

Companies (Winding Up) (Amendment) Rules 2005

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COMPANIES ACT
(CHAPTER 50)

COMPANIES (WINDING UP) (AMENDMENT) RULES 2005

In exercise of the powers conferred by section 410 of the Companies Act, the Rules Committee, constituted under the Supreme Court of Judicature Act (Cap. 322), hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Companies (Winding Up) (Amendment) Rules 2005 and shall come into operation on the date of commencement of item (9) in the First Schedule to the Statutes (Miscellaneous Amendments) (No. 2) Act 2005 (Act 42 of 2005).

Amendment of rule 2

2. Rule 2 of the Companies (Winding Up) Rules (R 1) (referred to in these Rules as the principal Rules) is amended by inserting, immediately before the definition of “company”, the following definition:

““applicant” means a person making an application to wind up a company, and includes a company making an application to wind itself up;”.

Amendment of rule 5

3. Rule 5 (1) of the principal Rules is amended by deleting sub-paragraph (a) and substituting the following sub-paragraph:

“(a) winding up applications;”.

Deletion and substitution of rules 7 and 8

4. Rules 7 and 8 of the principal Rules are deleted and the following rules substituted therefor:

“Originating summonses and summonses

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

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

(3) Every interlocutory application shall be made by summons in Form 1 set out in the First Schedule, and the summons shall, unless otherwise ordered —

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

Title of proceedings

8.—(1) Every proceeding in a winding up matter shall be dated and shall, with any necessary additions, be intitled as follows:

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE		
CWU O.S. No.)
of 20)
(Seal)		
In the Matter of the Companies Act (Cap. 50)		
	AND	
In the matter of".		

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

Deletion and substitution of rules 10 and 11

5. Rules 10 and 11 of the principal Rules are deleted and the following rules substituted therefor:

“Process to be sealed

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

Issue of originating summons, etc.

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

Amendment of rule 12

6. Rule 12 of the principal Rules is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) Every order whether made in Court or in Chambers in the winding up of a company shall be drawn up by the person making the application or his solicitor and signed by the Registrar, unless in any proceedings or class of proceedings the Judge or Registrar who makes the order shall direct that no order need be drawn up.”.

Deletion and substitution of rules 13 and 14

7. Rules 13 and 14 of the principal Rules are deleted and the following rules substituted therefor:

“File of proceedings in office of Registrar

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

Office copies

14. All office copies of originating summonses, affidavits, depositions, papers and writings, or any part thereof, required by the Official Receiver or any liquidator, contributory, creditor, officer of a company or other person entitled thereto, shall be provided by the Registrar duly certified by him.”.

Deletion and substitution of rule 17 and new rule 17A

8. Rule 17 of the principal Rules is deleted and the following rules substituted therefor:

“Service of originating summons or summons and supporting affidavit

17.—(1) Subject to any order to the contrary, every originating summons and summons and the affidavit in support thereof shall be served upon every person against whom any order or other relief is sought but the Court may at any time direct that service be effected or notice of proceedings be given to any person who may be affected by the order or other relief sought and may at any time direct the manner in which such service is to be effected or such notice given; and any person so served or notified shall be entitled to be heard.

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

Duration and renewal of originating summons for purpose of service

17A.—(1) Subject to the other provisions of these Rules, for the purposes of service, an originating summons is valid in the first instance for 6 months beginning with the date of its issue.

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

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

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

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

Deletion and substitution of rules 22 to 35

9. The principal Rules are amended by deleting rules 22 to 35 and the heading immediately above rule 22 and substituting the following heading and rules: