

Ministry of Corporate Affairs

Explanatory Memorandum to Concept Limited Liability Partnership (Winding Up  
and Dissolution) Rules

The LLP Bill, 2006 was introduced in the Rajya Sabha on 15<sup>th</sup> December, 2006 and was referred to the Parliamentary Standing Committee on Finance. The Hon'ble Standing Committee submitted its report on 27<sup>th</sup> November, 2007. Taking into consideration the suggestions of the Standing Committee, the revised Bill, namely the Limited Liability Partnership Bill, 2008 was introduced in the Rajya Sabha on 21<sup>st</sup> October, 2008. Simultaneous to the introduction of LLP Bill, 2008, on 21<sup>st</sup> October, 2008, the LLP Bill, 2006 was withdrawn from Rajya Sabha. This LLP Bill, 2008 was considered and passed by Rajya Sabha on 24<sup>th</sup> October, 2008. The LLP Bill, 2008 as passed by Rajya Sabha is available on this Ministry's website at [www.mca.gov.in](http://www.mca.gov.in). The LLP Bill, 2008 as passed by Rajya Sabha is due to be considered and passed by the Lok Sabha.

2. In order to enable the comprehensive framework for regulation of LLPs to be viewed by stakeholders, it was decided that the provisions of the Bill and the Concept Rules may be viewed together. This would enable the Government to finalize the relevant subordinate legislation

expeditiously when required. In this background, keeping in view the provisions of the LLP Bill, 2008, as passed by Rajya Sabha, this Ministry had prepared LLP Concept Rules and e-Forms to bring out the procedural aspects of the LLP Bill, 2008. The Concept Rules were placed on the website of M/o Corporate Affairs at [www.mca.gov.in](http://www.mca.gov.in) on 21/11/2008 for public comments by 31/12/2008. These rules did not include rules in respect of provisions of LLP Bill, 2008 relating to (i) establishment of a place of business in India by Foreign LLPs and (ii) liquidation/winding up and dissolution of LLPs.

3. The Concept LLP (Winding up and Dissolution) Rules have now been prepared by this Ministry and these are placed on this Ministry's website at [www.mca.gov.in](http://www.mca.gov.in). Keeping in view the provisions of clauses 63 to 65 of the LLP Bill, 2008, the Concept LLP (Winding up and Dissolution) Rules propose the regulation of winding up and dissolution of LLPs through the National Company Law Tribunal, proposed to be set up under the Companies Act, 1956. However since such Tribunal (and Appellate Tribunal) are yet to be set up under Companies Act, 1956 due to a legal challenge, which is pending with the Apex Court, attention is drawn to provisions of clause 81(b) of the LLP Bill, 2008 which provide that until the National Company Law Tribunal and National Company Law Appellate Tribunal are constituted under the provisions of the Companies Act, 1956, the word 'Tribunal' occurring in clauses 60 to 64 of the Bill shall be substituted with the words 'High Court'. The provisions of the Concept LLP (Winding up and Dissolution) Rules may, therefore, require modification on this issue/aspect, once the LLP Bill, 2008 is enacted. The

Forms to Concept LLP (Winding up and Dissolution) Rules are being prepared and would be placed on the website separately.

4. Suggestions/Comments on the Concept LLP (Winding up and Dissolution) Rules alongwith the justification in brief may be addressed/sent latest by 12<sup>th</sup> January, 2009 to Shri B.N. Harish, Joint Director (Inspection) or Shri N.K. Dua, Assistant Director, M/o Corporate Affairs, 5<sup>th</sup> Floor, A Wing, Shastri Bhavan, New Delhi. The suggestions/comments may also be sent through email at [bn.harish@mca.gov.in](mailto:bn.harish@mca.gov.in) or [narendra.dua@mca.gov.in](mailto:narendra.dua@mca.gov.in). It will be appreciated if the name and address of the sender is also indicated clearly at the time of sending suggestions/comments.

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## **Concept Limited Liability Partnership (Winding up and Dissolution) Rules**

In exercise of the powers conferred by section 65 of the Limited Liability Partnership Act, 200\_( of 200\_) read with section 79 of said Act, the Central Government hereby makes the following rules, namely :-

### **Short title and commencement.**

- (1) These rules may be called the Limited Liability Partnership (Winding up and Dissolution) Rules, 200\_;
- (2) They shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint;

### **Definitions.**

- (1) In these rules, unless the context otherwise requires,-
  - (i) 'Act' means the Limited Liability Partnership Act, 200\_ ( of 200\_);
  - (ii) 'Certified' means in relation to a copy of a document, certified as provided in section 76 of the Indian Evidence Act, 1872;
  - (iii) 'Code' means the Code of Civil Procedure, 1908;
  - (iv) 'Filed' means filed in the office of the Registrar of Tribunal/Bench;
  - (v) 'LLP Liquidator' means a liquidator appointed in connection with voluntary winding up of an LLP;
  - (vi) 'Member' (Administration) means any judicial member or technical member designated as Member Administration who shall exercise such financial and administrative powers as may be vested in him under the Act and these Rules, which may be made by the Central Government;
  - (vii) 'Officer' includes any designated partner, partner, employee of the LLP and any person in accordance with whose directions or instructions the partners of the LLP have been accustomed to act;

(viii) ‘Officer of the Tribunal’ means and includes a liquidator appointed under this Rule;

(ix) ‘Official Liquidator’ means a Liquidator who, in relation to winding up by Tribunal, is appointed by the Central Government to function as such, include Joint, Deputy or Assistant Official Liquidators ;

(x) “Registrar of Tribunal” means, the Registrar of the Tribunal, and includes the Additional Registrar /Deputy Registrar/Asstt. Registrar of the Tribunal or Bench, and such other officer as may be authorized by the President of the Tribunal to perform all or any of the duties assigned to the Registrar under the Act and these rules;

(xi) ‘Sealed’ means sealed with the seal of the Tribunal/Bench of the Tribunal;

(xii) ‘Section’ means a section of the Limited liability Partnership Act, 200-( of 200-);)

(xiii) ‘Summons’ means a summons returnable before any Member of the Tribunal;

(xiv) \* ‘Tribunal’ means the Tribunal as defined in section 2(1)(u) of the Act

[\*In terms of clause 81 of the Limited Liability Partnership Bill, 2008 until the Tribunal and the Appellate Tribunal are constituted under the provisions of the Companies Act,1956,for the word “Tribunal”, the word “High Court” shall be substituted.]

(2) “Proceedings” means proceedings and procedure prescribed in Part V of these rules, and includes any other proceedings or procedures under the Act or the Rules.

(3) Forms:- The forms set forth in Appendix II of these Rule

(4) Save as aforesaid, and unless the context otherwise requires, words and expressions contained in these rules shall bear the same meaning as in the Act, and the General Clauses Act, 1897 (X of 1897) shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

### **Part I**

#### **Modes of winding up**

#### **Modes of winding up**

1. The winding up of a Limited Liability Partnership (LLP) may be either-
  - a. by the Tribunal, or
  - b. voluntary

**Part II**  
**Voluntary Winding Up**

**Circumstances in which LLP may be wound up voluntarily**

2. A LLP may be wound up voluntarily if the LLP passes a resolution with approval of at least three fourth (in number) of total number of partners, requiring the LLP to be wound up voluntarily. A copy of resolution shall be filed with the Registrar within 30 days of passing up such resolution in Form No\_\_ prescribed in Appendix II.

If the LLP has creditors, whether secured or unsecured, then such winding up shall not take place unless approval of such creditors takes place in pursuance of rule 4.

**Declaration of solvency in case of proposal to wind up voluntarily.**

3. (1) Where it is proposed to wind up a LLP voluntarily, the majority of its designated partner (being not less than two) shall make a declaration verified by an affidavit to the effect that the LLP has no debt or that it will be able to pay its debts in full from the proceeds of assets sold in voluntary winding up.

(2) A declaration made as aforesaid shall have no effect for the purposes of the Act and these rules, unless —

(a) it is made within 15 days immediately preceding the date of the passing of the resolution for winding up the LLP and it is delivered to the Registrar for registration before that date;

(b) it contains a declaration that the LLP is not being wound up to defraud any person or persons;

(c) it is accompanied by a statement of assets and liabilities prepared in accordance with the provisions of the Act, on the Statement of Account and Solvency of the LLP for the period commencing from the date up to which the last such account was prepared and ending with the latest practicable date immediately before the making of the declaration duly attested by at least two designated partners; and

(d) where there are any assets of the LLP, it is accompanied by a report of the valuation of the assets of the LLP prepared by a registered valuer on the panel of Central Government.

