories, the Court if it thinks fit may order that no remuneration be allowed to the person by whom or on whose behalf the solicitation was exercised despite any resolution of the committee of inspection or of the creditors or contributories to the contrary.

Proxies to liquidator

139. A creditor or a contributory in any winding up may appoint the liquidator or, if there is no liquidator, the chairperson of the meeting to act as his or her general or special proxy.

Holder of proxy not to vote on matter in which he or she is financially interested

140.—(1) No person acting either under a general or a special proxy may vote in favour of any resolution which would directly or indirectly place himself or herself, or his or her partner or employer in a position to receive any remuneration out of the estate of the company otherwise than as a creditor rateably with the other creditors of the company.

(2) However, where any person holds special proxies to vote for an application to the Court in favour of the appointment of himself or herself as liquidator, he or she may use the said proxies and vote accordingly.

Proxies

141.—(1) A proxy intended to be used at the first meeting of creditors or contributories, or an adjournment thereof, must be lodged with the Official Receiver not later than the time mentioned for that purpose in the notice convening the meeting or the adjourned meeting, which time must not be earlier than 12 noon of the day but one before, nor later than 12 noon of the day before the day appointed for such meeting, unless the Court otherwise directs.

(2) In every other case a proxy must be lodged with the liquidator not later than 4 p.m. of the day before the meeting or adjourned meeting at which it is to be used.

(3) No person who is a minor may be appointed a general or special proxy.

Use of proxies by deputy

142. Where the Official Receiver who holds any proxies cannot attend the meeting for which they are given, he or she may, in writing, depute some person under his or her official control to use the proxies on his or her behalf, and in such manner as he or she may direct.

Filling in where creditor blind or incapable

143.—(1) Subject to paragraph (2), the proxy of a creditor blind or incapable of writing may be accepted, if the creditor has attached his or her signature or mark thereto in the presence of a witness, who must add to his or her signature his or her description and residence.

(2) All insertions in the proxy must be in the handwriting of the witness, and the witness must certify at the foot of the proxy that all the insertions have been made by the witness at the request of the creditor, and the request was made in the witness' presence before the creditor attaches his or her signature or mark.

PART 25

LIQUIDATOR AND COMMITTEE OF INSPECTION

Remuneration of liquidator

144.—(1) If the Official Receiver is of opinion that the remuneration of a liquidator as fixed by the committee of inspection is unnecessarily large, the Official Receiver may apply to the Court and the Court must fix the amount of the remuneration of the liquidator.

(2) This rule only applies to a liquidator appointed in a winding up by the Court.

Limit of remuneration

145. Except as provided by the VCC Act or these Rules, a liquidator must not under any circumstances whatever, make any arrangement for, or accept from any solicitor, auctioneer, or any other person connected with the VCC or the sub-fund of which he or she is liquidator, or who is employed in or in connection with the winding up of the VCC or the sub-fund (as the case may be), any gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration to which under the VCC Act and these Rules he or she is entitled as liquidator, nor must the liquidator make any arrangement for giving up, or give up any part of the remuneration to any such solicitor, auctioneer or other person.

Dealings with assets

146.—(1) Neither the liquidator nor any member of the committee of inspection of a VCC or a sub-fund (as the case may be) may, while acting as liquidator or member of the committee, except by permission of the Court, either directly or indirectly, by himself or herself or any employer, partner, agent or employee, become purchaser of any part of the assets of the VCC or the sub-fund, as the case may be.

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(2) Any purchase made contrary to paragraph (1) may be set aside by the Court on the application of the Official Receiver or any creditor or contributory, and the Court may make such order as to costs as the Court thinks fit.

Restriction on transactions by liquidator

147. Where the liquidator carries on the business of the VCC or the sub-fund (as the case may be), the liquidator must not, without the express sanction of the Court, enter into any transaction for the carrying on of the business with 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.

Committee of inspection not to make profit

148.—(1) No member of a committee of inspection may, except under and with the sanction of the Court, directly or indirectly, by himself or herself or any employer, partner, agent or employee, 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 or her in connection with the administration of the assets, or for any goods supplied by him or her to the liquidator for or on account of the VCC or the sub-fund, as the case may be.

(2) In a winding up by the Court, if it appears to the Official Receiver or, in a voluntary winding up, if it appears to the committee of inspection, or to any meeting of creditors or contributories, that any profit or payment has been made contrary to this rule, they may disallow the payment or recover the profit (as the case may be) on the audit of the liquidator's accounts or otherwise.

Cost of obtaining sanction of Court

149. In any case in which the sanction of the Court is obtained under rule 147 or 148, the cost of obtaining the sanction must be borne by the person in whose interest the sanction is obtained, and is not payable out of the assets of the VCC or the sub-fund, as the case may be.

Sanction of payments to committee

150. Where the sanction of the Court to a payment to a member of a committee of inspection for services rendered by him or her in connection with the administration of the assets of the VCC or the sub-fund (as the case may be) is obtained, the order of the Court is to specify the nature of the services, and the sanction may only be given where the service performed is of a special nature; and except by the express sanction of the Court no remuneration may, under any circumstances, be paid to a member of a committee for services rendered by him or her in the discharge of the duties attaching to his or her office as a member of such committee.

