

## South Australia

# Corporations Supplementary Rules 2015

The Corporations Supplementary Rules 2015, dated 29<sup>th</sup> June 2015, come into operation on 1<sup>st</sup> September 2015 (*Government Gazette* 30 July 2015, p. 3625).

		<i>Gazette</i>	<i>Date of operation</i>
# 1	27 November 2017	23 January 2018, p. 392	23 January 2018

**By virtue and in pursuance of Section 62H of the Supreme Court Act 1935 and all other enabling powers, We, The Judges of the Supreme Court of South Australia, make the following Corporations Supplementary Rules 2015.**

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## **Division 1—Preliminary**

### **1.1—Citation**

- (1) These Supplementary Rules may be cited as the *Corporations Supplementary Rules 2015*.
- (2) These Supplementary Rules supplement the *Corporations Rules 2003*.
- (3) These Supplementary Rules follow the Division headings of the *Corporations Rules 2003*.

### **1.2—Commencement**

These Supplementary Rules come into effect on 1 September 2015 or the date of their gazettal, whichever is later.

### **1.3—Objects**

The objects of these Supplementary Rules are to—

- (a) regulate corporations proceedings in the Court;
- (b) supplement the Rules;
- (c) prescribe approved forms.

### **1.4—Interpretation**

Unless the contrary intention appears, a term defined in the *Corporations Rules 2003* has the meaning defined by those Rules.

### **1.5—Approved forms**

The forms contained in the Schedule to these Supplementary Rules are approved forms for the purposes shown.

## **Division 2—Proceedings generally**

*[no supplementary rule]*

## **Division 3—Compromises and arrangements in relation to Part 5.1 bodies**

*[no supplementary rule]*

## **Division 4—Receivers and other controllers of corporation property (Part 5.2 of the Corporations Act)**

*[no supplementary rule]*

## **Division 5—Winding up proceedings (including oppression proceedings where winding up is sought)**

### **5.1—Method of fixing costs**

When an order for the winding up of a company is made by the Court, the plaintiff or a supporting creditor may apply to have the amount of its costs and disbursements fixed—

- (a) by the Judge or Master making the winding up order at the time the order is made; or
- (b) by a lump sum adjudication in the manner set out in subrule 5.4; or
- (c) in the ordinary way under Part 3 of Chapter 12 of the *Supreme Court Civil Rules 2006*.

### **5.2—Costs fixed at time of order**

Under subrule 5.1(a), the total of the costs and disbursements will be fixed at the following amounts without the need to present any details of the costs or disbursements to the Court when the application was made on or after 1 October 2014—

- (a) Plaintiff's costs when the plaintiff is not the company being wound up and that company was trading in South Australia—\$5,445 plus the filing fee;
- (b) Plaintiff's costs when the plaintiff is not the company being wound up and that company was not trading in South Australia— \$5,860 plus the filing fee (allowance for advertising);
- (c) Supporting creditor awarded costs— \$1,390 (when one set of costs is awarded to more than one supporting creditor there is to be no increase in this item);
- (d) Supporting creditor is substituted as plaintiff— any amount fixed under paragraph (c) plus \$1,665.

### **5.3—Variation in costs**

Where the work done in obtaining a winding up order varies significantly from that generally described in subrule 5.2, the party seeking a costs order may request the Court on the making of the winding up order to allow a lump sum either more or less than those set out in subrule 5.2 to reflect the work actually done in obtaining the order.

### **5.4—Lump sum adjudication**

To obtain an adjudication for a lump sum under subrule 5.1(b), the party should lodge a bill in the Registry in form 24.

### **5.5—Percentage increase**

When any percentage increase is allowed on or after 1 July 2015 on Schedule 2 to the *Supreme Court Civil Supplementary Rules 2014*— that percentage increase is to be added to the lump sum amounts in this Division (not including filing fees) when orders for winding up are made on or after the date on which the increase takes effect.

### **5.6—Discretion**

When a party seeks that costs be fixed under paragraph (a) or (b) of subrule 5.1— the Court retains a discretion to require that the costs be fixed under paragraph (c).