(3) The LLP or its designated partners may repay any dues of the creditors or satisfy the claims of creditors in any manner, before any declaration is made by designated partners under sub-rule (2) above.

**Meeting of creditors.**

4. (1) In case the LLP has creditors, secured or otherwise, the LLP shall, before taking any action for winding up of the LLP, also seek approval of such creditors and shall forward them, by registered post and any other electronic mean like email or website a copy of declaration under rule 3, the estimated amount of the claims due to each of the creditor and an offer for creditors to accept such claims.
- (2) The creditors would be given one month's time to give LLP their opinion in respect of voluntary winding up proposed by the LLP or acceptance of offer made under sub-rule(1).
- (3) Where two-thirds in value of creditors of the LLP referred to in sub-rule (1) consent that-
- (a) it is in the interest of all parties that the LLP be wound up voluntarily by partners, the LLP shall be wound up voluntarily by partners; or
- (b) the LLP will not be able to pay for its debts in full from the proceeds of assets to be sold in voluntary winding up and propose that the LLP shall be wound up voluntarily by creditors, the LLP shall be wound up voluntarily by creditors; or
- (c) the LLP will not be able to pay for its debts in full from the proceeds of assets to be sold in voluntary winding up and propose that it will be in interest of all parties if the LLP is wound up under the supervision of the Tribunal, the LLP shall within fourteen days thereafter file an application before the Tribunal.

Provided that in case the LLP pays the dues of creditors to their satisfaction, action under clause (b) or clause (c), as the case may be, shall not be necessary.

(4) Notice of any decision of creditors in pursuance of this rule shall be given by the LLP to the Registrar within fifteen days from the date of consent referred to at sub-rule (3) in Form no \_\_as prescribed in Appendix II.

**Publication of resolution wind voluntarily.**

5. Where a LLP has resolved for voluntary winding up and consent of creditors under clause (b) of sub-rule (3) of rule 4 is received, it shall within fourteen days of the receipt of creditors' consent give notice of the resolution by advertisement in some newspaper circulating in the district where the registered office or the principal office of the LLP is situated.

**Commencement of voluntary winding up and**

6. (1) A voluntary winding up shall be deemed to commence on the date of passing of the resolution for voluntary winding up under rule 2.

**filing  
statement  
of affairs.**

**up  
of**

(2) The provisions of Rule 24(3) shall, so far as may be, apply to the voluntary winding up as they apply to the winding up by the Tribunal except that the reference to –

a) the Tribunal shall be omitted

b) the liquidator or the provisional liquidator shall be construed as reference to the LLP liquidator, and

c) the “relevant date” shall be construed as reference to the date of commencement of the winding up.

**Appointment  
and removal of  
LLP Liquidator  
(voluntary  
Liquidator).**

7. (1) The LLP shall within 30 days of

(a) passing of resolution under rule (2), in case LLP has no creditors, or

(b) filing of resolution pursuant to sub-rule (4) of rule 4, in case it has creditors

as the case may be, with the consent of majority of partners through resolution, appoint a voluntary Liquidator as “LLP Liquidator” from the panel maintained by the Central Government for the purpose of winding up its affairs and distributing the assets of the LLP and recommend the fee to be paid to the LLP Liquidator.

(2) Where the creditors have given consent under clause (b) or (c) of sub-rule (3) of rule 4, the appointment of LLP Liquidator under this rule shall be effective only after it is approved by 2/3<sup>rd</sup> majority of creditors in value of the LLP:

Provided that where such creditors do not approve the appointment LLP Liquidator proposed to be appointed by LLP, creditors shall appoint another LLP Liquidator from the panel prepared by the Central Government with 2/3<sup>rd</sup> majority of creditors in value of the LLP and recommend the fee to be paid to the LLP Liquidator.

(3) If the creditors and the partners appoint different LLP Liquidators, the LLP Liquidator appointed by creditors shall be the LLP Liquidator. If the creditors neither approve the LLP Liquidator appointed by partners nor appoint any other LLP Liquidator, the LLP Liquidator appointed by the partners shall be the LLP Liquidator.



(4) If from any cause whatever, there is no LLP liquidator acting, the Tribunal may appoint any person from the panel as a LLP liquidator on such fees.

(5) The Tribunal may on cause shown remove a LLP liquidator and appoint any other person from the panel, as a LLP liquidator on such fees in place of the removed LLP liquidator; or the Tribunal may also appoint or remove a LLP liquidator on the application made by the Registrar in this behalf;

Provided that the Tribunal may give a reasonable opportunity of hearing to the LLP liquidator being removed.

(6) On appointment as LLP Liquidator, such liquidator shall file a declaration in the Form no\_\_ as prescribed in Appendix II disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the LLP and the creditors and such obligation shall continue throughout the term of his or its appointment.

**Fill-up vacancy in office of LLP Liquidator.**

8. (1) A LLP Liquidator appointed under rule 7 may be removed by the LLP where his appointment has been made by the LLP and, by the creditors, where the appointment is approved or made by such creditors.

(2) Where a LLP Liquidator is sought to be removed under this rule, he shall be given a notice in writing stating the grounds of removal from his office by the LLP or the creditors, as the case may be.

(3) Where three-fourth partners of the LLP or three-fourth of creditors in value, as the case may be, after consideration of the reply, if any, filed by the LLP Liquidator, in their meeting decide to remove the LLP Liquidator, he shall vacate his office.

(4) If a vacancy occurs by death, resignation, removal or otherwise in the office of any LLP Liquidator appointed under rule 7, the LLP or the creditors, as the case may be, fill the vacancy in the manner specified in rule 7.

**Notice of appointment of LLP Liquidator to be given to Registrar.**

9. The LLP shall give notice to the Registrar of the appointment or changes etc. of a LLP Liquidator along with the name and particulars of the LLP Liquidator, and of the name of the LLP Liquidator appointed to fill every such vacancy within ten days of such appointment or changes etc. in Form no\_\_ as prescribed in Appendix II.

**Designated partners and other partners power to cease on appointment of LLP Liquidator.**

10. On the appointment of a LLP Liquidator, all the powers of the of designated partners and other partners, if any, shall cease, except for the purpose of giving notice of such appointment of the LLP Liquidator to the Registrar.

**Duties of LLP Liquidator in voluntary winding up.**

11. (1) The LLP Liquidator shall perform such functions and discharge such duties as determined from time to time by the LLP or the creditors, as the case may be.

(2) The LLP Liquidator shall settle the list of creditors or partners, which shall be prima facie evidence of the liability of the persons named therein to be partners.

(3) The LLP Liquidator shall obtain approval of partners or creditors of LLP, as the case may be, for any purpose he may consider necessary.

(4) The LLP Liquidator shall maintain regular and proper books of accounts in form and manner prescribed in Part V and the partners and creditors and any officer authorised by the Central Government may inspect such books of accounts.

(5)The LLP Liquidator shall pay the debts of the LLP and shall adjust the rights of the partners among themselves.

(6) The LLP Liquidator shall observe due care and diligence in the discharge of his duties.

**Appointment of committees.**

12. The partners or the creditors, as the case may be, may appoint such committees as considered appropriate to supervise the voluntary liquidation and assist the LLP Liquidator in discharging his or its functions.

**LLP Liquidator to submit report on progress of winding up.**

13. The LLP Liquidator shall report quarterly on the progress of winding up of the LLP in form and manner prescribed in Part V to the partners and creditors, as the case may be.

**Report of LLP Liquidator to Tribunal for examination of persons.**

14. (1) Where a report alongwith sufficient evidence is received from the LLP Liquidator that a fraud materially affecting the rights of partners or creditors or interests of LLP or public has been committed by any person in respect of the LLP, the Tribunal may, without prejudice to the

continuation of process of winding up under these rules, order for investigation under section 43 and on consideration of the report of such investigation, the Tribunal may pass such order and give such directions as it may consider necessary including the direction that such person shall attend before the Tribunal on a day appointed by it for that purpose and be examined as to the promotion or formation or the conduct of the business of the LLP or as to his conduct and dealings as officer thereof or otherwise.

