

[Legal Notice No. ...]

COMPANIES (INSOLVENCY AND RECEIVERSHIP) REGULATIONS 2010

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COMPANIES (INSOLVENCY AND RECEIVERSHIP) ACT 2009

(Act No. 2 of 2009)

**Companies (Insolvency and Receivership)
Regulations 2010**

IN exercise of the powers conferred upon me by section 81 of the Act, I make these Regulations –

- | | |
|--|---|
| Citation and commencement | 1. These Regulations may be cited as the Companies (Insolvency and Receiverships) Regulations 2010 and come in to force on the date of commencement of the Act. |
| Interpretation | 2. In these Regulations, unless the context otherwise requires –

“Court” means the High Court;

“Registrar of the Court” includes the Deputy Registrar of the Court. |
| Prescribed amount for statutory demand | 3. The sum of \$100 is the amount prescribed for the purposes of section 22(2)(a) of the Act. |
| Claim by unsecured creditor | 4. A claim by an unsecured creditor under clause 6(1) of Schedule 8 to the Act must be in form 1 in Schedule 1. |
| Secured creditor valuing security and claiming as unsecured creditor for balance due | 5. A valuation and claim by a secured creditor under clause 9 of Schedule 8 to the Act must be in form 2 in Schedule 1 to these Regulations. |
| Remuneration of certain liquidators | 6. Unless the Court otherwise orders under clause 14(2) of Schedule 4 to the Act, the remuneration of every liquidator appointed under section 18 of the Act is a fee calculated on an hourly rate in accordance with the following –

(a) for work undertaken by the liquidator, \$3,500 per hour or part of an hour;

(b) for work undertaken by an accountant or legal practitioner employed by the liquidator, \$3,500 per hour or part of an hour;

(c) for work undertaken by any other employee of the liquidator, \$2,000 per hour or part of an hour. |
| | 7. (1) Schedules 2 to 4 to these Regulations apply in respect of every application to the Court— |

Application of
Schedules 2 to 4

- (a) for putting a company into liquidation; or
 - (b) for an order under section 99 of the Companies Act 2009.
- (2) Clause 34 of Schedule 2 to these Regulations applies in respect of a notice under clause 8 of Schedule 7 of the Act.
- (3) The rules of procedure and general practice of the Court apply to applications to which subregulation (1) applies and notices to which subregulation (2) applies except in so far as they are modified by or inconsistent with Schedules 2 and 3 to these Regulations or are modified by or inconsistent with the Act, as the case may be.
- (4) A form in Schedule 3 to these Regulations may be varied as the circumstances of any particular case may require.

Schedule 1

(regulations 4 and 5)

LIQUIDATION FORMS

Form 1

Unsecured creditor's claim

(Clause 6(1) of Schedule 8 to the Act)

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Name of company in liquidation:

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Details of Creditor

Name Address		Email*	
		<i>*Optional</i>	
		Telephone	
		Facsimile*	
		<i>*Optional</i>	

Details of person completing this form

Warning

It is an offence under clause 6(6) of Schedule 8 to the Act—

- make, or authorise the making of, a claim under that clause that is false or misleading in a material particular knowing it to be false or misleading; or
- omit, or authorise the omission, from a claim under that clause of any matter knowing that the omission makes the claim false or misleading in a material particular.

Reserved for office use

Claim received:	
Signed:	Date:

Claim admitted for voting purposes:

Signed:

Date:

Claim rejected for voting purposes:

Signed:

Date:

Claim rejected for payment:	
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Signed:	Date:
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Claim admitted for payment:	
Signed:	Date:

Preferential claim for:

Ordinary claim for:

Deferred claim for:

\$

\$

\$

Signed Liquidator:	Date:
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Particulars of claim

Date	Details of claim and identification of documents that evidence or substantiate the claim	Amount \$
	If applicable, less retention of title for goods supplied by creditor to the company [<i>describe goods</i>]	\$
	If applicable, less debts owed by creditor to the company [<i>describe debts</i>]	\$

Schedule 1—continued

Form 2

Secured creditor's valuation and claim

(Clause 9(1) of Schedule 8 to the Act)

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Name of company in
liquidation

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Details of Creditor

Name Address		Email*	
		<i>*Optional</i>	
		Telephone	
		Facsimile*	
		<i>*Optional</i>	

Details of person completing this form

Completed by Address		Email*	
		<i>*Optional</i>	
		Telephone	
		Facsimile*	
		<i>*Optional</i>	

I [name] [if claim is made on behalf of creditor, specify relationship to creditor and authority] claim that after valuing the security as at the date the company was put into liquidation the

above named creditor is an unsecured creditor for the sum of [Amount in words and figures.]:

Full particulars of the valuation, claim, and charge are set out, and any supporting documents that substantiate the claim and the charge are identified, on the reverse of this form.

[The liquidator may require the production of a document under clause 9(2) of Schedule 8 to the Act. You are not required to attach any supporting documents at this stage, but you may attach them now, if you think it would expedite the processing of the claim.]

Signed:

Date:

Warning

It is an offence under clause 13 of Schedule 8 to the Act to—

- make, or authorise the making of, a claim under that clause that is false or misleading in a material particular knowing it to be false or misleading; or
- omit, or authorise the omission, from a claim under that clause of any matter knowing that the omission makes the claim false or misleading in a material particular.

Reserved for office use

Claim received:	
Signed:	Date:

Claim admitted for voting purposes:

Signed:

Date:

Claim rejected for voting purposes:

Signed:

Date:

Claim rejected for payment:	
Signed:	Date:

Claim admitted for payment:	
Signed:	Date:

Preferential claim for:

Ordinary claim for:

\$

\$

Signed Liquidator:	Date:
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Valuation of security

Particulars of the charge:
Description of charge:
Description and location of property subject to charge:

<p>Date charge given [<i>or date of acquisition of property subject to the charge</i>]:</p> <p>If applicable, details of registration (including date):</p>

<p>Particulars of the valuation:</p>	
<p>Amount security valued at:</p> <p>Particulars of valuation:</p>	

<p>Identification of any documents that substantiate the claim and the charge:</p> <p><i>[If not already supplied in either of above boxes]</i></p>	

Schedule 2

(regulation 7)

Court proceedings

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Hearing of applications

1. Unless the Court otherwise directs, every application to which this Schedule applies must be heard in open Court.

Applications to be made by claim

2. (1) Every application to the Court to put a company into liquidation under section 18 of the Act must be made by claim in form 3 in Schedule 3.

(2) Every application to the Court under section 99 of the Companies Act 2009 must be made by claim in form 4 in Schedule 3.

Notice of proceeding and verifying sworn statement

3. (1) The following documents must be filed and served with every claim filed under clause 2:

(a) a notice of proceeding in form 5 in Schedule 3; and

(b) a sworn statement in form 6 in Schedule 3 or form 7 in Schedule 3 verifying the allegations in the claim.

(2) The sworn statement must be made by the claimant, or by one of the claimants, if more than one, or, if the

proceeding is being brought by a corporation, by a person who meets the requirements of subclause (3).

(3) A person may make a sworn statement on behalf of a corporation or body of persons empowered by law to sue or be sued (whether in the name of the body or in the name of the holder of an office) if the person—

- (a) knows the relevant facts; and
- (b) is authorised to make the sworn statement.

(4) The sworn statement is sufficient prima facie evidence of the statements in the claim.

Date of hearing

4. (1) On the filing of a claim under clause 2, the Registrar of the Court must as soon as practicable appoint the time and place at which the proceeding is to be heard.

(2) Notice of the time and place appointed for hearing the application must be included in the notice of proceeding in form 5 in Schedule 3, and the Registrar of the Court may, at any time before public notice of the proceeding has been given, alter the time appointed and fix another time.

Directions

5. The powers of the Court to give directions in respect of the conduct of proceedings apply, with all necessary modifications, in relation to every proceeding commenced by the filing of a claim under clause 2.

Public notice must be given of application

6. (1) Subject to clause 7 and to any order made on an application under clause 8, public notice of every proceeding commenced by a claim filed under clause 2 must be given at least 7 clear days before the hearing.

(2) The public notice, which must be in form 8 in Schedule 3 or form 9 in Schedule 3, as the case may require, must—

- (a) state the day on which the application to put the defendant company into liquidation was filed; and
- (b) state the name and address of the claimant and of the claimant's legal practitioner (if any); and
- (c) state the claimant's address for service; and
- (d) state the place, date, and time of the hearing of the application; and
- (e) state that the claim and the verifying sworn statement may be inspected at the registry of the Court or at the claimant's address for service; and
- (f) state that any person, other than the defendant company, who wishes to appear on the hearing of the application must file an appearance not later than the second working day before the day appointed for the hearing of the application.

(3) If the claimant or the claimant's legal practitioner does not within the time prescribed, or within such extended time as the Registrar may allow, duly give public notice of the proceeding in the manner prescribed by this rule, the appointment of the time and place at which the proceeding is to be heard must be cancelled by the Registrar and the proceeding must be removed from the list, unless the defendant company has been served or the Court otherwise directs.

7 Restriction on giving public notice of proceeding

7. Except where a claim filed under clause 2 is filed by the defendant company, no person may, unless the Court otherwise directs, publish any public notice required by clause 6 or any other information

relating to that claim until at least 7 days after the date on which the claim in the proceeding is served on the defendant company.

Power to stay liquidation proceedings

8. (1) If an application for putting a company into liquidation is made by the filing of a claim under clause 2, the defendant company, or, with the leave of the Court, any creditor or shareholder, as the case may be, of that company, or the Registrar of Companies, may, within 7 days after the date of the service of the claim on the defendant company, apply to the Court for an order restraining publication of any public notice required by clause 6 or any other information relating to that claim and staying any further proceedings in relation to the liquidation.

(2) The Court must deal with every application under subclause (1) as if it were an application for an interim injunction and, if it makes the order sought, may make it on such terms as the Court thinks fit.

(3) Nothing in this regulation limits the inherent jurisdiction of the Court.

Service of proceeding

9. (1) Every claim filed under clause 2 must, unless the claimant is the defendant company, be served, together with the verifying sworn statement and notice of proceeding, upon the defendant company.

(2) Service under this rule must be effected not less than 21 days before the date of hearing appointed or fixed under clause 4.

Sworn statement of service

10. (1) The claimant must, before the hearing, file a sworn statement of service in form 10 in Schedule 3 proving the service of the statement of claim, verifying sworn statement, and notice of proceeding on the defendant company.

(2) Subclause (1) does not apply in relation to service on the company if the claimant is the defendant company.

- (3) Subclause (1) does not apply in relation to service on any person who, before the hearing, files a defence.

Evidence of public notices

11. The claimant must, before the hearing, file in the registry of the Court—

- (a) copies of the public notices published in accordance with clause 6; and
- (b) a statement of the dates on which the public notices appeared.

Entitlement to copy of claim, etc.

12. Every shareholder and every creditor of the defendant company, and the Registrar of Companies, are entitled to be supplied by the claimant's legal practitioner with a copy of the claim, verifying sworn statement, and notice of proceeding, within 24 hours after requiring it, on paying for it at the rate of not more than \$5.00 per page.