## **5.7—Application to set aside**

When the costs have been fixed under paragraph (a) or (b) of subrule 5.1— a liquidator or other interested party may apply to have the order or allocatur set aside on the ground that the costs fixed are excessive and to have the costs fixed under paragraph (c).

## **Division 6—Provisional liquidators (Part 5.4B of the Corporations Act)**

*[no supplementary rule]*

## **Division 7—Liquidators**

### **7.1—Application for release**

On an application for release of a liquidator the particulars provided are to show—

- (a) the means by which the liquidator's, and any provisional liquidator's, remuneration has been fixed;
- (b) the amount and date of each payment of remuneration to the liquidator; and
- (c) the amount and date of each payment of costs to lawyers and other agents made by the liquidator and whether the amounts of such costs have been fixed by the Court.

### **7.2—Application to fix remuneration**

- (1) When a provisional liquidator or a liquidator seeks to have his or her remuneration fixed by the Court pursuant to section 473 of the *Corporations Act*—
  - (a) the appropriate originating process is to be issued and lodged with the Court;
  - (b) an affidavit is to be filed—
    - (i) detailing the work for which the remuneration is sought and the means by which the remuneration sought has been calculated;
    - (ii) when the application is made by a liquidator pursuant to section 473(3) — it is to state why remuneration cannot be fixed by a Committee of Inspection or a meeting of creditors.
- (2) An application for remuneration will usually be considered without the attendance of the liquidator. If the liquidator is required to be heard on the application, a date and time for the hearing will be fixed.

## **Division 8—Special managers (Part 5.4B of the Corporations Act)**

*[no supplementary rule]*

## **Division 9—Remuneration of office-holders**

*[no supplementary rule]*

**Division 10—Winding up generally**

*[no supplementary rule]*

**Division 11—Examinations and orders (Part 5.9, Divisions 1 and 2 of the Corporations Act)**

*[no supplementary rule]*

**Division 11A—Warrants (Corporations Act s486B and Part 5.4B Division 3 Subdivision B)**

*[no supplementary rule]*

**Division 12—Acquisition of shares (Chapter 6 of the Corporations Act) and securities (Chapter 7 of the Corporations Act)**

*[no supplementary rule]*

**Division 13—The futures industry (Chapter 8 of the Corporations Act)**

*[no supplementary rule]*

**Division 14—Powers of courts (Part 9.5 of the Corporations Act)**

*[no supplementary rule]*

**Division 15—Proceedings under the ASIC Act**

*[no supplementary rule]*

**Division 15A—[*proceedings under the Cross-Border Insolvency Act*]**

*[no supplementary rule]*

**Division 16—Powers of masters**

*[no supplementary rule]*

**Division 17—Proceedings under the Federal Courts (State Jurisdiction) Act 1999**

*[no supplementary rule]*

## Schedule 1—Forms

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**Document title**

IN THE [*name of Court*] No. of [*year*]

DIVISION: [*insert if appropriate*]

REGISTRY: [*insert if appropriate*]

IN THE MATTER OF [*full name of corporation to which the proceeding relates and, if applicable, the words '(in liquidation)', '(receiver appointed)', '(receiver and manager appointed)', '(controller acting)', or '(under administration)'*]

ABN or ACN or ARBN: [*insert ABN or ACN or ARBN*]

AB (and Others)

Plaintiff(s)

[*list, in a schedule, any further plaintiffs*]

CD (and Others)

Defendant(s)

[*list, in a schedule, any further defendants*]

[*Title*]

**A. DETAILS OF APPLICATION**

This application is made under \*section/\*regulation [*number*] of the \*Corporations Act/\*ASIC Act/\*Cross-Border Insolvency Act/\*Corporations Regulations.