Provided that in a situation where the fraud is reported against any person other than a partner or designated partner of the LLP, the LLP Liquidator, before sending a report under this rule to the Tribunal, may intimate the partners and include their views in the report to the Tribunal.

(2) Without prejudice to power of Tribunal to make any order under sub rule (1), the Tribunal shall have power to transfer the winding up proceedings from voluntary winding up to compulsory winding up by tribunal.

(3) The provisions relating to powers to order public examinations of partners designated partners, officers etc., shall apply mutatis mutandis in relation to any examination directed under sub-rule (1).

**Dissolution of LLP.**

15. (1) As soon as the affairs of a LLP are fully wound up, the LLP Liquidator shall prepare a report, final winding up accounts and explanations, in the form no\_\_\_\_\_ prescribed in Appendix II, of the winding up showing that the property and assets of the LLP have been disposed of and its debt fully discharged or discharged to the satisfaction of the creditors and thereafter seek approval of the partners or the creditors of the LLP, as the case may be, on the said report and the final winding up accounts and explanation in the meeting of partners or creditors.

Provided that approval under this rule may be sought by circulation in physical form or electronic form.

Provided that in case of circulation of any clarification or further/supplementary information is required by the partners, or the creditors, the same shall be sought by them within 30 days of the date of such circulation and such further/supplementary information shall be provided by the LLP Liquidator within 30 days of receipt of such requests.

Explanation:- Mode of circulation may be in accordance with rule 15 of LLP Rules and Forms 200\_.

(2) If two thirds in number, of partners or, two thirds in value, if creditors as the case may be, after considering the report, accounts and explanations of the LLP Liquidator are satisfied that the LLP shall be wound up, they shall pass a resolution, within 30 days of receipt of such report, accounts etc., for its dissolution in the case of meeting or within 30 days of receipt of such circulation or further information which ever is later in the case of circulation.

Provided that in case the requisite number of partners or value of creditors, as the case may be, are not able to decide on the approval of the report of LLP Liquidator, the matter may be referred to Tribunal under rule 19 for an order, and order of the Tribunal on the matter shall be binding on all parties.

(3) Within two weeks after the receipt of approval under sub-rule (2), the LLP Liquidator shall-

(a) send to the Registrar –

(i) a copy of report , accounts and explanations mentioned in sub rule 1;

(ii) a brief return in respect of each meeting of partners or creditors held during winding up proceedings indicating the resolutions passed in such meetings ; and

(b) file an application along with his report under sub-rule (1) in manner prescribed in Part V before the Tribunal for passing an order of dissolution of the LLP.

(4) If the Tribunal is satisfied, after considering the report of the LLP Liquidator that the process of winding up has been duly followed, the Tribunal shall pass an order dissolving the LLP within sixty days of the receipt of the application under sub-rule (3).

(5) The LLP Liquidator shall file a copy of the order under sub-rule (4) with the Registrar within thirty day in Form no\_\_\_\_as prescribed in Appendix II.

(6) The Registrar, on receiving the copy of the order passed by the Tribunal under sub-rule (4), shall forthwith publish a notice in the Official Gazette that the LLP is dissolved.

(7) In the event affairs of the LLP are not fully wound up within a period of one year from the date of commencement of voluntary winding up, LLP Liquidator shall file an application before

the Tribunal explaining the reasons thereof and seek appropriate directions.

**LLP Liquidator to accept contribution, etc., as consideration for sale of property of LLP.**

16. (1) Where a LLP (the transferor LLP) is proposed to be, or is in the course of being, wound up voluntarily and the whole or any part of its business or property is proposed to be transferred or sold to any other body corporate (the transferee body corporate), the LLP Liquidator of the transferor LLP may, with the sanction of a resolution of the transferor LLP (passed by at least three fourth majority of partners) conferring on him either a general authority or an authority in respect of any particular arrangement,-

(a) receive, by way of compensation wholly or in part for the transfer or sale, cash, shares, securities, policies, or other like interests in the transferee body corporate, for distribution among the partners of the transferor LLP; or

(b) enter into any other arrangement whereby the partners of the transferor LLP may, in lieu of receiving cash, shares, securities, policies or other like interest or in addition thereto, participate in the profits of, or receive any other benefit from, the transferee body corporate: Provided that no such arrangement shall be entered into without the consent of the secured creditors.

(2) Any transfer, sale or other arrangement in pursuance of this rule shall be binding on all the partners of the transferor LLP.

(3) Any partner of the transferor LLP who did not vote in favour of the resolution and expressed his dissent therefrom in writing addressed to the LLP Liquidator and left at the registered office of the LLP within seven days after the passing of the resolution, may require the liquidator to purchase his interest at a price to be determined by agreement or the registered valuer.

(4) If the LLP Liquidator elects to purchase such partner's interest, the purchase money, raised by him in such manner as may be determined by a resolution passed by three fourth majority of partners, shall be paid before the LLP is dissolved.

**Distribution of property of LLP.**

17. Subject to the provisions of the Act and these rules as to overriding preferential payments, the assets of a LLP shall, on its winding up, be applied in satisfaction of its liabilities pari passu and, subject to such application, shall, unless the LLP Agreement otherwise provide, be distributed among the partners according to their rights and interests in the LLP.

**Arrangement between LLP**

18. Any arrangement entered into between a LLP about to be ,or in the course of being wound up

**and creditors.** and its creditors by 3/4<sup>th</sup> majority of partners of LLP and the 3/4<sup>th</sup> majority of creditors in value shall be binding, provided that the said arrangement is presented before the Tribunal within three weeks from the date of approval by the LLP and the creditors and further approved by the Tribunal.

**Apply to Tribunal to have questions determined, etc.**

19. (1) The LLP Liquidator or any partner or creditor may apply to the Tribunal—
- (a) to determine any question arising in the course of the winding up of a LLP; or
  - (b) to exercise as respects the enforcing of calls for contribution, the staying of proceedings or any other matter, all or any of the powers which the Tribunal might exercise if the LLP were being wound up by the Tribunal.
- (2) The LLP Liquidator or any creditor or partner may apply to the Tribunal for an order setting aside any attachment, distress or execution put into force against the estate or effects of the LLP after the commencement of the winding up.
- (3) The Tribunal, if satisfied on an application under sub-rule (1) or sub-rule (2) that the determination of the question or the required exercise of power or the order applied for will be just and beneficial, may allow the application on such terms and conditions as it thinks fit or may make such other order on the application as it thinks fit.
- (4) A copy of an order staying the proceedings in the winding up, made under this rule, shall forthwith be forwarded by the LLP, or otherwise as may be prescribed, to the Registrar, who shall make a minute of the order in his books relating to the LLP.

**Costs of voluntary winding up.**

20. All costs, charges and expenses properly incurred in the winding up, including the fee of the LLP Liquidator, shall, subject to the rights of secured creditors, if any, and workmen be payable out of the assets of the LLP in priority to all other claims.

### **Part III**

#### **Winding up by the Tribunal**

**Inability to pay debts**

21. A LLP shall be deemed to be unable to pay its debts,—
- (a) if a creditor, by assignment or otherwise, to whom the LLP is indebted for an

amount exceeding one lakh rupees then due, has served on the LLP, by causing it to be delivered at its registered office, by registered post or otherwise, a demand requiring the LLP to pay the amount so due and the LLP has failed to pay the sum within twenty one days after the receipt of such demand or to provide adequate security or re-structure or compound the debt to the reasonable satisfaction of the creditor;

- (b) if any execution or other process issued on a decree or order of any court or tribunal in favour of a creditor of the LLP is returned unsatisfied in whole or in part; or
- (c) if it is proved to the satisfaction of the Tribunal that the LLP is unable to pay its debts, and, in determining whether a LLP is unable to pay its debts, the Tribunal shall take into account the contingent and prospective liabilities of the LLP.

**Petition for winding up.**

22. (1) A petition to the Tribunal for the winding up of a LLP shall be presented by-

- (a) the LLP or any of its partner or partners,
- (b) any secured creditor or creditors, including any contingent or prospective creditor or creditors,
- (c) the Registrar,
- (d) any person authorised by the Central Government in that behalf,
- (e) in a case falling under section 51 of the Act , by the Central Government or
- (f) in a case falling under clause (d) of section 64, by the Central Government or a State Government.