Defence

13. (1) The provisions of the Court rules relating to the time within which a defence must be filed do not apply to a proceeding commenced by the filing of a claim under clause 2.

(2) Any person, being the defendant company or a creditor or shareholder, as the case may be, of that company, who intends to defend a proceeding commenced by a claim filed under clause 2 must file a defence in the office of the Court named in the notice of proceeding.

(3) Every person who files a defence must serve a copy of that defence on—

- (a) the claimant; and
- (b) any other person who, when the defence is filed, has filed a defence in the proceeding.

(4) If the defendant company has filed a defence, any defence filed by a creditor or shareholder, as the case may be, of that company must state specifically any grounds of

opposition that are additional to those appearing in the company's defence.

Time for filing defence

14. If any person to whom clause 13(2) applies is a person on whom the claim is served, that person must file a defence within 14 days after the date on which the claim is served upon that person.

Appearance

15. Any person (other than the defendant company) who intends to appear on the hearing of the proceeding may, without filing a defence, file an appearance in form 11 in Schedule 3—

- (a) stating that that person intends to appear; and
- (b) indicating whether that person supports or opposes the application to put the company into liquidation or the application for an order under section 99 of the Companies Act 2009.

Time for filing appearance

16. Every appearance must be filed not later than the second working day before the day appointed for the hearing.

Effect of failure to file defence or appearance

17. If any person, being a person who is entitled to file a defence or an appearance in a proceeding commenced by the filing of a claim under clause 2, fails to file a defence or an appearance within the time prescribed by these rules, that person is not, without an order for extension of time granted on application made under clause 19 or the special leave of the Court, allowed to appear on the hearing of the proceeding.

Evidence as to unpaid debts

18. (1) A certificate by the legal practitioner for the claimant that, after having made due inquiries, the legal practitioner is satisfied that any debt remains unpaid may be accepted by the Court as sufficient *prima facie* evidence that that debt remains unpaid.

(2) Subject to any direction of the Court, evidence that any debt remains unpaid may be given by a sworn statement sworn by or on behalf of the claimant and so sworn not earlier than the third day before the day of the hearing of the proceeding.

Interlocutory applications

19. (1) If a proceeding is commenced by the filing of a claim under clause 2, no interlocutory application (other than an application made with the leave of the Court) may be made to the Court before the date of hearing specified in the notice of proceeding served with that claim unless that application is—

- (a) an application for an extension or abridgment of time; or
- (b) an application under clause 4(2) or clause 8; or
- (c) an application for the appointment of an interim liquidator; or
- (d) an application for directions; or
- (e) an application to excuse non-compliance with any provision of these Regulations.

(2) If a defence is filed in a proceeding commenced by the filing of a claim under clause 2 and the hearing of that proceeding is adjourned for a fixture on a defended basis, the Court rules apply as if the proceeding had been commenced by a claim filed under the Court rules and not by a claim filed under clause 2.

(3) Nothing in this clause limits the inherent jurisdiction of the Court.

Power to appoint interim liquidator

20. (1) If a proceeding for putting a company into liquidation has been commenced by the filing of a claim under clause 2(1), the claimant and any person entitled to apply to the Court for the appointment of a

liquidator under section 18 of the Act may apply to the Court for the appointment of an interim liquidator.

(2) If, on an application under subclause (1), the Court is satisfied, upon proof by sworn statement, that there is sufficient ground for the appointment of an interim liquidator, it may make the appointment, and may limit the rights and powers of the interim liquidator in such manner as it thinks fit.

Additional and substituted claimants in liquidation proceeding

21. (1) This clause applies to any person, who is entitled to make an application to the Court for putting the company into liquidation under section 18 of the Act.

(2) If a proceeding to put a company into liquidation has been commenced, a person to whom this rule applies may become a claimant in that proceeding, not later than the second working day before the day appointed for the hearing of the proceeding, by filing in the registry of the Court and serving on all the other parties to the proceeding, in the same manner as if that person were commencing the proceeding,—

- (a) a claim in form 3 in Schedule 3; and
- (b) a notice of proceeding in form 5 in Schedule 3; and
- (c) a sworn statement in form 6 in Schedule 3.

(3) If a person to whom this rule applies has filed an appearance under clause 15 in a proceeding to put a company into liquidation and, on the day appointed for the hearing, or on any day to which the hearing has been adjourned, no claimant wishes to proceed, on that day, with the hearing of the application to put the company into liquidation, the Court may, on the oral application of that person, but subject to subclause (4),—

- (a) add that person as a claimant in the proceeding; or

(b) substitute that person for the claimant or claimants or any of the claimants in the proceeding.

(4) The addition or substitution of a person as a claimant under subclause (3) is subject to the condition that that person file in the registry of the Court and serve on all the other parties to the proceeding, within 7 days after the day on which the addition or substitution is made,—

(a) a claim in form 3 in Schedule 3; and

(b) a notice of proceeding in form 5 in Schedule 3; and

(c) a sworn statement in form 6 in Schedule 3.

(5) If any person to whom clause 13(2) applies is a person on whom the claim is served pursuant to this rule, that person must file a defence within 14 days after the date on which the claim is served on that person.

Consolidation of proceedings

22. (1) If 2 or more proceedings have been commenced in respect of the same company by the filing of statements of claim under clause 2, the Court may order those proceedings to be consolidated on any terms that it thinks just.

(2) Nothing in this clause limits the power of the Court to make orders or give directions in respect of the consolidation of the proceedings.

Discontinuance of proceeding

23. A proceeding commenced by the filing of a claim under clause 2 may be discontinued only with the leave of the Court.

Requirements in relation to order appointing interim liquidator

24. The order appointing the interim liquidator must—

(a) bear the number of the proceeding; and

- (b) state the nature and a short description of the property of which the interim liquidator is ordered to take possession; and
- (c) state the duties to be performed by the interim liquidator.

Costs, charges, and expenses of interim liquidator

25. Subject to any order of the Court, if—
- (a) no order for putting the defendant company into liquidation is made in the proceeding; or
 - (b) an order for putting the defendant company into liquidation is rescinded; or
 - (c) all proceedings for putting the defendant company into liquidation are stayed—

the person holding office as interim liquidator is entitled to be paid, out of the property of the defendant company, all costs, charges, and expenses properly incurred by that person as interim liquidator.

Obligation to send notice of order appointing liquidator or interim liquidator of company

26. (1) When the Court has made an order appointing a person to be liquidator of a company, or has made an order appointing an interim liquidator before an order putting the company into liquidation is made, the Registrar must, on the same day, send to the liquidator or interim liquidator a notice informing him or her of his or her appointment.

- (2) The notices must be in form 12 in Schedule 3 or in form 13 in Schedule 3, as the case may require, with such variations as circumstances may require.

Order and copies to be sealed

27. The claimant or the claimant's legal practitioner must, at latest on the second working day after the day on which an order putting a company into liquidation is pronounced in Court, leave the order and 2 copies thereof at the registry of the Court for sealing.

Contents of order putting company into liquidation

28. (1) An order putting a company into liquidation may be in form 14 in Schedule 3.

(2) An order for the appointment of an interim liquidator may be in form 15 in Schedule 3.

Transmission of order putting company into liquidation

29. When an order that a company be put into liquidation or an order for the appointment of an interim liquidator has been made,—

(a) one copy of the order sealed with the seal of the Court must immediately be sent by post or otherwise by the Registrar to the liquidator or interim liquidator, as the case may be:

(b) one copy of the order sealed with the seal of the Court must be served by the claimant upon the company in accordance with the Act.

Service of order made under section 99 of the Companies Act 2009

30. If an order is made under section 99 of the Companies Act 2009, a copy of the order must, unless the Court otherwise orders, be served by the claimant on—

(a) the defendant company in accordance with the Act:

(b) the Registrar of Companies.

Service of notice of company being put into liquidation

31. Any notice given for the purposes of clause 8 of Schedule 5 to the Act being—

(a) a notice that an application has been made to the Court to appoint a liquidator; or

(b) a notice that the Court has made an order appointing a liquidator; or

- (c) a notice that the Court has appointed an interim liquidator; or
- (d) a notice of the calling of a meeting at which a special resolution is proposed to appoint a liquidator; or
- (e) a notice that a special resolution has been passed appointing a liquidator; or
- (f) a notice of the calling of a meeting of the board at which a resolution is proposed to appoint a liquidator; or
- (g) a notice that a resolution has been passed appointing a liquidator,—

must be in writing and must be addressed to the officer charged with the execution, and may be served by being delivered by hand or by registered post at the office of the officer charged with the execution.

Procedure in respect of miscellaneous applications

32. (1) Subject to subclauses (2) and (3), if the Act provides for an application to be made to the Court in respect of—

- (a) a company that is the defendant company in relation to an application made for putting that company into liquidation under section 18 of the Act; or
- (b) a company in respect of which a liquidator has been appointed under section 18 of the Act; or
- (c) a company in respect of which an application under section 99 of the Companies Act 2009 is pending, as the case may be,—

the application to be made to the Court must, unless any provision of those Acts or some other provision of these Regulations otherwise requires or the Court otherwise directs, be made to the Court in accordance with the Court rules as if that application were an interlocutory application.

(2) Every application to which subclause (1) applies must show, in addition to any matters required by the Court rules, the same intitulment as the intitulment shown on the application for putting the company into liquidation or for the order under section 99 of the Companies Act 2009.

Liquidator's notice to set aside voidable transaction or voidable charge

- 33.** A notice under clause 8 of Schedule 7 to the Act must—
- (a) contain the heading in form 16 in Schedule 3 to these Regulations; and
 - (b) be in form 17 in Schedule 3 to these Regulations or form 18 in Schedule 3 to these Regulations, as the case may require.

Filing of notices under clause 8 of Schedule 7 to the Act

34. A notice under clause 8 of Schedule 7 to the Act must be filed in the registry of the Court under the same file number as the liquidation file number (even though the heading of the notice is different).

Schedule 3
COURT FORMS

Form 1	General heading for documents filed in liquidation proceeding
Form 2	Memorandum to be subscribed to first document filed by party
Form 3	Claim in proceeding for putting company into liquidation
Form 4	Claim in proceeding for order under section 99 of Companies Act 2009
Form 5	Notice of proceeding for putting company into liquidation (or for order under section 99 of Companies Act 2009)
Form 6	Verifying sworn statement
Form 7	Sworn statement verifying claim of limited company
Form 8	Public notice of application for putting company into liquidation
Form 9	Public notice of application for order under section 99 of Companies Act 2009
Form 10	Sworn statement of service
Form 11	Appearance in support of (or in opposition to) application for putting a company into liquidation (or for making of order under section 99 of Companies Act 2009)
Form 12	Notification to liquidator of order putting company into liquidation

Form 13	Notification to interim liquidator of appointment
Form 14	Order putting company into liquidation
Form 15	Order appointing interim liquidator
Form 16	General heading for notices in forms 17 and 18
Form 17	Notice to set aside voidable transaction under the Act
Form 18	Notice to set aside voidable charge under the Act
Form 19	Notice objecting to setting aside of transaction or charge

Schedule 3—continued

Form 1

General heading for documents filed in a proceeding

In the High Court of Solomon Islands

No *[number]*

Under the Companies (Insolvency and
Receiverships) Act 2009

[if appropriate]

In the matter of

[if appropriate]

Between *[full name]*, of *[place of residence]*, *[occupation]*,

Claimant

And *[full name]*, of *[place of residence]*, *[occupation]*,

Defendant

Schedule 3—continued

Form 2

Memorandum to be subscribed to first document filed by party

This document is filed by the above-named claimant (*or* defendant, etc) in person. The

address for service of the above-named claimant (*or* defendant, etc) is

or

This document is filed by [*name*], legal practitioner for the above-named claimant (*or defendant*, etc), of the firm of [*name*]. The address for service of the above-named claimant (*or* defendant, etc) is [*address*].

Documents for service on the above-named claimant (*or* defendant, etc) may be left at that address for service or may be—

- (a) posted to the legal practitioner at [*Post Office box address*];
or
- (b) transmitted to the legal practitioner by facsimile to [*facsimile number*].

Schedule 3—continued

Form 3

**Claim in proceeding for putting company into
liquidation***[General heading in form 1.]*

The claimant says:

1 The *[Name]* (the defendant company) was in *[month and year]* incorporated under the Companies Act 2009.

2 The registered office of the defendant company is at *[full address of registered office]*.

[Set out in paragraphs the facts on which the claimant relies.]

The claimant therefore seeks an order that the defendant company be put into liquidation by the Court under the Companies (Insolvency and Receiverships) Act 2009.

[memorandum in form 2.]

Schedule 3—continued

Form 4

Claim in proceeding for order under section 99 of Companies Act 2009

[General heading in form 1.]

The claimant says:

1 The *[name]* (the defendant company) was in *[month and year]* incorporated under the Companies Act 2009.

2 The registered office of the defendant company is at *[full address of registered office]*.

3 The affairs of the defendant company have been (*or are being or are likely to be*) conducted in a manner that is oppressive (*or unfairly discriminatory or unfairly prejudicial*) to the claimant in the claimant's capacity as a shareholder of the defendant company (*or [any other capacity]*).

or

3 An act (*or acts*) of the defendant company have been (*or are being or are likely to be*) oppressive (*or unfairly discriminatory or unfairly prejudicial*) to the claimant in the claimant's capacity as a shareholder of the defendant company (*or [any other capacity]*).

[Set out in paragraphs the facts on which the claimant relies.]

The claimant therefore seeks the following relief:

[Set out in paragraphs the relief sought under section 99 of the Companies Act 2009.]

[memorandum in form 2.]

Schedule 3—continued

Form 5

Notice of proceeding for putting company into liquidation*(or for order under section 99 of Companies Act 2009)**[General heading in form 1]*To *[name]* (the defendant company)**and***[if a liquidator or interim liquidator has been appointed.]*To *[name]*, *[address]*, *[description]*, the liquidator*/interim liquidator* of the defendant company***Delete if not applicable.***Take notice** that the claimant is, by a claim, making application for an order that the defendant company be put into liquidation under the Companies (Insolvency and Receiverships) Act 2009 *(or for an order in respect of the defendant company under section 99 of the Companies Act 2009)*.

A copy of the claim is served with this notice.

The application will be heard in this Court at *[place]* at *[time]* am/pm on *[date]*.**Take notice** that unless, within 14 days after the date on which this notice is served on you, you file in this office of this Court a statement of your defence to the claimant's claim, a copy of which is served, the claimant may proceed to a hearing and an order may be made for the liquidation of the defendant company by the Court under the Companies (Insolvency and Receiverships) Act 2009 *(or an order may be made in respect of the defendant company under section 99 of the Companies Act 2009)*.Dated at *[place]* on *[date]*.

.....

Claimant *(or Legal practitioner for claimant)*

Your attention is directed to the endorsed or attached memorandum

Memorandum

Advice

1 If the defendant company wishes to oppose this application or to appear at the hearing, it is essential that it consult a legal practitioner without delay. A company cannot carry on proceedings in the Court except through a legal practitioner.

Public notice

2 Public notice of the application to put the defendant company into liquidation under the Companies (Insolvency and Receiverships) Act 2009 (or for the making in respect of the defendant company of an order under section 99 of the Companies Act 2009) is to be given.

3 Public notice will not be given until at least 7 days after the date on which the claim is served on the defendant company.

**Power of Court to restrain advertising and stay proceedings*

**Delete if not applicable.*

*4 The Court has power to make an order restraining the giving of public notice and staying any further proceedings in relation to the liquidation.

**Delete if not applicable.*

*5 The defendant company or, with the leave of the Court, any creditor or shareholder of the defendant company may apply for such an order within 7 days after the date of the service of the claim on the defendant company.

**Delete if not applicable.*

Defence

6 If the last day for filing your defence falls on a day on which the office of the Court is closed, you may file your defence on the next day on which that office is open.

7 If you file a defence, you must also, within the time limited for filing it in the registry of the Court, serve a copy of the statement on the claimant and

on any other person who, when the defence is filed, has filed a defence in the proceeding.

8 If a defence is not filed on behalf of the defendant company within the time prescribed, a legal practitioner for the defendant company will not, without an order for extension of time or special leave of the Court, be allowed to appear on the hearing. A company cannot appear in person. If it wishes to appear on the hearing, it must appear by a legal practitioner.

Appearance by persons other than the defendant company

9 Any person (other than the defendant company) who intends to appear on the hearing of the application must file an appearance—

- (a) stating that the person intends to appear; and
- (b) indicating whether the person supports or opposes the appointment of a liquidator by the Court (or the making in respect of the defendant company of an order under section 99 of the Companies Act 2009).

10 Any person who files an appearance need not file a defence.

11 Every appearance must be filed not later than the second working day before the day appointed for the hearing.

12 If you fail to file an appearance within the time prescribed, neither you nor a legal practitioner acting on your behalf will, without an order for extension of time or the special leave of the Court, be allowed to appear on the hearing.

Office hours

13 The office hours of the Court are from [time] am to [time] pm except on Court holidays.

Dated at [place] on [date].

.....

(Deputy) Registrar

Schedule 3—continued

Form 6

Verifying sworn statement

[*General heading in form 1.*]

I [*name*] of [*residence*], [*occupation*], swear that such of the allegations in the claim (a copy of which is attached, and marked with the letter “A”) as relate to my own acts and deeds [*or, if the claimant is a firm, the acts and deeds of my firm*] are true and such of those allegations as relate to the acts and deeds of any other person or persons I believe to be true.

Sworn at [*place*] on [*date*]

Before me—

.....

[Commissioner of Oaths]

Form 7

Sworn statement verifying claim of limited company

[*General heading in form 1.*]

I, [*name*] of [*residence*], [*occupation*], swear:

1 I have knowledge of the facts stated in this sworn statement and am duly authorised by the claimant in the above matter to make this sworn statement on its behalf.

2 The statements in the claim (a copy of which is attached and marked with the letter “A”) that relate to the acts and deeds of the claimant are true, and the statements that relate to the acts and deeds of any other person or persons I believe to be true.

Sworn at [*place*] on [*date*]

Before me—

.....

[A person authorised to administer an oath in Solomon Islands]

Schedule 3—continued

Form 8

Public notice of application for putting company into liquidation

[General heading in form 1]

Take notice that on [*date*] an application for putting [*name*] into liquidation was filed in the High Court of Solomon Islands.

The application is to be heard before the High Court on [*date*] at [*time*] am/pm.

Any person, other than the defendant company, who wishes to appear on the hearing of the application must file an appearance not later than the second working day before that day.

The claimant is [*name*] whose address for service is [*address*].

Further particulars may be obtained from the registry of the Court or from the claimant or the claimant’s legal practitioner.

.....
(Legal practitioner for) Claimant

Schedule 3—continued

Form 9

Public notice of application for order under section 99 of

Companies Act 2009

[General heading in form 1.]

Take notice that on *[date]* an application for an order under section 99 of the Companies Act 2009 in respect of *[name]* was filed in the High Court of Solomon Islands.

The order sought is an order *[nature of order sought]*.

The application is to be heard before the High Court on *[date]* at *[time]* am/pm.

Any person, other than the defendant company, who wishes to appear on the hearing of the application must file an appearance not later than the second working day before that day.

The claimant is *[name]* whose address for service is *[address]*.

Further particulars may be obtained from the registry of the Court or from the claimant or the claimant's legal practitioner.

.....

(Legal practitioner for) Claimant

Schedule 3—continued

Form 10

Sworn Statement of Service

[General heading in form 1]

I *[name]* of *[residence]*, *[occupation]* swear:

*1 On *[date]* I served the defendant company with—

- (a) the claim in this proceeding; and
- (b) the verifying sworn statement made by *[name]* and dated *[date]*; and
- (c) the notice of proceeding dated *[date]*.

**Delete if not applicable.*

or

*1 On *[date]* I served the defendant company with a claim, verifying sworn statement, and notice of proceeding (true copies of which are attached and marked “A”, “B”, and “C” respectively).

**Delete if not applicable.*

2 I served the documents on the defendant company at *[place]* in Solomon Islands by *[method of service]*.

.....

Signature of deponent

Sworn at *[place]* on *[date]*

Before me—

.....

[A person authorised to administer an oath in Solomon Islands]

Schedule 3—continued

Form 11

Appearance in support of (or in opposition to) application for putting a company into liquidation (or for making of order under section 99 of Companies Act 2009)

[General heading in form 1]

I *[name]* of *[address]*, *[occupation]* intend to appear on the hearing of this proceeding.

I support (*or* oppose) the application for putting the defendant into liquidation by the High Court (or the application for an order under section 99 of the Companies Act 2009).

I am a creditor for \$[amount]* in the defendant company.

**Delete if not applicable.*

*I am a shareholder holding *[number and class of shares]* shares in the defendant company.

**Delete if not applicable.*

Dated at *[place]* on *[date]*.

.....

(Legal practitioner *or* Counsel for)

Person filing the appearance

[Memorandum in form 2.]

Schedule 3—continued

Form 12

**Notification to liquidator of order putting company into
liquidation***[General heading in form 1.]***To** *[name]*, liquidator *[address]*.

Order made this day by the Honourable Justice *[name]* that the defendant company be put into liquidation by the Court under the Companies (Insolvency and Receiverships) Act 2009.

Name of company	Registered office of company	Claimant's legal practitioner	Date of filing of sworn statement

Schedule 3—continued

Form 13

Notification to interim liquidator of appointment

[General heading in form 1.]

To *[name]*, interim liquidator *[address]*.

Order made this day by the Honourable Justice *[name]* for the appointment of *[name]* as interim liquidator before any order putting the company into liquidation is made.

To *[name]*, liquidator *[address]*.

Order made this day by the Honourable Justice *[name]* that the defendant company be put into liquidation by the Court under the Companies (Insolvency and Receiverships) Act 2009.