PART 26

RELEASE OR RESIGNATION OF LIQUIDATOR

Notice of liquidator's intention to apply for release

151. A liquidator, before making application for his or her release in Form 67, must give notice of his or her intention to do so in Form 66 to all the creditors who have proved their debts and to all the contributories, and must send with the notice a summary of all receipts and payments in the winding up in Form 68.

Meetings of creditors and contributories to consider resignation of liquidator, etc.

152.—(1) A liquidator who desires to resign his or her office must summon separate meetings of the creditors of the VCC or the sub-fund (as the case may be), and of the contributories of the VCC or the sub-fund (as the case may be), to decide whether or not the resignation is to be accepted.

(2) If the creditors and contributories by ordinary resolutions both agree to accept the resignation of the liquidator, the liquidator must file with the Registrar, the Official Receiver and the Registrar of VCCs a memorandum of the liquidator's resignation and the resignation thereupon takes effect.

(3) In any other case, the liquidator must report to the Court the result of the meetings and thereupon the Court may, upon the application of the liquidator, determine whether or not the liquidator's resignation is to be accepted and may give such directions and make such orders as are in its opinion necessary.

(4) On the Court pronouncing a determination that a resignation is to be accepted, the liquidator must immediately file a notice thereof with the Official Receiver and the Registrar of VCCs.

(5) The Court may dispense with all or any of the requirements of this rule.

Office of liquidator vacated by his or her insolvency

153. If a receiving order in bankruptcy is made against the liquidator, he or she must vacate his or her office, and for the

purpose of the application of the VCC Act and these Rules he or she is deemed to have been removed.

Proceedings on resignation, etc., of liquidator

154.—(1) Upon a liquidator resigning or being released or removed from his or her office, he or she must deliver up to the Official Receiver or the new liquidator (as the case may be) all books kept by him or her and all other books, documents, papers and accounts in his or her possession relating to the office of liquidator.

(2) The release of a liquidator does not take effect until he or she has delivered over to the Official Receiver or the new liquidator (as the case may be) all the books, documents, papers and accounts under paragraph (1).

PART 27

SPECIAL BANK ACCOUNT FOR LIQUIDATOR

Application for special bank account

155.—(1) In a winding up by the Court, if the committee of inspection satisfies the Court that for the purpose of carrying on the business of the VCC or the sub-fund (as the case may be), or of obtaining advances, or for any other reason, it is to the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Court, on the application of the committee of inspection, is to authorise the liquidator to make his or her payments into such other bank as the committee may select instead of to the VCC Liquidation Account or the Sub-fund's Liquidation Account (as the case may be), and thereupon those payments must be made in the prescribed manner.

(2) The Court may grant the authorisation mentioned in paragraph (1) for such time and on such terms as it thinks fit, and may at any time order the account to be closed if it is of the opinion that the account is no longer required for the purposes mentioned in the application.

Payments into and out of bank

156.—(1) Where the liquidator in a winding up by the Court is authorised to have a special bank account, the liquidator must immediately pay all moneys received by him or her into that account to the credit of the liquidator of the VCC or the sub-fund, as the case may be.

(2) All payments out of that account must be made by cheque payable to order, and every cheque must have marked or written on the face of it the name of the VCC or the umbrella VCC (as the case may be), and must be signed by the liquidator and countersigned by at least one member of the committee of inspection, and by such other person (if any) as the committee of inspection may appoint.

PART 28**BOOKS****Record book**

157. In a winding up by the Court the provisional liquidator, until a liquidator is appointed by the Court, and thereafter the liquidator, must keep a book to be called the Record Book, in which he or she must record all minutes, all proceedings held and resolutions passed at any meeting of creditors or contributories, or of the committee of inspection, and all other matters as are necessary to give a correct view of his or her administration of the affairs of the VCC or the sub-fund (as the case may be), but he or she is not bound to insert in the Record Book any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors or contributories), nor need he or she exhibit the document to any person other than a member of the committee of inspection or the Official Receiver.

Cash book

158.—(1) In a winding up by the Court the provisional liquidator, until a liquidator is appointed by the Court, and thereafter the liquidator, must keep a book to be called the Cash Book in which he or she must (subject to the provisions of these Rules as to trading

accounts) enter from day to day the receipts and payments made by him or her.

(2) The liquidator, other than the Official Receiver, must submit the Record Book and Cash Book, together with any other requisite books and vouchers, to the committee of inspection (if any) when required, and not less than once every 3 months.

(3) In a creditors' voluntary winding up, the liquidator must keep such books as the committee of inspection or (if there is no such committee) as the creditors direct; and all books kept by the liquidator must be submitted to the committee of inspection or, if there is no such committee, to the creditors, with any other books, documents, papers and accounts in his or her possession relating to his or her office as liquidator of the VCC or the sub-fund (as the case may be), as and when the committee of inspection or (if there is no such committee) the creditors direct.