(2) A partner shall be entitled to present a petition for the winding up of a LLP, notwithstanding that he may have paid his full contribution, or that the LLP may have no assets at all or may have no surplus assets left for distribution among the partners after the satisfaction of its liabilities.

(3) The Registrar shall be entitled to present a petition for winding up on any of the grounds specified in section 64 except on the ground specified in clause (e) of that section.

Provided that the Registrar shall not present a petition on the ground that the LLP is

unable to pay its debts unless it appears to him either from the financial condition of the LLP as disclosed in its Statement of Account and Solvency or from the report of an inspector appointed under section 43 that the LLP is unable to pay its debts:

Provided further that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:

Provided also that the Central Government shall not accord its sanction under the preceding proviso, unless the LLP concerned has been given a reasonable opportunity of making representations.

(4) A petition filed by the LLP or any of its partners or partner for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in form and manner prescribed in Part V.

(5) Before a petition for winding up of a LLP presented by a contingent or prospective creditor is admitted, the leave of the Tribunal shall be obtained for the admission of the petition and such leave shall not be granted, unless in the opinion of the Tribunal there is a *prima facie* case for the winding up of the LLP and until such security for costs has been given as the Tribunal thinks reasonable.

**Powers of Tribunal.**

23. (1) The Tribunal may, on receipt of a petition for winding up under rule 22 pass any of the following orders, namely:-

- (a) dismiss it, with or without costs;
- (b) make any interim order as it thinks fit;
- (c) to direct the action on the scheme of revival or rehabilitation of the LLP;;
- (d) appoint a 'Liquidator' as provisional liquidator of the LLP till the making of a winding up order;
- (e) make an order for the winding up of the LLP with or without costs; or
- (f) any other order as it thinks fit:

Provided that an order under this sub-rule shall be made within ninety days from the date of presentation of the petition:



Provided further that before appointing a provisional liquidator under clause (c), the Tribunal shall give notice to the LLP and afford a reasonable opportunity to it to make its representations, if any, unless for special reasons to be recorded in writing, the Tribunal thinks fit to dispense with such notice:

Provided also that the Tribunal shall not refuse to make a winding up order on the ground only that the assets of the LLP have been mortgaged for an amount equal to or in excess of those assets, or that the LLP has no assets.

(2) Where a petition is presented on the ground that it is just and equitable that the LLP should be wound up, the Tribunal may refuse to make an order of winding up, if it is of the opinion that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the LLP wound up instead of pursuing that other remedy.

(3) Where a provisional liquidator is appointed by the Tribunal, the Tribunal may limit and restrict his powers and duties by the order appointing him or by a subsequent order, but otherwise he shall have the same powers and duties as a liquidator.

**Directions for filing statement of affairs.**

24. (1) Where a petition for winding up is filed before the Tribunal by any person other than the LLP, the Tribunal shall, if satisfied that a *prima facie* case for winding up of the LLP is made out, by an order direct the LLP to file its objections along with a statement of its affairs in form and manner prescribed in Part V within thirty days of the order:

Provided that the Tribunal may direct the petitioner to deposit such security for costs as it may consider reasonable as a precondition to issue directions to the LLP.

(2) Notwithstanding any other liability, a LLP which fails to file the statement of affairs as referred to in sub-rule (1), shall forfeit the right to oppose the petition.

(3) Where the Tribunal has made a winding up order or appointed provisional liquidator, unless the Tribunal in its direction otherwise orders, there shall be made out and filed with the Liquidator or provisional Liquidator as the case may be, a Statement as to affairs of LLP in the form and manner as prescribed in Part V, within 21 days from relevant date or within such extended time not exceeding two months (including the time of 21 days) from the date as the Liquidator or the provisional Liquidator or the Tribunal may for specific reasons appoint in this rule.

The expression 'relevant date' means, in a case where a provisional Liquidator is appointed, the date of his appointment, and in a case where no such appointment is made, the date of the winding up order.

(4) The partners and other officers, past and present, of the LLP in respect of which a petition for winding up is made under rule shall ensure that the accounts of the LLP are completed and audited (unless audit is exempted) up to the date of the order and submitted to the Tribunal at the cost of the LLP.

(5) The partners and other officers, past and present, of the LLP are responsible for complete the accounts, its audit and submit the statement of affairs with the Tribunal or the provisional Liquidator or the Liquidator as the case may be.

**'Liquidators' and their appointments.**

25. (1) For the purposes of winding up of a LLP by the Tribunal or for the purpose of appointment of provisional Liquidator, there shall be a 'Liquidator' who shall be either an 'official Liquidator' or a Liquidator appointed by an order of the Tribunal from the panel maintain by the Central Government. In the absence of any such order the official Liquidator shall become or act as 'Liquidator'.

(2) For the purpose of appointment of the provisional liquidator or the Liquidator from the panel, the Centre Government shall maintain a panel consisting of the names of practicing chartered accountants, advocates, practicing company secretaries, practicing cost and works accountants or firms or bodies corporate having chartered accountants, advocates, company secretaries, cost and works accountants and such other professionals as may be notified by the Central Government or from a firm or a body corporate of persons having a combination of such professionals as may be notified by Central Govt and having at least ten years' experience in company/LLP matters and such other qualifications as may be notified by the Central Govt and any terms and conditions including security for the purpose.

(3) The Central Government may remove the name of any person or firm or body corporate from the panel maintained under sub-rule (2) on the grounds of misconduct, fraud, misfeasance, breach of duties or professional incompetence:

Provided that the Central Government before removing him or it from panel shall give him or it a reasonable opportunity of being heard.

(4) The terms and conditions of appointment of a liquidator from panel and the fee payable to him

shall be specified by the Tribunal on the basis of task required to be performed, experience, qualification and size of the LLP.

(5) On appointment as provisional liquidator or Liquidator from panel, such liquidator shall file a declaration in the prescribed form disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the Tribunal and such obligation shall continue throughout the term of his or its appointment.

(6) While passing a winding up order, the Tribunal may appoint a provisional liquidator, if any, appointed under clause (c) of sub-rule (1) of rule 23, as the Liquidator for the conduct of the proceedings for the winding up of the LLP.

(7) A Liquidator shall be described by the style of "The Liquidator" of the particular LLP in respect of which he or it acts and not by his or its name.

**Removal and replacement of liquidator etc.,**

26. (1) The Tribunal may, on a reasonable cause being shown and for reasons to be recorded in writing, remove the provisional liquidator or the Liquidator, appointed from the panel, as liquidator or provisional liquidator of the LLP on any of the following grounds, namely:-

- (a) misconduct,
- (b) fraud or misfeasance,
- (c) professional incompetence or failure to exercise due care and diligence in performance of the powers and functions;
- (d) inability to act as liquidator,
- (e) conflict of interest or lack of independence during the term of his appointment that would justify removal.

(2) In the event of death, resignation or removal of the liquidator under this rule, the Tribunal may transfer the work assigned to him to another Liquidator for reasons to be recorded in writing.

(3) Where the Tribunal is of the opinion that any liquidator under this rule is responsible for causing any loss or damage to the LLP due to fraud or misfeasance or failure to exercise due care and diligence in the performance of his powers and functions, the Tribunal may recover or cause to be recovered such loss or damage from the liquidator and pass such other orders as it may think fit.

(4) The Tribunal shall, before passing any order under this rule, provide a reasonable opportunity of hearing to the liquidator.

**Winding up order to be communicated to the liquidator and the Registrar.**

27. (1) Where the Tribunal makes an order for the winding up of a LLP, it shall, within a period not exceeding fifteen days from the date of passing of the order, cause intimation thereof to be sent to the Liquidator and the Registrar in Form no \_\_\_prescribed in Appendix II.

(2)On receipt of the copy of the winding up order, the Registrar shall make an endorsement to that effect in his records relating to the LLP and notify in the Official Gazette that such an order has been made.

(3) On receipt of the winding up order by the liquidator, a copy of the order shall be sent to the registered office of the LLP at its registered office by registered post and serve notice to the partners, designated partners, officers, employees past and present including CEO, CFO and auditors and secured creditors, if any, within 15 days of receipt of the order through any mode defined in Rule 15 of the LLP Rules and Forms 200\_\_ for the purpose of custody of the property, effects, actionable claims, books of accounts or other documents.