[*State briefly the nature of the proceeding, eg application for winding-up on ground of insolvency; or complaint about a receiver.*]

On the facts stated in the supporting affidavit(s), the plaintiff claims:

1

2

etc

AND

Date:

.....  
Signature of plaintiff or  
plaintiff's legal practitioner

**B. NOTICE TO DEFENDANT(S)**

TO: [*name and address of each defendant (if any)*]

This application will be heard by ..... at [*address of Court*] at ..... \*am/\*pm on ..... If you or your legal practitioner do not appear before the Court at that time, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

*Note* Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

**C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY**

*[Complete this section if this originating process is seeking an order that a company be wound up in insolvency on the ground that the company has failed to comply with a statutory demand (see section 459Q of the Corporations Act)]*

*[Set out particulars of service of the statutory demand on the company and of the failure to comply with the demand]*

**[Attach to this originating process a copy of the statutory demand and, if the demand has been varied by an order made under subsection 459H (4) of the Corporations Act because of a dispute or offsetting claim, a copy of the order made under that subsection.]**

*[The affidavit in support of this originating process must:*

- (a) verify service of the demand on the company; and*
- (b) verify the failure of the company to comply with the demand; and*
- (c) state whether and, if so, to what extent the debt, or each of the debts, to which the demand relates is still due and payable at the date when the affidavit is made.]*

**D. FILING**

Date of filing: *[date of filing to be entered by Registrar [or other Court officer]]*

.....  
Registrar *[or other Court officer]*

This originating process is filed by *[name]* for the plaintiff.

**E. SERVICE**

The plaintiff's address for service is *[address of plaintiff's legal practitioner or of plaintiff]*.

\*It is not intended to serve a copy of this originating process on any person.

OR

\*It is intended to serve a copy of this originating process on each defendant and on any person listed below:

*[name of defendant and any other person on whom a copy of the originating process is to be served]*

***[Complete the following section if the time for service has been abridged]***

The time by which a copy of this originating process is to be served has been abridged by order made by [*name of Judge or other Court officer*] on [*date*] to [*time and date*].

\* *Omit if not applicable*

[Title]

**A. DETAILS OF APPLICATION**

This application is made under \*section /\*regulation [number] of the \*Corporations Act / \*ASIC Act/\*Cross-Border Insolvency Act/\*Corporations Regulations.

On the facts stated in the supporting affidavit(s), the applicant, [name], applies for the following relief:

1

2

etc

AND

Date:

.....  
*Signature of applicant making this application or  
applicant's legal practitioner*

This application will be heard by .....at [address of Court]  
at .....\*am/\*pm on .....

**B. NOTICE TO RESPONDENT(S) (IF ANY)**

TO: [name and address of each respondent to this interlocutory process (if any). If applicable, also state the respondent's address for service.]

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence.

Before appearing before the Court, you must, except if you have already done so or you are the plaintiff in this proceeding, file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff in the originating process.

[*Title*]

**A. DETAILS OF PERSON INTENDING TO APPEAR**

Notice is given that [*state full name and address*], [*briefly state your interest in the proceeding, eg a creditor for \$ (amount), or a contributory, of the corporation*] intends to appear before the Court at the hearing of the application to be heard at [*name of Court and address*] on [*date*] and, if applicable, to \*oppose/\*support the application.

*Note* Unless the Court otherwise orders, a defendant or respondent that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

**B. GROUNDS OF OPPOSITION TO WINDING UP**

[*Complete this section only if you are opposing an application to wind up a company*]

The grounds on which I oppose the application for winding up are:

1

2

etc

**C. SERVICE**

[*This section must be completed*]

The address for service of the person giving this notice is [address of person's legal practitioner or of person].

.....  
*Signature of person giving notice  
or of person's legal practitioner*

\* *Omit if not applicable*

**Rule 2.10**

Form 5

Notice of intervention by ASIC

[Title]

The Australian Securities and Investments Commission, whose address for service is [address], intervenes in this proceeding.

Date:

.....  
*Signed on behalf of ASIC*

Name of signatory: [name].

Capacity of signatory: [capacity].

TO all the creditors and members of [*name of company*].

TAKE NOTICE that at . . . . . \*am/\*pm on . . . . ., the . . . . . at [*address of Court*] will hear an application by [*name of plaintiff*] seeking the approval of a compromise or arrangement between the above-named company and its \*members/\*creditors as proposed by a resolution passed by the meeting of the \*members/\*creditors of the company held on [*date*].

**[*Complete this section if applicable*]**

The proposed compromise or arrangement as passed by the meeting was amended from the form of compromise or arrangement previously sent to you in the following respects:

[*Set out the details of any amendment made at the meeting*]

If you wish to oppose the approval of the compromise or arrangement, you must file and serve on the plaintiff a notice of appearance, in the prescribed form, together with any affidavit on which you wish to rely at the hearing. The notice of appearance and affidavit must be served on the plaintiff at its address for service at least 1 day before the date fixed for the hearing of the application.

**[*This section must be completed*]**

The address for service of the plaintiff is [*address of plaintiff's legal practitioner or of plaintiff*].

Name of person giving notice or of person's legal practitioner [*name*]

\* *Omit if not applicable*

**Rule 5.2**

Form 7

Affidavit accompanying statutory demand

[Name of creditor(s)]

Creditor(s)

[Name of debtor company]

Debtor company

I, [name] of [address and occupation], \*say on oath/\*affirm [or \*make oath and say/\*solemnly and sincerely declare and affirm]:

1 I am [state deponent's relationship to the creditor(s), eg, 'the creditor', '(name), one of the creditors', 'a director of the creditor', 'a director of (name), one of the creditors'] named in the statutory demand, which this affidavit accompanies, relating to the \*debt/\*debts owed by [name of debtor company].

2 [If the deponent is not the creditor, state the facts entitling the deponent to make the affidavit, eg 'I am authorised by the creditor(s) to make this affidavit on its/their behalf'].

3 [State the source of the deponent's knowledge of the matters stated in the affidavit in relation to the debt or each of the debts, eg 'I am the person who, on behalf of the creditor(s), had the dealings with the debtor company that gave rise to the debt', 'I have inspected the business records of the creditor in relation to the debtor company's account with the creditor'].

4 \*The debt of \$[amount]/\*The total \$[amount] of the debts mentioned in the statutory demand is due and payable by the debtor company.

5 I believe that there is no genuine dispute about the existence or amount of the \*debt/\*any of the debts.

\*Sworn/\*affirmed at: [place of swearing or affirmation] on [date]

OR

\*Sworn/\*affirmed by the above-named deponent at: [place of swearing or affirmation] this day of [month] [year]

.....  
Signature of deponent

Before me:

.....  
Signature and designation of

*person before whom deponent  
swears or affirms affidavit*

*\* Omit if not applicable*

[*Title*]

I, [*name*], of [*address*], a registered liquidator, consent to be appointed by the Court and to act as the \*liquidator/\*provisional liquidator of [*name of company*].

I am not aware of any conflict of interest or duty that would make it improper for me to act as \*liquidator/\*provisional liquidator of the company.

*EITHER*

I am not aware of any relevant relationship mentioned in subsection 60(2) of the *Corporations Act 2001*.

*OR*

I have, or have had within the preceding 24 months, the following relevant relationships mentioned in subsection 60(2) of the *Corporations Act 2001*:

[*Set out all relevant relationships*]

The time-cost rates currently charged in respect of work done as \*liquidator/\*provisional liquidator by me, and by my partners and employees who may perform work in this external administration, are set out below or in the Schedule attached to this Consent. I acknowledge that my appointment by the Court does not constitute an express or implied approval by the Court of these rates.

Note     The remuneration that an external administrator is entitled to receive for necessary work properly performed by the external administrator in relation to the external administration of a company is regulated by Division 60 of the Insolvency Practice Schedule (Corporations).

Date:

.....  
*Signature of registered liquidator*

\* *Omit if not applicable*

**Rule 5.6**

Form 9

Notice of application for winding up order

IN THE [*name of Court*]

No.    of [*year*]

[*Name of company*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

- 1        A proceeding for the winding up of [*name of company and, if applicable, the words 'trading as' and any trading name or names of the company*] was commenced by the plaintiff, [*name of plaintiff*], on [*date of filing of originating process*] and will be heard by ..... at [*address of Court*] at ..... \*am/\*pm on ..... Copies of documents filed may be obtained from the plaintiff's address for service.
  
- 2        The plaintiff's address for service is [*address of plaintiff's legal practitioner or of plaintiff*].
  
- 3        Any person intending to appear at the hearing must file a notice of appearance, in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice and any affidavit on the plaintiff at the plaintiff's address for service at least 3 days before the date fixed for the hearing.