Name of company	Registered office of company	Claimant's legal practitioner	Date of filing of sworn statement

Schedule 3—continued

Form 14

Order putting company into liquidation

[General heading in form 1.]

Before the Honourable Justice *[name]* *[date]* *[time]*.

On the application of the claimant on *[date]* and on hearing *[name]* for the claimant, and *[name]* for *[party]* and on reading the claim and the sworn statement of *[name]* verifying the allegations in the claim, this Court orders that the defendant company be put into liquidation by this Court under the Companies (Insolvency and Receiverships) Act 2009, and that *[name]* be appointed liquidator.

And it is ordered that the cost of *[amount]* of the application be paid out of the assets of the defendant company.

By the court,

.....

(Deputy) Registrar

Schedule 3—continued

Form 15

Order appointing interim liquidator

[General heading in form 1.]

Before the Honourable Justice *[name]* *[date]* *[time]*.

On the application, etc, and on reading, etc, the Court appoints *[name]* to be interim liquidator of the defendant company.

And the Court limits and restricts the powers of the interim liquidator to the following:

[describe acts that the interim liquidator is authorised to do and the property of which the interim liquidator is to take possession].

By the Court,

.....

(Deputy) Registrar

Schedule 3—continued

Form 16

General heading for notices in forms 17 and 18

In the High Court of Solomon Islands
no: [*number*]

File

Companies (Insolvency and Receiverships) Act 2009

In the matter of the liquidation of [*name of company in liquidation*]

Between [*name*], liquidator

And [*name, residence, and occupation of intended recipient of notice*]

Schedule 3—continued

Form 17

Notice to set aside voidable transaction under Companies (Insolvency and Receiverships) Act 2009*[General heading in form 16.]***Take notice that—**

1 *[name]*, the liquidator of *[name of company in liquidation]* (the **company**) wishes to have set aside the following transaction by the company that is voidable under clause 2 of Schedule 7 of the Companies (Insolvency and Receiverships) Act 2009:

[details of transaction to be set aside, including dates, amounts, and nature].

2 The company was put into liquidation by the appointment of a liquidator on *[date and time]* by—

- *special resolution of those shareholders entitled to vote and voting on the question

**Delete if not applicable.*

- *the board of the company on the occurrence of an event specified in the rules

**Delete if not applicable.*

- *the High Court under proceeding no. *[number]*, as a result of an application for the appointment of a liquidator that was filed on *[date]*.

**Delete if not applicable.*

3 The property or value that the liquidator wishes to recover is *[details of property or value]*.

4 In giving this notice, the liquidator relies on the following grounds:

Note: Here specifically and separately address each element of clause 2 of Schedule 7 to the Act.

5 A person may give notice objecting to the transaction being set aside if the person—

- (a) would be affected by the setting aside of the transaction; and
- (b) considers that the transaction is not voidable.

6 In the case of a transaction that is voidable under clause 2 of Schedule 7 to the Act, the transaction is set aside on the 20th working day after the date of service of this notice unless, **before** that date, you file in the Court and serve on the liquidator a notice objecting to the transaction being set aside.

Dated at *[place]* on *[date]*

.....

(Legal practitioner *or* Counsel for)

The liquidator

To the Registrar of the High Court of Solomon Islands

And

To *[names of the parties to be served]*

[Here insert details as to who is filing this document and as to his or her address for service. This information should be in the form set out in form 2].

Important information for recipient of notice

Legal advice

1 Although it is not essential to employ a legal practitioner for the purpose of this notice, you are recommended to consult a legal practitioner about this matter without delay.

However, a company or other corporation that wishes to oppose this notice or appear at any hearing must consult a legal practitioner without delay. A

company or other corporation cannot carry on proceedings in the Court except through a legal practitioner.

Notice objecting to transaction being set aside

2 You may file in the Court a notice objecting to the transaction being set aside under clause 8(2) of Schedule 7 of the Act. The notice must be in form 19.

Last day for filing application

3 The notice must be filed in the Court and served on the liquidator within 20 working days after the date of service of this notice.

Office hours

4 The office hours of the Court are from [time] am to [time] pm except on Court holidays.

Definition of working day (Companies (Insolvency and Receiverships) Act 2009)

5 **Working day** means a day of the week other than—

- (a) Saturday and Sunday;
- (b) a day that is defined as, or declared to be, a public holiday under any Act.

Schedule 3—continued

Form 18

Notice to set aside voidable charge under Companies (Insolvency and Receiverships) Act 2009*[General heading in form 16]***Take notice that—**

1 *[name]*, the liquidator of *[name of company in liquidation]* (the **company**) wishes to have set aside the following charge by the company that is voidable under clause 4 of Schedule 7 of the Companies (Insolvency and Receiverships) Act 2009:

[details of charge to be set aside, including dates, amounts, and nature].

2 The company was put into liquidation by the appointment of a liquidator on *[date and time]* by—

- * special resolution of those shareholders entitled to vote and voting on the question

**Delete if not applicable.*

- * the board of the company on the occurrence of an event specified in the rules

**Delete if not applicable.*

- * the High Court under proceeding no. *[number]*, as a result of an application for the appointment of a liquidator that was filed on *[date]*.

**Delete if not applicable.*

3 The property or value that the liquidator wishes to recover is [*details of property or value*].

4 In giving this notice, the liquidator relies on the following grounds:

Note: Here specifically and separately address each element of clause 4 of Schedule 7 of the Companies (Insolvency and Receiverships) Act 2009.

5 A person may file in the Court a notice objecting to the charge being set aside if the person—

- (a) would be affected by the setting aside of the charge; and
- (b) considers that the charge is not voidable.