(4)The winding up order shall be deemed to be a notice of discharge to the officers, employees and workmen of the LLP, except when the business of the LLP is continued.

**No requirement of filing joint petition**

28. An order of winding up a LLP shall operate in favour of all the creditors and all the partners and there will not be any requirement of filing joint petition of a creditor and a partner.

**Jurisdiction of Tribunal.**

29. The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,-

(a) any suit or proceeding by or against the LLP ;

(b) any claim made by or against the LLP, including claims by or against any of its branches in India ;

(c) any application made under sections 60-62 of the Act;

(d) any scheme submitted under any law for rehabilitation or revival of LLP;

(e) any question of priorities or any other question whatsoever, whether of law or fact, which may

relate to or arise in the course of the winding up of the LLP ,

Whether such suit or proceeding has been instituted or such claim or question has arisen or arises or such application has been made or such scheme has been submitted, before or after the winding up order is made.

**Submission of report by Liquidator.**

30. (1) Where the Tribunal has made a winding up order or appointed a Liquidator, such Liquidator shall, within sixty days from the order, submit to the Tribunal, a report containing the following particulars, namely:-

(a) the nature and details of the assets of the LLP including their location and value, stating separately the cash balance in hand and in the bank, if any, and the negotiable securities, if any, held by the LLP:

Provided that the valuation of the assets shall be obtained from registered valuers for this purpose;

(b) amount of contribution received and outstanding from partners;

(c) the existing and contingent liabilities of the LLP including names, addresses and occupations of its creditors, stating separately the amount of secured and unsecured debts, and in the case of secured debts, particulars of the securities given, whether by the LLP or an officer thereof, their value and the dates on which they were given;

(d) the debts due to the LLP and the names, addresses and occupations of the persons from whom they are due and the amount likely to be realised on account thereof;

(e) guarantees, if any, extended by the LLP;

(f) list of partners and dues if any payable by them and details of any outstanding contributions;

(g) details of trade marks and intellectual properties, if any, owned by the LLP;

(h) details of subsisting contracts, joint ventures and collaborations, if any;

(i) details of other LLPs or companies etc in which LLP has any stake;

(j) details of legal cases filed by or against the LLP;

(k) scheme of revival or rehabilitation of LLP, if any, and

- (1) any other information which the Tribunal may direct or the Liquidator may consider necessary to include.
- (2) The Liquidator shall include in his report the manner in which the LLP was promoted or formed and whether in his opinion any fraud has been committed by any person in its promotion or formation or by any officer of the LLP in relation to the LLP since the formation thereof and any other matters which, in his opinion, it is desirable to bring to the notice of the Tribunal.
- (3) The Liquidator shall also make a report on the viability of the business of the LLP or the steps which, in his opinion, are necessary for maximizing the value of the assets of the LLP.
- (4) The Liquidator may also, if he thinks fit, make any further report or reports.
- (5) Any person describing himself in writing to be a creditor or a partner of the LLP shall be entitled by himself or by his agent at all reasonable times to inspect the report submitted in accordance with this rule and take copies thereof or extracts there from on payment of the prescribed fee.

**Directions of Tribunal on report of Liquidator.**

31. (1) The Tribunal shall, on consideration of report of Liquidator, subject to these Rules, fix a time limit within which the entire proceedings shall be completed and the LLP dissolved:

Provided that the Tribunal may, if it is of the opinion, at any stage of the proceedings, or on examination of the reports submitted to it by the Liquidator and after hearing the Liquidator, creditors or partners, that it will not be advantageous or economical to continue the proceedings, reduce the time limit within which the entire proceedings shall be completed and the LLP dissolved.

Provided further that in the event any such individual proceedings or activity to be completed by the liquidator or his agent for which the time is fixed under these rules; in the opinion of the liquidator which can not be completed within such time, Tribunal, after satisfying itself, on an application of the liquidator, may extend the time, not exceeding upto further 30 days.

(2) The Tribunal may, on examination of the reports submitted to it by the Liquidator and after

hearing the Liquidator, creditors or partners, order sale of the LLP as a going concern or its assets or part thereof:

Provided that the Tribunal may, where it considers fit, appoint a Sale Committee comprising such creditors, partners and officers or employees of the LLP as the Tribunal may decide to assist the Liquidator in sale under this sub-rule.

Provided further that where the Tribunal is of the opinion that an LLP can be revived or rehabilitated, it may, direct that a scheme of Arrangement for the purposes may be drawn up within 90 days and direct further action in accordance with procedure for such schemes prescribed under section 60.

(3) Where a report is received from the Liquidator or the Central Government or any person that a fraud has been committed in respect of the LLP, the Tribunal shall, without prejudice to the process of winding up, order for investigation under section 43, and on consideration of the report of such investigation it may pass order and give such directions as it may think appropriate.

(4)The Tribunal may order such steps as may be necessary to protect, preserve or enhance the value of the assets of the LLP.

(5)Tribunal may pass such other order or give such other directions as it considers fit.

**Custody of LLP's properties.**

32. (1) Where a winding up order has been made or where a provisional liquidator has been appointed, the liquidator shall, on the order of the Tribunal, forthwith take into his custody or under his control all the property, effects and actionable claims to which the LLP is or appears to be entitled to and take such steps and measures, as may be necessary, to protect and preserve the properties of the LLP.

(2) Notwithstanding anything contained in sub-rule (1), all the property and effects of the LLP shall be deemed to be in the custody of the Tribunal from the date of the order for the winding up of the LLP.

(3) Notwithstanding anything contained in Rule33, on an application by the Liquidator or the provisional Liquidator as the case may be, the Tribunal may, require any partner and any trustee, receiver, banker, agent, officer or other employee of the LLP or any other person, to pay, deliver, surrender or transfer forthwith, or within such time as the Tribunal directs, to the Liquidator or the

provisional Liquidator as the case may be, any money, property or books and papers in his custody or under his control to which the LLP is *prima facie* entitled.

(4) For the purpose of enabling the Liquidator or the provisional Liquidator, as the case may be, to take into his custody or under his control any property, effects or actionable claims to which the LLP is or appears to be entitled, on an application by the Liquidator or the provision Liquidator as the case may be the Tribunal may, direct Chief Presidency Magistrate or the District Magistrate to take possession of such property, effects, actionable claims, books of accounts or other documents and delivered the possession thereof to the Liquidator or the provision Liquidator.

**Partners, officers, employees etc to discover and deliver property, books etc and to cooperate with Liquidator.**

33. (1). The partners, designated partners, officers and employees, past and present including CEO and CFO of the LLP shall discover all the property, effects, actionable claims, books of accounts or other documents and deliver the possession thereof to the liquidator or the provisional liquidator within 60 days of the relevant date as defined in Rule 24.

(2) The partners, designated partners, officers and employees, past and present, including CEO and CFO and auditors shall extend full cooperation to the Liquidator in discharge of his functions and duties.

**Settlement of list of partners and application of assets.**

34. (1) As soon as may be after the passing of a winding up order by the Tribunal, the Tribunal shall settle a list of partners, cause rectification of register of partners in all cases where rectification is required in pursuance of the Act and these rules and shall cause the assets of the LLP to be applied for the discharge of its liability:

Provided that where it appears to the Tribunal that it would not be necessary to make calls for further contributions on partners or adjust the rights of partners, the Tribunal may dispense with the settlement of a list of partners.

(2) In settling the list of partners, the Tribunal shall distinguish between those who are partners in their own right and those who are partners as being representatives of, or liable for the debts of, others.

(3) While settling the list of partners, the Tribunal shall include every present and past partner who shall be liable to contribute to the assets of the LLP to an amount sufficient for payment of the debts and liabilities and the costs, charges and expenses of winding up, and for the adjustment of



the rights of the partners among themselves, subject to the following conditions, namely:-

(a) a past partner shall not be liable to contribute if he has ceased to be a partner for the preceding one year or more before the commencement of the winding up;

(b) a past partner shall not be liable to contribute in respect of any debt or liability of the LLP contracted after he ceased to be a partner;

(c) no past partner shall be liable to contribute unless it appears to the Tribunal that the present partners are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(d) no contribution shall be required from any past or present partner exceeding the amount, if any, unpaid in respect of contribution of which he is liable as such partner.

**Committee of inspection.**

35. (1) The Tribunal may, while passing an order of winding up of a LLP, direct that there shall be, a committee of inspection for the LLP to advise the Liquidator and to report to the Tribunal on such matters as the Tribunal may direct.

(2) A committee of inspection appointed by the Tribunal shall consist of not more than twelve members, being creditors and partners of the LLP or such other persons in such proportion as the Tribunal may, keeping in view the circumstances of the LLP under liquidation, direct.

(3) The Liquidator shall convene a meeting of creditors and partners, as ascertained from the books and documents of the LLP within thirty days from the date of order of winding up for enabling the Tribunal to determine the persons who may be members of the committee of inspection.

(4) The committee of inspection shall have the right to inspect the books of accounts and other documents, assets and properties of the LLP under liquidation at a reasonable time.

(5) The provisions relating to the convening of the meetings, the procedure to be followed thereat and other matters relating to conduct of business by the committee shall be as prescribed in Part V.

(6) The meeting of committee of inspection shall be chaired by the Liquidator.

**Submission of periodical**

36. (1) The Liquidator shall make periodical reports to the Tribunal and in any case make a report

**reports to the Tribunal.** at the end of each quarter with respect to the progress of the winding up of the LLP in form and manner prescribed in Part V.

(2) The Tribunal may, on an application by the Liquidator, review the orders made by it and make such modifications as it thinks fit.

**Duties of Liquidator.** 37. (1) Subject to directions by the Tribunal, if any, in this regard, the Liquidator in a winding up by the Tribunal shall have the duties-

- (a) to carry on the business of the LLP so far as may be necessary for the beneficial winding up of the LLP;
- (b) to do all acts and to execute, in the name and on behalf of the LLP, all deeds, receipts, and other documents, and for that purpose, to use, when necessary, the LLP's seal, if there is one;
- (c) to sell the immovable and movable property and actionable claims of the LLP by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels;
- (d) to inspect the records and returns of the LLP on the files of the Registrar or any other authority;
- (e) to prove rank and claim in the insolvency of any partner for any balance against his estate, and to receive dividends in the insolvency, in respect of that balance, as a separate debt due from the insolvent, and rateably with the other separate creditors;
- (f) to draw, accept, make and endorse any bill of exchange, *hundi* or promissory note in the name and on behalf of the LLP, with the same effect with respect to the liability of the LLP as if the bill, *hundi*, or note had been drawn, accepted, made or endorsed by or on behalf of the LLP in the course of its business;
- (g) to take out, in his official name, letters of administration to any deceased partner, and to do in his official name any other act necessary for obtaining payment of any money due from a partner or his estate which cannot be conveniently done in the

name of the LLP, and in all such cases, the money due shall, for the purpose of enabling the Liquidator to take out the letters of administration or recover the money, be deemed to be due to the Liquidator himself;

- (h) to do all such other acts and things as may be necessary for the winding up of the LLP and distribution of its assets;
- (i) to apply to the Tribunal for such orders or directions as may be necessary for the winding up of the LLP.
- (j) to appoint security guards, out of the panel maintained, with the approval of the Tribunal, by the liquidator or as per the directions given by the Tribunal in this regard, to protect the property of the LLP taken into his custody and to make out an inventory of the assets in consultation with secured creditors or after giving them notice;
- (k) to appoint, as the case may be, valuers, chartered surveyors or chartered accountants, from the panel maintained, with the approval of the Tribunal, by the Liquidator, or as per the directions given by the Tribunal in this regard, to assess the value of the LLP's assets within fifteen days after taking into custody of property, assets and effects or actionable claims, in consultation with secured creditors or after giving them notice;
- (l) to give an advertisement, inviting bids for sale of the assets of the LLP, within fifteen days from the date of receiving valuation report from the valuer, chartered surveyors or chartered accountants referred to in clause (k), as the case may be.
- (m) to issue a notice requiring any of the persons mentioned in rule 23 submit and verify a statement of the affairs of the LLP and such notice shall be served by the liquidator.
- (n) to apply to the Tribunal for an order directing any person who, in his opinion, is competent to furnish a statement of the affairs and such person shall for the said purpose be served a notice by the liquidator in the manner as may be prescribed.

- (o) to call any person for recording any statement for the purpose of investigating the affairs of the LLP is being wound up and it shall be the duty of every such person to attend to the liquidator at such time and place as the liquidator may appoint and give the liquidator all information which he may require and answer all such questions relating to winding up of LLP as may be put to him by the liquidator.
- (p) to maintain a separate bank account for each LLP under his charge for depositing the sale proceeds of the assets and recovery of debts of each LLP; and
- (q) to maintain proper books of account in respect of all receipts and payments made by him in respect of each LLP and submit half-yearly return of receipts and payments to the Tribunal.

(2) Every bidder shall, in response to advertisement referred to in clause (1) of sub-rule (1), deposit, his offer in the manner as may be prescribed by the Tribunal with Liquidator or provisional liquidator, as the case may be, within forty-five days from the date of the advertisement and the liquidator or provisional liquidator shall permit inspection of property and assets in respect of which bids were invited:

Provided that such bid may be withdrawn within three days before the last day of closing of the bid:

Provided further that the inspection of property shall be open for not more than five days before closing of the bid.

(3) The advertisement inviting bids shall contain the following details, namely:-

- (a) name, address of registered office of the LLP its branch offices, factories and plants and the place where assets of the LLP kept and available for sale;
- (b) last date for submitting bids which shall not exceed ninety days from the date of advertisement;
- (c) time during which the premises of the LLP shall remain open for inspection;

- (d) the last date for withdrawing the bid;
  - (e) financial guarantee which shall not be less than one-half of the value of the bid;
  - (f) validity period of the bids;
  - (g) place and date of opening of the bids in public;
  - (h) reserve price and earnest money to be deposited along with the bid;
  - (i) any other terms and conditions of sale which may be prescribed.
- (4) The liquidator or the provisional liquidator as the case may be shall file his report before the Tribunal on the outcome of the bid within 15 days from the last date of the closing of the bid.
- (5) The performance of duties by the Liquidator under this rule shall be subject to the overall control of the Tribunal; and any creditor or partner may apply to the Tribunal with respect to the performance or proposed performance of any of the duties conferred by this rule.
- (6) Notwithstanding the provisions of sub-rule (1) to (5), the Liquidator shall perform such duties as the Tribunal may specify in this behalf.

**Provision for professional assistance to Liquidator.**

38. (1) The Liquidator may, with the sanction of the Tribunal, appoint one or more practicing chartered accountants or practicing company secretaries or practicing cost accountants or legal practitioners or such other professionals or experts as may be necessary to assist him in the performance of his duties and functions under the Act.
- (2) Any person appointed under this rule shall disclose forthwith to the Tribunal in the form no\_\_\_as prescribed in Appendix II any conflict of interest or lack of independence in respect of his appointment.

**Exercise and control of Liquidator's powers and duties.**

39. (1) The Liquidator shall, in the administration of the assets of the LLP and the distribution thereof among its creditors, have regard to any directions which may be given by the resolution of the creditors or partners or the committee of inspection.
- (2) Any directions given by the creditors or partners shall, in case of conflict, be deemed to be overridden by any directions given by the committee of inspection.
- (3) The Liquidator—

(a) may summon meetings of the creditors or partners, whenever he thinks fit, for the purpose of ascertaining their wishes; and

(b) shall summon such meetings at such times, as the creditors or partners, as the case may be, may, by resolution, direct, or whenever requested in writing to do so by not less than one-tenth in value of the creditors or partners, as the case may be.

(4) Any person aggrieved by any act or decision of the Liquidator may apply to the Tribunal, and the Tribunal may confirm, reverse or modify the act or decision complained of and make such further order as it thinks just in the circumstances.

**Books to be kept by Liquidator.**

40. (1) The Liquidator shall keep proper books in a manner prescribed in which he shall cause entries or minutes to be made of proceedings at meetings and of such other matters prescribed in Part V.

(2) Any creditor or partner may, subject to the control of the Tribunal, inspect any such books, personally or through his agent.