PART 29

INVESTMENT OF FUNDS

Investment of assets in securities and realisation of securities

159.—(1) Where the committee of inspection is of the opinion that any part of the cash balance standing to the credit of the account of the VCC or the sub-fund of an umbrella VCC (as the case may be) in the VCC Liquidation Account or the Sub-fund Liquidation Account should be invested, the committee must sign a certificate and request in Forms 60 and 61, respectively, and the liquidator must transmit such certificate and request to the Official Receiver.

(2) Where the committee of inspection is of the opinion that it is advisable to sell any of the securities in which the moneys or assets of the VCC or the sub-fund (as the case may be) are invested, the committee must sign a certificate and request to that effect, and the liquidator must transmit such certificate and request to the Official Receiver.

(3) Where, in a winding up by the Court in which there is no committee of inspection, a case has in the opinion of the liquidator arisen under section 321 of the Companies Act (as applied by

section 33(2) or 130(1), as the case may be, of the VCC Act) for an investment of funds of the VCC or the sub-fund (as the case may be), or a sale of securities in which the funds of the VCC or the sub-fund (as the case may be) have been invested, the liquidator must sign and transmit to the Official Receiver a certificate of the facts on which his or her opinion is founded, and a request to the Official Receiver to make the investment or sale mentioned in the certificate, and the Official Receiver may thereupon, if he or she thinks fit, invest or sell the whole or any part of the funds or securities, as provided in that section, and the certificate and request is sufficient authority to the Official Receiver for the investment or sale.

PART 30

ACCOUNTS AND AUDIT IN WINDING UP BY COURT

Audit of Cash Book

160. The committee of inspection must, not less than once every 3 months, audit the liquidator's Cash Book and certify in Form 62 under its hand the day on which the Cash Book was audited.

Liquidator's accounts

161.—(1) The liquidator must, at the expiration of 6 months after the date of the winding up order, and at the expiration of every succeeding 6 months thereafter until his or her release, transmit to the Official Receiver a copy of the Cash Book for such period in duplicate, together with the necessary vouchers and copies of the certificates of audit by the committee of inspection.

(2) The liquidator must forward with the first accounts a summary of the statement of affairs of the VCC or the sub-fund (as the case may be), showing on the accounts in red ink the amounts realised, and explaining the cause of the non-realisation of such assets as may be unrealised.

(3) The liquidator must also at the end of every 6 months forward to the Official Receiver, with his or her accounts, a report on the position

of the liquidation of the VCC or the sub-fund (as the case may be) in such form as the Official Receiver may direct.

(4) When the assets of the VCC or the sub-fund (as the case may be) have been fully realised and distributed, the liquidator must immediately send in his or her accounts to the Official Receiver, although the 6 months may not have expired.

(5) The accounts sent in by the liquidator must be verified by him or her by statutory declaration.

Liquidator carrying on business

162. Where the liquidator carries on the business of the VCC or the sub-fund (as the case may be), he or she must keep a distinct account of the trading, and must incorporate in the Cash Book the total weekly amount of the receipts and payments on such trading account.

Liquidator's trading account

163. The trading account must from time to time, and not less than once in every month, be verified by statutory declaration and the liquidator must thereupon submit the account in Form 63 to the committee of inspection (if any) or any member thereof appointed by the committee for that purpose, who must examine and certify the account.

Expenses of sales

164. Where property forming part of the assets of a VCC or a sub-fund (as the case may be) is sold by the liquidator through an auctioneer or other agent, the gross proceeds of the sale must be paid over by the auctioneer or agent, and the charges and expenses connected with the sale must afterwards be paid to the auctioneer or agent, on the production of the necessary certificate of the Assessing Master.

[S 198/2022 wef 01/04/2022]

PART 31

TRANSFERS OF ACTIONS AND PROCEEDINGS

Judge may order transfer of pending actions to himself or herself

165. Where an order has been made for the winding up of a VCC or a sub-fund, the Judge has the power to order the transfer to him or her of any action, cause or matter pending, brought or continued by or against the VCC or the umbrella VCC in respect of the sub-fund, as the case may be.

Powers of Court

166. Where any action, cause or matter brought by or against a VCC or against an umbrella VCC in respect of a sub-fund, against which a winding up order has been made is so transferred, the Court may determine and deal with any application, matter or proceeding which, if the action, cause or matter had not been transferred, would have been determined in chambers.

PART 32

ASSESSMENT OF COSTS

[S 198/2022 wef 01/04/2022]

Assessment of costs payable by liquidator

167. Every solicitor, manager, accountant, auctioneer, broker or other person employed by a liquidator in a winding up by the Court must on request by the liquidator in Form 64 (to be made a sufficient time before the declaration of a dividend) deliver his or her bill of costs or charges to the Assessing Master for the purpose of assessment; and if he or she fails to do so within the time stated in the request or such extended time as the Registrar may allow, the liquidator must declare and distribute the dividend without regard to such person's claim, and subject to any order of the Court the claim is forfeited.

[S 198/2022 wef 01/04/2022]

Notice of appointment to assess

168. Where a bill of costs or charges in any winding up has been lodged with the Assessing Master he or she must give notice of an appointment to assess the bill of costs or charges to the liquidator and to the person to or by whom the bill of costs or charges is or are to be paid.

[S 198/2022 wef 01/04/2022]

Copy of bill of costs to be furnished to liquidator

169. Every person whose bill of costs or charges in a winding up by the Court is or are to be assessed must furnish a copy of his or her bill or charges to be so assessed to the liquidator.

[S 198/2022 wef 01/04/2022]

Attendance at assessment

170. The liquidator may attend or be represented on the assessment.

[S 198/2022 wef 01/04/2022]

Certificate of assessment

171. Upon the assessment of any bill of costs, charges or expenses being completed, the Assessing Master must issue to the person presenting the bill for assessment his or her certificate of assessment in Form 65.

[S 198/2022 wef 01/04/2022]

Certificate as to special terms of remuneration, etc.

172. Where the bill of costs or charges of any solicitor, manager, accountant, auctioneer, broker or other person employed by a liquidator is or are payable out of the assets of the VCC or the sub-fund (as the case may be), a certificate in writing, signed by the liquidator, must, on the assessment, be produced to the Assessing Master setting forth any special terms of remuneration which have been agreed to, and in the case of the bill of costs of a solicitor, a copy of the resolution or other authority sanctioning his or her employment.

[S 198/2022 wef 01/04/2022]

Liquidator's charges

173.—(1) Where a liquidator or special manager in a winding up by the Court receives remuneration for his or her services as such, no payment is allowed on his or her account in respect of the performance by any other person of the ordinary duties which are required by the VCC Act or these Rules to be performed by himself or herself.

(2) Where a liquidator is a solicitor he or she may contract that the remuneration for his or her services as liquidator is to include all professional services.

Application for costs

174. Where any party to or person affected by any proceedings desires to make an application for an order that he or she be allowed his or her costs or any part of them incidental to such proceedings and the application is not made at the time of the proceedings —

- (a) the party or person must serve notice of his or her intended application on the liquidator;
- (b) the liquidator may appear on such application and object to the application; and
- (c) no costs of or incidental to such application may be allowed to the person making the application, unless the Court is satisfied that the application could not have been made at the time of the proceedings.

Costs

175.—(1) No payments in respect of bills of costs, charges or expenses of solicitors, managers, accountants, brokers or other persons, other than payments for costs and expenses incurred and sanctioned under rule 47 and payments of bills which have been assessed and allowed under orders made for the assessment thereof, may be allowed out of the assets of the VCC or the sub-fund (as the case may be), without proof that the same have been duly assessed and allowed by the Assessing Master.

[S 198/2022 wef 01/04/2022]

(2) The Assessing Master must satisfy himself or herself before passing such bills of costs or charges that the employment of the solicitor or other person in respect of the matters mentioned in the bills or charges has been duly sanctioned.

[S 198/2022 wef 01/04/2022]

(3) Despite paragraph (1), the Official Receiver when acting as liquidator may without assessment allow and pay the costs, charges and expenses of any person employed by him or her where such costs, charges and expenses are within the scale usually allowed by the Court and do not exceed the sum of \$25,000.

[S 198/2022 wef 01/04/2022]

Costs ordered by Court or Judge to be paid by VCC or sub-fund of umbrella VCC

176. Nothing in rule 175 applies to or affects costs which, in the course of legal proceedings by or against a VCC or a sub-fund which is being wound up by the Court, are ordered by the Court in which such proceedings are pending, or a Judge of the Court, to be paid by the VCC or the liquidator, or the rights of the person to whom the costs are payable.

PART 33

ATTENDANCE OF LIQUIDATOR

Attendance of liquidator

177. Where the attendance of the liquidator is required in any proceedings in Court or chambers, the liquidator need not attend in person, except in cases where the Court directs him or her to attend in person.

PART 34

STATEMENTS BY LIQUIDATOR TO
REGISTRAR OF VCCS AND OFFICIAL RECEIVER

**Conclusion of voluntary winding up deemed to be date of
dissolution of VCC or sub-fund of umbrella VCC**

178. The voluntary winding up of a VCC or a sub-fund is deemed to be concluded at the date of the dissolution of the VCC or the sub-fund (as the case may be), unless at such date any funds or assets of the VCC or the sub-fund remain unclaimed or undistributed in the hands of or under the control of the liquidator, or any person who has acted as liquidator, in which case the winding up is not deemed to be concluded until the funds or assets have either been distributed or paid into the VCC Liquidation Account or the Sub-fund Liquidation Account, as the case may be.

**Time for lodging account and statement under section 317 of
Companies Act**

179. In every winding up, the accounts and statements with respect to the proceedings in and position of the liquidation of a VCC or a sub-fund, the winding up of which is not concluded within 6 months after the appointment of a liquidator, must be sent to the Registrar of VCCs and the Official Receiver twice in every year as follows:

- (a) the first account commencing at the date when a liquidator was first appointed and brought down to the end of the period of 6 months after the appointment of the liquidator, must be sent within one month after the expiration of that period of 6 months, or within any extended period sanctioned by the Court;
- (b) the subsequent accounts must be sent at intervals of 6 months, each account being brought down to the end of the period of 6 months for which it is sent.