6 In the case of a charge that is voidable under clause 4 of Schedule 7 to the Act, the charge is set aside on the 20th working day after the date of service of this notice unless, **before** that date, you file in the Court and serve on the liquidator a notice objecting to the charge being set aside.

Dated at [*place*] on [*date*]

.....

(Legal practitioner *or* Counsel for)

The liquidator

To the Registrar of the High Court of Solomon Islands

And

To [*names of the parties to be served*]

[*Here insert details as to who is filing this document and as to his or her address for service. This information should be in the form set out in form 2*].

Important information for recipient of notice

Legal advice

1 Although it is not essential to employ a legal practitioner for the purpose of this notice, you are recommended to consult a legal practitioner about this matter without delay. However, a company or other corporation that wishes to oppose this notice or appear at any hearing must consult a legal practitioner without delay. A company or other corporation cannot carry on proceedings in the Court except through a legal practitioner.

Application for order that transaction not be set aside

2 You may file in the Court a notice objecting to the charge being set aside. The notice must be in form 19.

Last day for filing application

3 The notice must be filed in the Court and served on the liquidator within 20 working days after the date of service of this notice.

Office hours

4 The office hours of the Court are from [time] am to [time] pm except on Court holidays.

Definition of working day (Companies (Insolvency and Receiverships) Act 2009)

5 Working day means a day of the week other than—

- (a) Saturday and Sunday;
- (b) a day that is defined as, or declared to be, a public holiday under any Act.

Schedule 3—continued

Form 19

Notice objecting to setting aside of transaction or charge under

Companies (Insolvency and Receiverships) Act 2009

[General heading in form 16.]

Take notice that—

1 *[Name]* objects to the setting aside of the transaction or charge referred to in the liquidator's notice dated *[date]*.

2 *[Name]* would be affected by the setting aside of the transaction or charge because *[name]* is a party to the charge (or *[state other reasons why person giving notice would be so affected]*).

3 *[Name]* considers that the transaction or charge is not voidable because:

[Here specifically and separately address each relevant element of clause 2 or clause 4 (as the case may require) of Schedule 7 of the Companies (insolvency and Receiverships) Act 2009.]

Dated at *[place]* on *[date]*

.....

(Legal practitioner *or* Counsel for)

[Name]

To the Registrar of the High Court of Solomon Islands

And

To *[names of the parties to be served]*

[Here insert details as to who is filing this document and as to his or her address for service. This information should be in the form set out in form 2].

Schedule 4

COURT FEES

Contents

1 Fees of Court	
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4 Recovery of postponed fee	
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Fees of Court

1. The fees specified in the following table are payable, and must be taken by the proper officer of the Court, in proceedings to which these regulations apply in respect of the matters so specified:

1 Filing a claim for an application to put a company into liquidation: \$ 1,500

2 Filing—

(a) a defence; or

(b) an amended defence; or

(c) an amended claim; or

(d) an appearance:	No fee
3 Determination of setting down date for an application to put a company into liquidation:	No fee
4 Hearing fee for each half-day or part half-day after the first day for an application to put a company into liquidation:	\$3,500 for a legal practitioner \$7,500 for counsel \$15,000 for Queen's Counsel

Power to waive fees

2. (1) A person (the applicant) otherwise responsible for the payment of a fee required in connection with a proceeding or an intended proceeding may apply to the Registrar for a waiver of the fee.

(2) The Registrar may waive the fee payable by the applicant if satisfied that the applicant would otherwise suffer undue financial hardship if he or she paid the fee.

(3) An application under subclause (1) must be made in a form approved for the purpose by the Registrar.

Payment of fee may be postponed pending determination of application for waiver

3. (1) The Registrar may, on application by a person who is awaiting the determination of an application under clause 2(1), postpone the payment of the fee to which the application relates until the date on which the person is notified of the determination.

(2) The Registrar may exercise the power under subclause (1) if satisfied that the person awaiting the determination of his or her application would be prejudiced if

the matter to which the fee relates did not proceed before the determination.

(3) An application under subclause (1) must be made in a form approved for the purpose by the Registrar.

Recovery of postponed fee

4. (1) This clause applies to a fee (the fee) that has been postponed under clause 3.

(2) If the effect of a determination under clause 2 is that the fee is not to be waived, the fee—

- (a) must be paid, without delay, to the Registrar; and
- (b) is recoverable as a debt due to the Government in any court of competent jurisdiction.

(3) Following a determination that has the effect referred to in subclause (2), the person responsible for paying the fee may not take a step in the proceeding to which the fee relates unless the fee is paid.

Power to refund fees

5. (1) The Registrar may, on application made to him or her, refund a fee that has already been paid if satisfied that—

- (a) no application, under clause 2, for a waiver of the fee was made; and
- (b) the fee would have been waived, in accordance with clause 2, had that application been made; and
- (c) the criteria that would have justified that waiver still apply at the date of the application for the refund.

(2) An application under subclause (1) must be made in a form approved for the purpose by the Registrar.

Fees payable by liquidators of companies without assets

6. If the liquidator of a company gives the Registrar a certificate stating that the company has no immediately available assets out of which to pay the full fees for a proceeding or matter relating to the liquidation of the company, no fee (other than sheriffs' fees and the fee referred to in item 1 of the Table in clause 1 for an application to put a company into liquidation) is payable in the High Court for that proceeding or matter.

MADE AT HONIARA this day of 2010.

.....
PETER SHANEL AGOVAKA

**MINISTER FOR COMMERCE, INDUSTRY, LABOUR AND
IMMIGRATION**