**Audit of Liquidator's accounts .**

41. (1) The Liquidator shall maintain proper and regular books of accounts including accounts of receipts and payments made by him in the form and manner specified in Part V.

(2) The LLP Liquidator shall during his tenure of office, present within 60 days to the Tribunal half yearly accounts (i.e. on 30<sup>th</sup> June and 31<sup>st</sup> December) of the receipts and payments as such in Form no\_\_\_prescribed in Appendix II in duplicate, which shall be verified by a declaration.

(3) The Tribunal shall cause the accounts to be audited in such manner as it thinks fit, and for the purpose of the audit, the Liquidator shall furnish the Tribunal with such vouchers and information as the Tribunal may require, and the Tribunal may, at any time, require the production of, and inspect, any books of accounts kept by the Liquidator.

(4) When the accounts of the LLP have been audited, one copy thereof shall be filed by the Liquidator with the Tribunal, and the other copy shall be delivered to the Registrar in Form no\_\_\_prescribed in Appendix II and it shall be open to inspection by any creditor, partner or person interested.

(5) The Liquidator shall cause the accounts when audited or a summary thereof to be printed, and shall send a printed copy of the accounts or summary thereof by post to every creditor and every partner:

Provided that the Tribunal may dispense with the compliance of the provisions of this sub-rule if it deems fit.

**Payment of debts by partner and extent of set-off.**

42. (1) The Tribunal may, at any time after passing of a winding up order, pass an order requiring any partner for the time being on the list of partners to pay, in the manner directed by the order, any money due to the LLP, from him or from the estate of the person whom he represents, exclusive of any money payable by him or the estate by virtue of any call for contribution in pursuance of the Act or these rules.

(2) In the case of any LLP when all the creditors have been paid in full, any money due on any account whatever to a partner from the LLP may be allowed to him by way of set-off against any subsequent call for contribution.

**To make calls.**

43. The Tribunal may, at any time after the passing of a winding up order, and either before or after it has ascertained the sufficiency of the assets of the LLP,-

(a) make calls for contribution on all or any of the partners for the time being on the list of the partners, to the extent of their liability, for payment of any money which the Tribunal considers necessary to satisfy the debts and liabilities of the LLP, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the partners among themselves; and

(b) make an order for payment of any calls so made.

**Adjustment of rights of partners.**

44. The Tribunal shall adjust the rights of the partners among themselves and distribute any surplus among the persons entitled thereto.

**Control of Central Government over official liquidator as liquidator**

45.(1)The Central Government shall take cognizance of the conduct of official liquidator as liquidators of LLPs which are being wound up by the Tribunal and if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by the Act and these Rules or otherwise, with respect to the performance of his duties or if any complaint is made to the Central Government by any creditor or partner in regard thereto, the Central Government shall inquire into the matter and take such action thereon as it may think expedient.

(2) The Central Government may at any time, for the purpose of inquiry apply to the Tribunal to examine such liquidator or any other person on oath concerning winding up.

(3)The Central Government may also direct a local investigation to be made of the books and vouchers of such liquidators.

#### **PARTIV**

##### **Provisions applicable to every mode of winding up**

**Debts of all descriptions to be admitted to proof.**

46. In every winding up, subject, in the case of insolvent LLPs, to the application in accordance with the provisions of the Act and these rules, of the law of insolvency, all debts payable on a contingency, and all claims against the LLP, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the LLP.

**LLP Liquidator or Liquidator to exercise certain powers subject to sanction.**

47. (1) The LLP Liquidator or Liquidator as the case may be may—

- (a) with the sanction of the Tribunal, when the LLP is being wound up by the Tribunal ; and
- (b) with the sanction of a resolution (by three fourth majority of partners) of the LLP and prior approval of the Tribunal, in the case of a voluntary winding up,—
  - (i) pay any class of creditors in full;



(ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the LLP, or whereby the LLP may be rendered liable; or

(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the LLP and a partner or alleged partner or other debtor or person apprehending liability to the LLP, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the LLP, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) Any creditor or partner may apply in the manner prescribed to the Tribunal with respect to any exercise or proposed exercise of powers by the LLP Liquidator under this rule, and the Tribunal shall after giving a reasonable opportunity to such applicant and the LLP Liquidator, pass such orders as it may think fit.

**Statement that a LLP is in liquidation.**

48. Where a LLP is being wound up, whether by the Tribunal or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the LLP or a LLP Liquidator of the LLP, or a receiver or designated partner of the property of the LLP, being a document on or in which the name of the LLP appears, shall contain a statement that the LLP is being wound up.

**Books and papers of LLP to be evidence.**

49. Where a LLP is being wound up, all books and papers of the LLP and of the LLP Liquidator shall, as between the partners of the LLP, be *prima facie* evidence of the truth of all matters purporting to be recorded therein.

**Inspection of books and papers by creditors and partners.**

50. (1) At any time after the making of an order for the winding up of a LLP by the Tribunal, any creditor or partner of the LLP may inspect the books and papers of the LLP only in accordance with, and subject to manner and conditions prescribed in Part V.

(2) Nothing in sub-rule (1) shall be taken as excluding or restricting any rights conferred by any law for the time being in force-

(a) on the Central Government or a State Government or any authority or officer of such

Government,

(b) on any person acting under the authority of any such Government or of any such authority or officer.

**Disposal of books and papers of LLP.**

51. (1) When the affairs of a LLP have been completely wound up and it is about to be dissolved, its books and papers and those of the LLP Liquidator may be disposed of as follows :-

- (a) in the case of winding up by the Tribunal, in such manner as the Tribunal directs; and
- (b) in the case of voluntary winding up, in such manner as the LLP approves it by three fourth majority with the prior approval of the secured creditors.

(2) After the expiry of five years from the dissolution of the LLP, no responsibility shall devolve on the LLP, the LLP Liquidator, or any person to whom the custody of the books and papers has been entrusted, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) The Central Government may, by notification,-

- (a) prevent for such period as the Central Government thinks proper the destruction of the books and papers of a LLP which has been wound up and of its LLP Liquidator; and
- (b) enable any creditor or partner of the LLP to make representations to the Central Government in respect of the matters specified in clause (a) and to appeal to the Tribunal from any order which may be made by the Central Government in the matter.

(4) If any person acts in contravention of any such rules or of any direction of the Central Government there under, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees, or with both.

**Information as to pending liquidations.**

52. (1) If the winding up of a LLP is not concluded within one year after its commencement, the LLP Liquidator shall, unless he is exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year, file a statement in the Form no\_\_\_ as prescribed in Appendix II duly audited, by a person qualified to act as auditor of the LLP, with

respect to the proceedings in, and position of, the liquidation,-

in the case of a winding up by the Tribunal, with the Tribunal; and

in the case of a voluntary winding up, with the Registrar :

Provided that no such audit as is referred to in this sub-rule shall be necessary where the provisions of rule 40 apply.

(2) When the statement is filed with the Tribunal under clause (a) of sub-rule (1), a copy shall simultaneously be filed with the Registrar and shall be kept by him along with the other records of the LLP.

(3) Any person stating himself in writing to be a creditor or partner of the LLP shall be entitled, by himself or by his agent, at all reasonable times, on payment of the fee prescribed in Appendix III, to inspect the statement referred to in sub-rule (1), and to receive a copy thereof or an extract there from.

(4) Any person fraudulently stating himself to be a creditor or partner under sub-rule (3) shall be deemed to be guilty of an offence under section 182 of the Indian Penal Code, and shall, on the application of the LLP Liquidator, be punishable accordingly.

**Liquidator to make payments into public account of India.**

53. Every Liquidator shall, in a manner and at times prescribed in Part V, pay the moneys received by him as Liquidator of any LLP, into the public account of India in the Reserve Bank of India.

**LLP Liquidator or Liquidator to make payments into Scheduled Bank.**

54. (1) Every LLP Liquidator or Liquidator of a LLP shall, in a manner and at times prescribed in Part V, pay the monies received by him in his capacity as such in a scheduled bank to the credit of a special bank account opened by him in that behalf :

Provided that if the Tribunal considers that it is advantageous for the creditors or partners or the LLP, it may permit the account to be opened in such other bank specified by it.