Form of liquidator's account and statement

180.—(1) The account of the liquidator's receipts and payments and the statement which a liquidator is required to lodge with the Registrar of VCCs and the Official Receiver under section 317 of the

Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), must be in the form provided for under the Variable Capital Companies (Lodgment of Documents) Regulations 2020 (G.N. No. S 30/2020).

(2) Such form must be used even where a liquidator has not during any period for which an account has to be lodged, received or paid any money on account of the VCC or the sub-fund, as the case may be.

PART 35

UNCLAIMED FUNDS AND UNDISTRIBUTED ASSETS IN HANDS OF LIQUIDATOR, OTHER THAN OFFICIAL RECEIVER

Investments representing unclaimed funds

181.—(1) Money invested or deposited at interest by a liquidator is deemed to be money under his or her control, and when such money forms part of the minimum balance payable into the VCC Liquidation Account or the Sub-fund Liquidation Account (as the case may be), the liquidator must realise the investment or withdraw the deposit, and must pay the proceeds into the VCC Liquidation Account or the Sub-fund Liquidation Account, as the case may be.

(2) However, where the money is invested in Government securities, the securities may, with the permission of the Official Receiver, be transferred to the control of the Official Receiver instead of being immediately realised and the proceeds thereof paid into the VCC Liquidation Account or the Sub-fund Liquidation Account, as the case may be.

(3) If and when the money represented by the Government securities is required wholly or in part for the purposes of the liquidation, the Official Receiver may realise the securities wholly or in part and pay the proceeds of realisation into the VCC Liquidation Account or the Sub-fund Liquidation Account (as the case may be), and deal with the proceeds in the same way as other moneys paid into that Account may be dealt with.

Liquidator to furnish information to Official Receiver

182.—(1) Every person who has acted as liquidator of any VCC or any sub-fund, whether the liquidation has been concluded or not, must furnish to the Official Receiver particulars of any money in his or her hands or under his or her control representing unclaimed or undistributed assets of the VCC or the sub-fund (as the case may be), and such other particulars as the Official Receiver may require for the purpose of ascertaining or getting in any money payable into the VCC Liquidation Account or the Sub-fund Liquidation Account, as the case may be.

(2) The Official Receiver may require such particulars to be verified by affidavit.

Official Receiver may call for verified accounts

183. The Official Receiver may at any time order any such person to submit an account verified by affidavit of the sums received and paid by him or her as liquidator of the VCC or the sub-fund (as the case may be), and may direct and enforce an audit of the account.

Application for payment out by person entitled

184. An application by a person claiming to be entitled to any money paid into the VCC Liquidation Account or the Sub-fund Liquidation Account, pursuant to section 322 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act), must be made in such form and manner as the Official Receiver may from time to time direct, and must, unless the Official Receiver otherwise directs, be accompanied by the certificate of the liquidator that the person claiming is entitled and such further evidence as the Official Receiver may direct.

Application by liquidator for payment out

185. A liquidator who requires to make payments out of money paid into the VCC Liquidation Account or the Sub-fund Liquidation Account (as the case may be), pursuant to section 322 of the Companies Act (as applied by section 33(2) or 130(1) of the VCC Act) either by way of distribution or in respect of the costs and expenses of the proceedings, must apply in such form and manner as

the Official Receiver may direct, and the Official Receiver may thereupon either make an order for payment to the liquidator of the sum required by him or her for those purposes, or may direct cheques to be issued to the liquidator for transmission to the persons to whom the payments are to be made.

PART 36

OFFICIAL RECEIVER

Appointment

186.—(1) Judicial notice is to be taken of the appointment of the Official Receiver.

(2) Any person appointed to act for the Official Receiver has, during his or her tenure of office, all the status, rights and powers, and be subject to all the liabilities of the Official Receiver.

Removal

187. When the Official Receiver is removed from his or her office, notice of the order removing him or her must be published in the *Gazette*.

Assistants

188. An Assistant Official Receiver is an officer of the Court like the Official Receiver and, subject to the directions of the Court, may represent the Official Receiver in all proceedings in Court, or in any administrative or other matter. Judicial notice is to be taken of the appointment of an Assistant Official Receiver and he or she may be appointed or removed in the same manner as is provided in the case of the Official Receiver.

Duties where no assets

189. Where a VCC or a sub-fund against which a winding up order has been made has no available assets, the liquidator is not required to incur any expense in relation to the winding up without the express directions of the Court.

Official Receiver to act for committee of inspection where there is no committee of inspection

190. Where there is no committee of inspection, any functions of the committee of inspection, subject to the directions of the Court, may be exercised by the Official Receiver.

Appeals from Official Receiver

191. An appeal to the Court from an act or a decision of the Official Receiver acting otherwise than as liquidator of a VCC or a sub-fund, must be brought within 21 days after the time when the decision or act appealed against is done, pronounced or made.

PART 37

ELECTRONIC FILING SYSTEM

Electronic filing system

192. The electronic filing system established under rule 189A of the Companies (Winding up) Rules may be used for the purposes of carrying out transactions with the Official Receiver under these Rules.

Duty of person carrying out electronic filing

193. Any person who wishes to file, serve, deliver or otherwise convey an application or a request or document by means of the electronic filing system must do so in accordance with these Rules and any practice directions issued by the Official Receiver.

Receipt of submission

194.—(1) Any application, request or document transmitted by means of the electronic filing system is considered to have been submitted to and received by the Official Receiver if the last byte of the transmission is received by the server designated by the Official Receiver for the receipt of such transmissions.

(2) Any person who files with or sends to the Official Receiver any application, request or document by means of the electronic filing system may produce a record of transmission issued through the

electronic filing system together with a copy of the notification of acceptance of the transmission by the Official Receiver as evidence of —

- (a) the filing or sending of the application, request or document; and
- (b) the date and time the filing or sending took place.

PART 38

MISCELLANEOUS MATTERS

Enlargement or abridgment of time and disposal of books

195.—(1) The Court may, in any case in which it sees fit, extend or abridge the time appointed by these Rules or fixed by any order of the Court for doing any act or taking any proceeding.

(2) The Court may, at any time during the progress of the liquidation, on the application of the liquidator or the Official Receiver, direct that such of the books, papers and documents of the VCC or the sub-fund (as the case may be), or of the liquidator, are no longer required for the purpose of the liquidation, may be sold, destroyed or otherwise disposed of.

Formal defect not to invalidate proceedings

196.—(1) No proceedings under the VCC Act or these Rules are invalidated by any formal defect or by any irregularity, unless the Court is of the opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the Court.

(2) No defect or irregularity in the appointment or election of a receiver, liquidator, or member of a committee of inspection vitiates any act done by him or her in good faith.

Fees

197.—(1) Fees in accordance with the provisions of the Third Schedule are leviable by the Court.

(2) For assessment of costs, the same fees as are payable in the General Division of the High Court are leviable.

[S 1038/2020 wef 02/01/2021]

[S 198/2022 wef 01/04/2022]

FIRST SCHEDULE

Rule 4(1)

MODIFICATIONS TO FORMS IN COMPANIES (WINDING UP) RULES

1. For the purpose of rule 4, the forms in the First Schedule to the Companies (Winding Up) Rules (called in this Schedule the Forms) are modified in the manner set out in paragraphs 2 and 3.

General modifications

2. The Forms are modified in the following manner:

- (a) a reference to the Companies Act is to the Variable Capital Companies Act 2018;
- (b) a reference to a company, being the subject of a winding up, is to the VCC or sub-fund that is the subject of the winding up;
- (c) a reference to the registered office or principal place of business of a company (being the subject of a winding up) is —
 - (i) where the subject of the winding up is a VCC — the registered office or principal place of business of the VCC; or
 - (ii) where the subject of the winding up is a sub-fund — the registered office or principal place of business of the umbrella VCC of which the sub-fund is a part;
- (d) a reference to a member, an officer or an employee of a company (being the subject of a winding up) is —
 - (i) where the subject of the winding up is a VCC — a member, an officer or an employee of the VCC; or
 - (ii) where the subject of the winding up is a sub-fund — a member holding shares issued in respect of the sub-fund, an officer or an employee of the umbrella VCC of which the sub-fund is a part;
- (e) a reference to the Companies (Winding Up) Rules is to the Variable Capital Companies (Winding Up) Rules 2020;
- (f) a reference to shares of the company (being the subject of a winding up) is to —

FIRST SCHEDULE — *continued*

- (i) where the subject of the winding up is a VCC — the shares of the VCC; or
 - (ii) where the subject of the winding up is a sub-fund — the shares of the umbrella VCC issued in respect of the sub-fund;
- (g) a reference to the Companies Liquidation Account is —
- (i) where the subject of the winding up is a VCC — the VCC Liquidation Account; or
 - (ii) where the subject of the winding up is a sub-fund — the Sub-fund Liquidation Account;
- (h) with all other necessary modifications.

Specific modifications

3. Each Form in the first column of the following table is modified in the manner set out opposite that Form in the second column:

| <i>First column</i> <i>Form</i> | <i>Second column</i> <i>Modifications</i> |
|------------------------------------|---|
| Form 2 Form 3 | Delete “CWU O.S. No.” and substitute “O.A. No.”. |
| Form 5 | Delete paragraph (1) and substitute the following paragraph: “(1) I am (a Director, Manager or the Secretary) of _____, the Applicant in the above matter, a corporation duly incorporated under the Companies Act (Cap. 50)/a variable capital company incorporated under the Variable Capital Companies Act 2018 (Act 44 of 2018), and am duly authorised by the Applicant to make this affidavit on its behalf. <i>(applicable if the winding up application is made by a corporation or VCC)</i> ”. |
| Form 16 | Delete the form heading and substitute either of the following form headings, whichever is applicable: (a) “NOTICE TO MANAGER, CUSTODIAN, DIRECTORS AND OFFICERS OF VCC TO ATTEND FIRST MEETING OF CREDITORS OR CONTRIBUTORIES”; |

