

# Common Requisitions – Winding Up

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## 1. Application for Certificate of Compliance

<b>Section A - Search</b>	
1.	Since the Petitioner is applying to restore the Respondent Company to the Register, please submit why the former directors & shareholders should not be served and notified of this Petition. (If applicable, please produce a latest company search record of the Company showing the particulars of the directors & shareholders.)
2.	Has the Petition been served on the Registrar of the Companies and the Secretary for Justice? Please refer to the Judgment in HCCW 449 & 450 of 2004 for the proper procedure to follow in winding-up of a “de-registered” company.
<b>Section B - Petition (R22 and Form 2 / 3)</b>	
3.	The address of the Petitioner was not stated in the Petition (O.9 r2(3) of RHC)
4.	Please clarify which provision (see ss177 and 178 (Cap.32)) does the Petitioner rely in presenting this Petition.
5.	Please confirm if the Petitioner is also seeking relief under ss724 and 725 (Cap. 622).
<b>Section C - Service of the Petition on OR &amp; CB (R23A)</b>	
6.	No affidavit of service of the Petition on the Official Receiver / Chief Bailiff (R23A CWR)
7.	Please provide the time of the service of the Petition on the Official Receiver / Chief Bailiff (para _____ of folio _____).
8.	Proof of compliance with Rule 23A of Cap.32H for the Affirmation of _____ / Letter dated _____ is required.
<b>Section D - Verifying affidavit (R26)</b>	
9.	R26 CWR not complied with: <input type="checkbox"/> (a) The verifying affidavit was not sworn and filed within 4 days after the Petition was presented (folio ____) <input type="checkbox"/> (b) The verifying affidavit was sworn before the filing of the (Amended) Petition.
10.	Please confirm that the Petition was left at the registered office because no member, officer or servant of the Respondent Company was being found there.
11.	Please identify the person with whom a copy of the petition has been left.
12.	Please provide on what basis the process server believed that _____ was a member / officer / servant of the Respondent Company (para ____ of folio _____). Was the nameplate of the Respondent Company displayed thereat? Did _____ acknowledge receipt by stamping the chop of the Respondent Company on the Petition?

13.	The petition also be served / sent on all directors & shareholders of the Respondent Company by pre-paid ordinary post to their last known addresses as stated in the latest Annual Return (para _____ of folio _____).
14.	Please clarify if the Petitioner is seeking retrospective direction to serve the Petition on the directors and shareholders of the Respondent Company (para _____ of folio _____ )
15.	How did the process server leave the petition at the registered office of the Respondent Company?
16.	Please clarify if the Respondent Company is registered under Part XI of the pre-amended Companies Ordinance (Cap. 32) or Part 16 of the Companies Ordinance (Cap. 622); if so, please produce the up-to-date company search records to show the name and address of the authorized representative in Hong Kong and the place of business of the Company.
17.	Retrospective leave be granted for the Petitioner to serve the Petition on the director(s) and shareholder(s) of the Respondent Company.
<b>Section F - Service of the Petition on Other Respondents</b>	
18.	<p>Service on other Respondent(s), namely _____</p> <p><input type="checkbox"/> (a) Please comply with O.10 r 5(2) of RHC.</p> <p><input type="checkbox"/> (b) By insertion through letter box: please comply with O.10 r1(3)(b)(i) (Para _____ of folio _____ )</p> <p><input type="checkbox"/> (c) By registered post: please comply with O.10 r1(3)(b)(ii) (Para _____ of folio _____ )</p> <p><input type="checkbox"/> (d) Service on Solicitors of the Respondent(s): please comply with O.10 r 1(4).</p>
<b>Section G - Gazette and Advertisements (R24 and Form 4)</b> <b>(Folio _____ &amp; Exhibit(s) _____)</b>	
19.	The Petition was advertised less than 7 clear days before the hearing of the Petition. (R24 CWR)
20.	The Chinese / English advertisement: the name and particulars of the Petitioner / Respondent Company must be in the language of the newspaper. Please submit why re-advertisement is not required. (PD3.1 Part II para 10.1)
21.	The Petition was issued under ss.724 and 725 of the Companies Ordinance (Cap. 622) but the Gazette & the advertisements have not set out the remedy sought in the prayer of the Petition adequately (see Exhibit(s)_____). Please submit why re-advertisement of the Petition is not required.
22.	Since the registered office / (last known) principal place of business of the Respondent Company is not situate within HK, the Petition should be advertised twice in the local newspaper circulating in the district where the local register is kept or the (last known) principal place of business is situated. (R24(b) CWR)

<b>Section H - Documents &amp; Others</b>	
23.	Please produce the following document(s) for reference of the Court: <input type="checkbox"/> Certificate of Incorporation of the Respondent Company <input type="checkbox"/> Evidence showing that the respondent company having been informed of the adjourned hearing <input type="checkbox"/> _____
24.	Please amend the Petition in order to deal with the requisition no(s). _____
25.	Please file (supplemental) affidavit evidence to deal with requisition no(s). _____
26.	Please comply with the requisition(s) by _____ p.m. on _____. This Court will see if RC could be issued without further requisition(s) and appointment.
27.	Upon complying with the requisition(s), please make another new appointment and prepare a new Checklist to apply for RC again.

## 2. Application for Dispensation of Statement of Affairs

1.	What have been done to trace the whereabouts of the directors / officers of the company?
2.	Any other attempts made to trace the whereabouts of the directors / officers of the company, e.g. contact petitioning creditor, auditors, company secretary, conduct directorship search?
3.	Any site visit made to the registered office of the company & the outcome of such visit?
4.	The Provisional Liquidators are to consider reporting to the Official Receiver for matters, if any, under S.168I (3), Cap.32.

### **3. Application for Summary Procedure Order (Winding Up)**

1.	Please produce evidence of appointment of the provisional liquidators.
2.	Please state the value of assets of the company recovered / identified so far.
3.	Any statement of affairs submitted, and if so, what assets identified can be realized?
4.	Please file the preliminary report. (S.191 refers)
5.	Has any site visit been made to the registered office of the company and what is the outcome of such visit?

#### 4. Application for Appointment of Liquidators

1.	Please confirm that the meetings of creditors & Contributors were quorate.
2.	Consent to Act of proposed liquidator(s) to be filed.
3.	Affidavit(s) of fitness of proposed liquidator(s) to be filed (the professional qualifications and experience of the proposed Liquidators should also be stated).
4.	Affidavit(s) of fitness should be made by independent professional third party.
5.	Report of meetings in Form 24 to be filed.
6.	Minutes of meetings of creditors / contributories to be filed.
7.	A 30-minutes hearing be fixed for the application to be heard. Provisional liquidators to advertise the date, time and place of hearing at least 7 days before the hearing in an English language newspaper and in a Chinese language newspaper published & circulating in Hong Kong. The said newspaper advertisements should be filed not less than 3 days before the hearing.
8.	Provisional liquidators should lodge with the court a draft order not less than 3 days before the hearing.

## 5. Application for Petitioner's Costs (Winding Up)

1.	Please quote the relevant costs order.
2.	Please submit skeleton bill ( <u>of not more than 2 pages</u> ) to the Court for consideration.
3.	Please identify who is / are the fee earners, and state the year of admission and hourly rate of the fee earners concerned.
4.	Please state the total time spent by each fee earners on the work done as stated in the skeleton bill.
5.	Please identify the Joint and Several Provisional Liquidators / Liquidators who signed on the application.
6.	Please submit why the taxing fee is not HK\$_____ (_____ x 6%) (See High Court Fees Rules – 1 <sup>st</sup> Schedule, para 19)
7.	Please submit why taxing fee is not provided for? Only taxed costs can enjoy priority of payment pursuant to r179, Cap 32A.
8.	<p>Please provide / clarify the breakdowns of profit costs, disbursement and taxing fee. Please also consider adopting the following usual format of costs order of the Court.</p> <p>“The Petitioner’s costs and disbursement of the winding up proceedings herein (a copy of the skeleton bill is annexed hereto) be recorded as taxed and allowed on a party and party basis at HK\$_____ of which HK\$_____ being the profit costs, HK\$ _____ being the disbursement inclusive of the Petitioner’s deposit and HK\$ _____ being the taxing fee.”</p>



## 6. Application for Release of Liquidators

1.	Please explain why no stamp fee is payable. [(Item 3, Schedule 2, Companies (Fee & Percentage) order refers)]
2.	Preliminary report pursuant to s. 191 not yet filed.
3.	Statement of affairs not yet filed.
4.	(a) Has R. 189(1) been complied with? (b) Please produce copy of evidence (Form 98 and Form 100). (c) Is there any objection to the application for release as far as the liquidators know?
5.	(a) Have the OR, creditors and contributories been notified of the application for destruction of books and papers of company. (b) Please produce the notice notifying the creditors, contributories & OR of the intended application for the destruction. (c) Is there any objection to the application for destruction of books and papers from creditors, contributories / & OR as far as the liquidators know? (d) Any letter of no-objection from the OR to the application for and / or destruction of books and record.
6.	The OR be liaised with for preparation and filing of report (s.205 refers)
7.	Liquidators to confirm that the books are of no value / further use.
8.	According to the report(s) dated _____, no books & records were recovered. Please clarify para. _____.
9.	Have the liquidators complied with S.203(4), Cap.32?
10.	(For liquidators who are private practitioners only, NOT OR) It is noted that the joint and several liquidators have applied for release but not dissolution of the company. They are reminded that once they have been released, they will no longer have the <i>locus standi</i> to apply for dissolution of the company (sections 205 and 227 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance refer). Please confirm whether this application should be proceeded as it is (i.e. applying for release only without an order for dissolution).