Date:

Name of plaintiff or plaintiff's legal practitioner: [*name*]

\* *Omit if not applicable*

**Rule 5.10**

Form 10

Notice of application for winding up order by substituted plaintiff

IN THE [*name of Court*]

No. of [*year*]

[Name of company]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

- 1 [*Name of substituted plaintiff*], who was, by order of the [*name of Court*], substituted as a plaintiff, will apply to the Court at . . . . \*am/\*pm on . . . . . at [*address of Court*] for an order that the above company be wound up.
- 2 The address for service of the substituted plaintiff is [*address of substituted plaintiff's legal practitioner or of substituted plaintiff*].
- 3 Any person intending to appear at the hearing must file a notice of appearance, in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice and any affidavit on the substituted plaintiff at its address for service at least 3 days before the date fixed for the hearing.

Date:

.....  
*Signature of person giving notice  
or of person's legal practitioner*

\* *Omit if not applicable*

**Rule 5.11**

Form 11

Notice of winding up order and of appointment of liquidator

IN THE [*name of Court*]

AT [*location of Court*]

IN THE MATTER OF [*name of company to which the proceeding relates*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

On [*date*], the [*name of Court*] in Proceeding No.    of [*year*], ordered the winding up of [*name of company*] and I was appointed as liquidator of the company.

Date:

Name and address of liquidator: [*name and address*]

**Rule 6.2**

Form 12

Notice of appointment of provisional liquidator

IN THE [*name of Court*]

AT [*location of Court*]

IN THE MATTER OF [*name of company to which the proceeding relates*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

On [*date*], in Proceeding No.      of [*year*], heard by the [*name of Court*], I was appointed as the provisional liquidator of the above company.

Date:

Name and address of provisional liquidator: [*name and address*]

**Rule 7.6**

Form 13

Notice by creditor or contributory of objection to release of liquidator

*[Title]*

*[Name of creditor/contributory]* of *[address of creditor/contributory]*, a creditor of *[name of company]* for \$*[amount]*, or a contributory of *[name of company]* holding *[number]* shares in the company, objects to the grant of a release to *[name of liquidator]* of *[address of liquidator]*, who is the liquidator of *[name of company]*, on the following grounds:

*[set out the grounds upon which the objection is made]*

Date:

.....  
*Signature of objector  
or objector's legal practitioner*

Name of objector or objector's legal practitioner: *[name]*.

The objector's address for service is *[address of objector or objector's legal practitioner]*.

**Rule 7.8**

Form 14

Affidavit in support of application for order for payment of call

[Title]

I, [name] of [address], liquidator, \*say on oath/\*affirm [or \*make oath and say/\*solemnly and sincerely declare and affirm]:

- 1 I am the liquidator of [name of company] (the company).
- 2 On [date] I made a call of \$[amount] per share on all the contributories of the company [or specify the class of contributories on whom the call was made]. \*Annexed/\*Exhibited and marked A is a copy of the notice of the call. Each contributory whose name is shown in the Schedule marked B was duly served with notice of the call in the form annexed or exhibited and marked A.
- 3 Each contributory of the company whose name is set out in column 2 of the Schedule marked B has not paid, or caused to be paid, to me the sum specified opposite the contributory's name in column 5 of the Schedule, which is due from that contributory under the call.
- 4 The amount set out opposite the name of each contributory in column 6 of the Schedule is an estimate of the amount due by that contributory in respect of the costs of applying for and giving effect to the order for payment of the call. The estimate of the amounts so due by the several contributories has been reached by apportioning the costs among the contributories who have not paid the call according to the liability of the respective contributories to contribute.
- 5 The amount set out opposite the name of each contributory in column 7 of the Schedule is the total of the amount due by that contributory in respect of the call as set out in column 5 and the amount due in respect of costs as set out in column 6.

\*Sworn/\*affirmed at: [place of swearing or affirmation] on [date]

OR

\*Sworn/\*affirmed by the above-named deponent at: [place of swearing or affirmation] this day of [month] [year]

.....  
*Signature of deponent*

Before me:

.....

*Signature and designation of person before whom deponent*

*swears or affirms affidavit*

*\* Omit if not applicable*

**Schedule B**

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<b>Number on list of contributories</b>	<b>Name</b>	<b>Address</b>	<b>Character in which included in the list</b>	<b>Unpaid amount of call</b>	<b>Proportion of costs of application</b>	<b>Total amount payable</b>
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**Rule 7.9**

Form 15

Notice of application for leave to distribute a surplus

IN THE [*name of Court and address*]

APPLICATION NO:

IN THE MATTER OF [*company name*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

On . . . . . at . . . . ., the . . . . . will hear an application by the liquidator of [*name of company*] in Proceeding No. of [*year*] for leave to distribute a surplus in respect of the liquidation of the company.

Any person intending to appear at the hearing must file a notice of appearance, in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice and affidavit on the liquidator at the address shown below at least 3 days before the date fixed for the hearing.

Name of liquidator: [*name*].

The liquidator's address for service is [*address*].

.....  
*Signature of liquidator*

IN THE MATTER OF [*company name*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

TO: [*name and address of person to whom notice is given*]

TAKE NOTICE that, not less than 21 days after this notice is served on you, I, [*name and address*], the *\*receiver/\*external administrator/\*liquidator/\*provisional liquidator/\*special manager* of the above company, intend to apply to the Court to determine my remuneration.

If you object to my application, you must, within 21 days after being served with this notice, serve on me a notice of objection stating the grounds of objection to the remuneration claimed.

Date:

.....  
*Signature of \*receiver/\*external administrator/\*liquidator/  
\*provisional liquidator/\*special manager*

\* *Omit if not applicable*

**Rules 9.2A**

Form 16A

Notice of Intention to Apply For Review of Remuneration

IN THE MATTER OF [company name]

ACN or ABN: [ACN or ABN of company to which proceeding relates]

TO: [name and address of person to whom notice is given]

TAKE NOTICE that, not less than 21 days after this notice is served on you, I, [*name and address of proposed plaintiff or applicant*], \*[the \*external administrator/\*liquidator of the above company,] intend to apply to the Court to review \*the remuneration of/\*my remuneration as the\*external administrator/\*liquidator of the above company.

The amount of the remuneration that has been determined or fixed is [*state the amount*]. The remuneration was determined or fixed by [*state who determined or fixed the remuneration*] on [*state the date when the remuneration was determined or fixed*].

I intend to apply for an order to\*confirm/\*increase/\*reduce the remuneration.

[*Set out the grounds upon which an order or orders will be sought. If an order to increase or reduce the remuneration is sought, set out the amount by which the remuneration is sought to be increased or reduced.*]

If you wish to appear at the hearing of the application, in order to raise any issues before the Court, you must, within 21 days after being served with this notice, serve on me a notice under subrule 9.2A(4) of the *Corporations Rules 2003* (South Australia), stating your intention to appear at the hearing and setting out the issues that you seek to raise before the Court.

Date:

.....

Signature of proposed plaintiff or applicant

\* *Omit if not applicable*

[*Title*]

**A. DETAILS OF SUMMONS**

TO: [*name and address of person to be examined*]

You are summoned under \*section 596A/\*section 596B of the Corporations Act to:

- (a) attend before ..... at [*address of Court*] at .....  
\*am/\*pm on ....., and from day to day until excused by the Court, to be  
examined on oath or affirmation about the examinable affairs of [*name of  
corporation*]; and
- (b) \*to produce at the examination the following books [*specify books — include in  
a schedule if necessary*].

Date:

.....  
*Registrar [or other Court officer]*

**B. NOTICE TO PERSON TO BE EXAMINED**

The Court may order that the questions put to you and the answers given by you at the examination are to be recorded in writing and signed by you.  
If you do not attend the examination in accordance with this summons, without reasonable cause, you may be arrested and imprisoned without further notice.

\* *Omit if not applicable*

(Corporations Act 2001 (Cth), section 486B and Corporations Rules 2003 (South Australia), rule 11A.01)

[*Title*]

TO: The Sheriff and the Sheriff's Officers, to all members and special members of the Australian Federal Police and to all officers of the police force of the State or Territory in which [*name of person*] is found.

WHEREAS

- [*name of company*] (the Company) is being wound up in insolvency\*  
or
- [*name of company*] (the Company) is being wound up by the Court\*  
or
- an application has been made for [*name of company*] (the Company) to be wound up\*

AND THE COURT IS SATISFIED THAT [*name of person*]

- (i) is about to leave [*\*name of jurisdiction/\*Australia*], in order to avoid
  - (A) paying money payable to the Company;\*  
or
  - (B) being examined about the Company's affairs;\*  
or
  - (C) complying with an order of the Court, or some other obligation, under Chapter 5 of the *Corporations Act 2001* (Cth) in connection with the winding up;\*
- (ii) has concealed or removed property of the Company in order to prevent or delay the taking of the property in the liquidator's custody or control;\*
- (iii) has destroyed, concealed or removed books of the Company or is about to do so.\*

THIS WARRANT THEREFORE requires and authorises you to take [*name of person*] and to bring\*him/\*her before the Court at 1 Gouger Street, Adelaide in the State of South Australia and to keep\*him/\*her there pending the making of a further order by the Court.

THIS WARRANT ALSO requires and authorises you, and all other persons to whom this warrant is addressed, to seize any property or books of the company in the possession of [*name of person*] and to deliver them into the custody of the Registrar to be kept by the Registrar until the Court makes an order for their disposal.

*Note:* Section 489A of the Corporations Act 2001 (Cth) provides that if the Court issues a section 486B warrant for a person to be arrested and brought before the Court, and the person is not in prison, then the person named in the warrant may be arrested by an officer of the police force of the State or Territory in which the person is found, the Sheriff of that State or Territory or any of the Sheriff's officers, or a member or special member of the Australian Federal Police.

Dated:

[*signed, Judge/Registrar*]  
Judge/Registrar

\* *Omit if not applicable*

**Rule 12.2**

Form 18                      Summons for appearance in relation to registration of transfer of interests

[*Title*]

TO: [*name and address*]

You are required to appear before the . . . . . at [*address of Court*] at . . . . .  
\*am/\*pm on . . . . . and show cause why the document(s) specified in the Schedule should  
not be \*delivered up/\*produced at the office of [*name of company*] at [*address of company*]  
within [*period as ordered*], as required by the attached notice.

The address for service of the person applying for this summons is [*address of person's legal  
practitioner or of person*].

Date:

.....  
*Registrar [or other Court officer]*

\* *Omit if not applicable*

**Schedule**

[*description of document(s)*]

**Rule 15A.5**

Form 19

Consent to act as designated person

[*Title*]

I, [*name*], of [*address*], a registered liquidator, consent to be appointed by the Court and to act as the person designated by the Court under \*article 19/\*article 21 of the Model Law to \*administer/\*realise/\*distribute the assets of [*name of company*].

I am not aware of any conflict of interest or duty that would make it improper for me to act as the person designated by the Court.

The time-cost rates currently charged in respect of work done as the person designated by the Court by me, and by my partners and employees who may perform work in this administration, are set out below or in the Schedule attached to this Consent.

I acknowledge that my appointment by the Court does not constitute an express or implied approval by the Court of these rates.

Date:

.....  
*Signature of registered liquidator*

\* *Omit if not applicable*

**Rule 15A.6**

Form 20

Notice of filing of application for recognition of foreign proceeding

IN THE [*name of Court*]

No. of [*year*]

[*Name of company*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

TO all the creditors of [*name of company*].

TAKE NOTICE that:

1. An application under the *Cross-Border Insolvency Act 2008* for recognition of a foreign proceeding in relation to [*name of company*] was commenced by the plaintiff, [*name of plaintiff*], on [*date of filing of originating process*] and will be heard by ..... at [*address of Court*] at ..... \*am/\*pm on .....

Copies of documents filed may be obtained from the plaintiff's address for service.

2. The plaintiff's address for service is [*name and address of plaintiff's legal practitioner or, if there is no legal practitioner, address of the plaintiff*].
3. Any person intending to appear at the hearing must file a notice of appearance, in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice and any affidavit on the plaintiff at the plaintiff's address for service at least 3 days before the date fixed for the hearing.
4. If you are a foreign creditor you must file in the registry of the Court at the address mentioned in paragraph 1 an affidavit setting out the details of any claim, secured or unsecured, which you may have against the company above at least 3 days before the date fixed for the hearing.

Date:

Name of plaintiff or plaintiff's legal practitioner: [*name*]

\* *Omit if not applicable*

**Rule 15A.7**

Form 21

Notice of making of order under the Cross-Border Insolvency Act 2008

IN THE [*name of Court*]

No. of [*year*]

[*Name of company*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

TO all the creditors of [*name of company*].

TAKE NOTICE that:

1. On [*date*], the [*name of Court*] in Proceeding No. of [*year*], commenced by the plaintiff [*name of plaintiff*], made the following orders under the *Cross-Border Insolvency Act 2008* in relation to [*name of company*]: [*insert details of order*].
2. The plaintiff's address for service is [*name and address of plaintiff's legal practitioner or, if there is no legal practitioner, address of the plaintiff*].
3. The name and address of the foreign representative is [*insert name and address*].
4. The name and address of the person entrusted with distribution of the company's assets is [*insert name and address*].\*

Date:

Name of plaintiff or plaintiff's legal practitioner: [*name*]

\* *Omit if not applicable*

**Rule 15A.7**

Form 22            Notice of dismissal or withdrawal of application for recognition of foreign proceeding

IN THE [*name of Court*]      No.    of [*year*]

[*Name of company*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

TO all the creditors of [*name of company*].

TAKE NOTICE that the application under the *Cross-Border Insolvency Act 2008* for recognition of a foreign proceeding in relation to [*name of company*] commenced by the plaintiff, [*name of plaintiff*], on [*date of filing of originating process*] was dismissed\*/withdrawn\* on [*date of dismissal/withdrawal*]

Date:

Name of person giving notice or of person's legal practitioner [*name*]

\* *Omit if not applicable*

**Rule 15A.9**

Form 23 Notice of filing of application to modify or terminate an order for recognition or other relief

IN THE [*name of Court*]

No. of [*year*]

[*Name of company*]

ABN or ACN: [*ABN or ACN of company to which proceeding relates*]

TO all the creditors of [*name of company*].

TAKE NOTICE that:

- \*1. An application under the *Cross-Border Insolvency Act 2008* for an order \*modifying/\*terminating an order for recognition of a foreign proceeding in relation to [*name of company*] was filed by the applicant, [*name of applicant*], on [*date of filing of interlocutory process*] and will be heard by .....  
..... at [*address of Court*] at ..... \*am/\*pm on ...  
.....

Copies of documents filed may be obtained from the applicant's address for service.

- \*1. An application under the *Cross-Border Insolvency Act 2008* for an order \*modifying/\*terminating relief granted under \*article 19/\*article 21 of the Model Law in relation to [*name of company*] was filed by the applicant, [*name of applicant*], on [*date of filing of interlocutory process*] and will be heard by .....  
..... at [*address of Court*] at ....  
.... \*am/\*pm on ..... Copies of documents filed may be obtained from the applicant's address for service.
- 2. The applicant's address for service is [*name and address of applicant's legal practitioner or of applicant*].
- 3. Any person intending to appear at the hearing must file a notice of appearance (if the person has not already done so), in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice (if applicable) and any affidavit on the applicant at the applicant's address for service at least 3 days before the date fixed for the hearing.

Date:

Name of applicant or applicant's legal practitioner: [*name*]

\* *Omit if not applicable*



## History of Amendment

<b>Rules</b>	<b>Amendments</b>	<b>Date of Operation</b>
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
<b>Form 8</b>	<b>sub am1</b>	<b>23 January 2018</b>
<b>Form 16</b>	<b>sub am1</b>	<b>23 January 2018</b>
<b>Form 16A</b>	<b>sub am1</b>	<b>23 January 2018</b>
<b>Form 17A</b>	<b>sub am1</b>	<b>23 January 2018</b>
<b>Form 19</b>	<b>sub am1</b>	<b>23 January 2018</b>