FIRST SCHEDULE — *continued*

| <i>First column</i> <i>Form</i> | <i>Second column</i> <i>Modifications</i> |
|------------------------------------|--|
| | (b) “NOTICE TO MANAGER, DIRECTORS AND OFFICERS OF UMBRELLA VCC OF SUB-FUND, AND CUSTODIAN OF THE SUB-FUND, TO ATTEND FIRST MEETING OF CREDITORS OR CONTRIBUTORIES”. |
| Form 19 | Delete the words “regulations of the company” and substitute the words in either of the following paragraphs, whichever is applicable: (a) “regulations of the VCC”; (b) “regulations of the umbrella VCC of which the sub-fund is a part”. |
| Form 23 | <ol style="list-style-type: none"> 1. Delete the words “promotion or formation of the company” and substitute the following, whichever is applicable: <ol style="list-style-type: none"> (a) “management, promotion, formation or incorporation of the VCC”; (b) “management, promotion, formation or incorporation of the umbrella VCC of which the sub-fund is a part”. 2. Delete the words “conduct and dealings as directors or officers of the company” and substitute the words in either of the following paragraphs, whichever is applicable: <ol style="list-style-type: none"> (a) “conduct and dealings as manager, directors, officers or custodians of the VCC”; (b) “conduct and dealings as manager, directors or officers of the umbrella VCC of which the sub-fund is a part, or as custodian of the sub-fund”. 3. Delete the words “Connection with the Company” in the table heading and substitute the following table heading, whichever is applicable: <ol style="list-style-type: none"> (a) “Connection with the VCC”; (b) “Connection with the umbrella VCC of which the sub-fund is a part”. |

FIRST SCHEDULE — *continued*

| <i>First column</i> <i>Form</i> | <i>Second column</i> <i>Modifications</i> |
|------------------------------------|---|
| Form 25 | <p>Delete the words “promotion or formation of the company” and substitute the words in either of the following paragraphs, whichever is applicable:</p> <p>(a) “management, promotion, formation, or incorporation of the VCC”;</p> <p>(b) “management, promotion, formation, or incorporation of the umbrella VCC of which the sub-fund is a part”.</p> |
| Form 30 | <p>Delete the second paragraph and substitute either of the following paragraphs, whichever is applicable:</p> <p>(a) “I, _____, the Liquidator of the abovenamed VCC, hereby disclaim all interest in the lease dated the _____ day of _____ 20____, whereby the premises (insert description of the property disclaimed) were leased to [insert name of VCC] _____, at a rent of \$ _____ per annum for a term of _____.”;</p> <p>(b) “I, _____, the Liquidator of the abovenamed sub-fund, hereby disclaim all interest in the lease dated the _____ day of _____ 20____, whereby the premises (insert description of the property disclaimed) were leased to [insert name of the umbrella VCC that the sub-fund is part of] _____, at a rent of \$ _____ per annum for a term of _____.”.</p> |
| Form 31 | <p>Delete the first paragraph and substitute either of the following paragraphs, whichever is applicable:</p> <p>(a) “Take notice that, pursuant to an Order of the Court, dated the _____ day of _____ 20____. I, _____, the Liquidator of the abovenamed VCC, by writing under my hand bearing date the _____ day of _____ 20____ disclaimed premises (insert description of the property disclaimed) which were demised to [insert name of VCC] _____ at a rent of \$ _____ per annum for a term of _____.”;</p> |

FIRST SCHEDULE — *continued*

| <i>First column</i> <i>Form</i> | <i>Second column</i> <i>Modifications</i> |
|------------------------------------|--|
| | (b) “Take notice that, pursuant to an Order of the Court, dated the day of 20 .I, , the Liquidator of the abovenamed sub-fund, by writing under my hand bearing date the day of 20 disclaimed premises (insert description of the property disclaimed) which were demised to [insert name of umbrella VCC of which sub-fund is a part] at a rent of \$ per annum for a term of .”. |
| Form 66 | Insert either of the following (whichever is applicable) immediately after the words “Section 276(4) of the Companies Act (Cap. 50)” in the Note: (a) “as applied by section 33(2) of the Variable Capital Companies Act 2018 (Act 44 of 2018)”; (b) “as applied by section 130(1) of the Variable Capital Companies Act 2018 (Act 44 of 2018)”. |
| Form 67 | Delete the words “rule 149 of the Companies (Winding Up) Rules” in paragraph 2 and substitute the words “rule 151 of the Variable Capital Companies (Winding Up) Rules 2020”. |

[S 198/2022 wef 01/04/2022]

SECOND SCHEDULE

Rule 83(1)(a)

PROOF OF DEBT FORM

- 1 Name of VCC/Umbrella VCC (on account of sub-fund):

- 2 Winding Up Number:

- 3 Particulars of Creditor Claiming Debt

| |
|--|
| Name of Creditor: _____ |
| NRIC/Passport No./Company/Business Registration No.: _____ |
| Postal Address (<i>Please see note a</i>): _____ |
| Contact Nos. (Tel/Pager/HP): _____ |
| Fax No.: _____ E-mail Address: _____ |
| Creditor's Reference No. (<i>Please see note b</i>): _____ |

- 4 Particulars of Debt

| Date Debt Incurred | Details of Debt (<i>Please see notes c, d and e</i>) | Currency | Amount (\$) |
|--|--|----------|-------------|
| | | | |
| Total Amount of Debt Claimed (In Figures): | | | |
| Total Amount of Debt Claimed (In Words): _____ | | | |
| _____ | | | |

- 5 Security Held (*Please indicate "NIL" if no securities are held by creditor*)

| |
|--|
| Brief Description and Value of Securities: _____ |
| _____ |
| _____ |
| _____ |

SECOND SCHEDULE — *continued*

- 6 Particulars of Persons Authorised to Complete This Proof of Debt Form
(If same as in box 3 above, please indicate “see box 3 above”)

| |
|--|
| Name: _____ |
| NRIC No./Passport No.: _____ |
| Relationship to Creditor: _____ (State whether director/employee/solicitors/accountant, etc.) |
| Name of Company/Firm: _____ (Where applicable) |
| Contact Nos. (Tel/pager/HP): _____ |
| Fax No.: _____ E-mail address: _____ |

- 7 Signature of Creditor/Person Authorised to Complete This Proof of Debt Form

| | |
|-----|---|
| 7.1 | I declare that to the best of my knowledge and belief, the VCC/sub-fund of an umbrella VCC owes the creditor the amount claimed in box 4. |
| 7.2 | I declare that I am duly authorised, by the creditor/under the seal of the creditor company, to complete this proof of debt form. |

| | |
|------------------|-------------------------|
| Signature: _____ | Date: _____/_____/_____ |
| | (Day) (Month) (Year) |

WARNING

Lodging a false proof of debt is a criminal offence punishable with fine or imprisonment or both.

SECOND SCHEDULE — *continued*Notes:

- a. Please inform the Liquidator/Official Receiver of any change in address.
- b. Please indicate the reference number that will be quoted in future correspondences with the liquidator.
- c. Example of Debts are:
- | | | | | | | | |
|---|----------|---|----------|---|------------|---|------------------|
| - | Good | - | Services | - | GST | - | Others |
| | Supplied | | Rendered | | | | (please specify) |
| - | Wages | - | Personal | - | Overdraft | | |
| | and | | Loan | | facilities | | |
| | Salaries | | | | | | |
| - | Income | - | Property | - | CPF | | |
| | Tax | | Tax | | | | |
- d. Please attach copies of documents substantiating the debt. The onus is upon the creditor to prove the debt.
- e. For claims made by an authorised person on behalf of a group of persons employed by the VCC or the umbrella VCC for the purpose of its sub-fund, please provide a schedule reflecting the name, identification/passport no., address, debt description, period of which wages are due and the amount due, for each individual employee.

For Official Use Only

Adjudicated on _____ day of _____ year _____

Admitted as follows:

Preferential \$ _____

Ordinary \$ _____

Total Admitted \$ _____

Amount Rejected \$ _____

Total Amount of Debt Claimed \$ _____

Signature of Liquidator

THIRD SCHEDULE

Rule 197(1)

FEES

| | |
|---|------|
| 1. Every winding up application | \$75 |
| 2. Every bond with sureties | \$10 |
| 3. Every order to attend court, order to produce documents or summons | \$4 |
| 4. On issuing an office copy of a judgment or an order made in Court (except an order upon an application for winding up, an order adjourning a public examination, and an order appointing a shorthand writer) — | |
| (a) if made in Court | \$20 |
| (b) if not made in Court | \$10 |
| 5. Every order adjourning a public examination | \$10 |
| 6. Every order appointing a shorthand writer | \$10 |
| 7. Every affidavit filed | \$10 |
| 8. For taking an affidavit or an affirmation in lieu of an affidavit, or a declaration, except for proof of debts, for each person making the same | \$4 |
| And in addition thereto for each exhibit referred to therein and required to be marked | \$1 |
| 9. Every other office copy, each folio of 100 words | \$1 |

[S 198/2022 wef 01/04/2022]

Made on 18 June 2020.

SUNDARESH MENON
Chief Justice.

LUCIEN WONG
Attorney-General.

TAY YONG KWANG
Judge of Appeal.

STEVEN CHONG
Judge of Appeal.

BELINDA ANG SAW EAN
Judge.

QUENTIN LOH
Judge.

VINODH COOMARASWAMY
Judge.

VINCENT HOONG SENG LEI
Presiding Judge of the State Courts.

JAMES LEONG
District Judge.

FRANCIS XAVIER, SC
Advocate and Solicitor.

KUAH BOON THENG, SC
Advocate and Solicitor.

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