(2) If any LLP Liquidator or Liquidator at any time retains for more than ten days a sum exceeding five thousand rupees or such other amount as the Tribunal may, on the application of the LLP Liquidator, or Liquidator authorize him to retain, then, unless he explains the retention to the satisfaction of the Tribunal, he shall—

- (a) pay interest on the amount so retained in excess, at the rate of twelve per cent per annum and also pay such penalty as may be determined by the Tribunal;
- (b) be liable to pay any expenses occasioned by reason of his default; and
- (c) also be liable to have all or such part of his remuneration, as the Tribunal may consider just, disallowed, or may also be removed from his office.

**Liquidator or  
LLP  
Liquidator not  
to deposit  
monies into  
private bank  
account.**

55. Neither the Liquidator nor the LLP Liquidator of a LLP shall deposit any monies received by him in his capacity as such into any private bank account.

**Dividend and  
Undistributed  
Assets  
Account.**

56. (1) (a) Any money representing dividend payable to any creditor or creditors shall be transferred by the LLP Liquidator or Liquidator, within five days of such money being due, in a separate special bank account known as the LLP Liquidation Dividend Account.

(b) Any money representing assets refundable to any partner or partners shall be transferred, within five days of such money being due, by the LLP Liquidator or Liquidator to a separate special bank account known as the LLP Undistributed Asset Account.

(2) The amounts which have been transferred to the LLP Liquidation Dividend Account or LLP Undistributed Asset Account but have not been paid or claimed within six months from the date of opening of such accounts shall, within seven days from the date of expiry of the said period of six months, be transferred to a separate Account viz . LLP Unpaid Liquidation Dividend Account or LLP Unpaid Undistributed Asset Account, as the case may be.

(3) The liquidator shall, on the dissolution of the LLP, pay into the LLP Unpaid Liquidation Dividend and LLP Unpaid Undistributed Assets Account any money representing unpaid dividends or undistributed assets in his hands at the date of dissolution.

(4) The liquidator shall, when making any payment referred to in sub-rules (1), (2) and (3), furnish to such officer as the Central Government may appoint in this behalf, a statement in the Form as prescribed setting forth, in respect of all sums included in such payment, the nature of the sums, the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto, and other particulars prescribed in Part V.

(5) The liquidator shall be entitled to a receipt from the scheduled bank for any money paid to it under sub-rules (1) (2) and (3), and such receipt shall be an effectual discharge of the LLP Liquidator in respect thereof.

(6) Where a LLP is being wound up voluntarily, the LLP Liquidator shall, when filing a statement in pursuance of sub-rule (1) of rule 52, indicate the sum of money which is payable under sub-rules (1) and (2) of this rule and shall, pay that sum into the accounts mentioned in sub-rule (1) or sub-rule (2) of this rule, as the case may be.

(7) Any person claiming to be entitled to any money paid into the LLP Unpaid Liquidation Dividend and LLP Unpaid Undistributed Assets Account, paid in pursuance of this rule may apply to the Tribunal for an order for payment thereof, and the Tribunal, if satisfied that the person claiming is entitled, may make an order for the payment to that person of the sum due:

Provided that before making such an order, the Tribunal shall cause a notice to be served on such officer as the Central Government may appoint in this behalf, calling on the officer to show cause within one month from the date of the service of the notice why the order should not be made.

(8) Any money paid into the LLP Unpaid Liquidation Dividend and LLP Unpaid Undistributed Assets Account in pursuance of this rule, which remains unclaimed thereafter for a period of seven years, shall be transferred to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred under sub-rule (7) and shall be dealt with as if such transfer had not been made and the order, if any, for payment on the claim will be treated as an order for refund of revenue.

(9) Any liquidator retaining any money which should have been paid by him into the LLP Liquidation Dividend and Undistributed Assets Account or the LLP Unpaid Liquidation Dividend and LLP Unpaid Undistributed Assets Account under this rule shall—

- (a) pay interest on the amount so retained at the rate of twelve per cent per annum and also pay such penalty as may be determined by the Tribunal:

Provided that the Central Government may in any proper case remit either in part or in whole the amount of interest which the liquidator is required to pay under this clause;

- (b) be liable to pay any expenses occasioned by reason of his default; and  
(c) where the winding up is by the Tribunal, also be liable to have all or such part of his remuneration, as the Tribunal may consider just, to be disallowed, and to be removed from his office by the Tribunal.

**Meetings to ascertain wishes of creditors or partners.**

57. (1) In all matters relating to the winding up of a LLP, the Tribunal may—

- (a) have regard to the wishes of creditors or partners of the LLP, as proved to it by any sufficient evidence;  
(b) if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or partners to be called, held and conducted in such manner as the Tribunal may direct; and  
(c) appoint a person to act as chairman of any such meeting and to report the result thereof to the Tribunal.

(2) When ascertaining the wishes of creditors, regard shall be had to the value of each creditor's debt.

(3) When ascertaining the wishes of partners, regard shall be had to the value of each partner's contribution.

**LLP Liquidator or Liquidator to make returns,**

58. (1) Every LLP liquidator or Liquidator shall file, deliver or make any return, account or other document, or give any notice which is required to be filed, delivered or made or given as the case may be, pursuant to any rule, within the time specified in such rule.

etc.

(2) Without prejudice to sub-rule (1) above, the Central Government may, by notification, prescribe any other return or account or document or notice which shall be required to be filed, delivered, made or given, as the case may be, by the LLP Liquidator or Liquidator within the time specified in such notification.

(3) If any LLP Liquidator or Liquidator who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so, the Tribunal may, on an application made to it by any partner or creditor of the LLP or by the Registrar, make an order directing the LLP Liquidator or Liquidator to make good the default within such time as may be specified in the order.

(4) Any order under sub-rule (3) may provide that all costs of and incidental to the application shall be borne by the LLP Liquidator or Liquidator .

(5) Nothing in this rule shall prejudice the operation of any enactment imposing penalties on a LLP Liquidator or Liquidator in respect of any such default as aforesaid.

**Meetings to ascertain wishes of creditors or partners.**

59. (1) In all matters relating to the winding up of a LLP, the Tribunal may—

(a) have regard to the wishes of creditors or partners of the LLP, as proved to it by any sufficient evidence;

(b) if it thinks fit for the purpose of ascertaining those wishes, direct meetings of the creditors or partners to be called, held and conducted in such manner as the Tribunal may direct; and

(c) appoint a person to act as chairman of any such meeting and to report the result thereof to the Tribunal.

(2) When ascertaining the wishes of creditors, regard shall be had to the value of each creditor's debt.

(3) When ascertaining the wishes of partners, regard shall be had to the value of each partner's contribution.

**Court, tribunal**

60. (1) Any affidavit required to be sworn under the provisions, or for the purposes, of these rules

**or person, etc. before whom affidavit may be sworn.**

may be sworn—

(a) in India before any court, tribunal, judge or person lawfully authorised to take and receive affidavits; and

(b) in any other country before any court, judge or person lawfully authorised to take and receive affidavits in that country or before an Indian diplomatic or consular officer.

(2) All tribunals, judges, Justices, commissioners and persons acting judicially in India shall take judicial notice of the seal, stamp or signature, as the case may be, of any such court, tribunal, judge, person, diplomatic or consular officer, attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of these rules.

**Tribunal to declare dissolution of LLP void.**

61. (1) Where a LLP has been dissolved, whether in pursuance of these rules or otherwise, the Tribunal may at any time within two years of the date of the dissolution, on application by the LLP Liquidator or Liquidator of the LLP or by any other person who appears to the Tribunal to be interested, make an order, upon such terms as the Tribunal thinks fit, declaring the dissolution to be void, and thereupon such proceedings may be taken as if the LLP had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within thirty days after the making of the order or such further time as the Tribunal may allow, to file a certified copy of the order with the Registrar who shall register the same, and if such person fails so to do, he shall be punishable with fine which may extend to ten thousand rupees for every day during which the default continues.

**Commencement of winding up by Tribunal.**

62 (1) Where, before the presentation of a petition for the winding up of a LLP by the Tribunal, a resolution has been passed by the LLP for voluntary winding up, the winding up of the LLP shall be deemed to have commenced at the time of the passing of the resolution, and unless the Tribunal, on proof of fraud or mistake, thinks fit to direct otherwise, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a LLP by the Tribunal shall be deemed to commence at the time of the presentation of the petition for the winding up.

**Exclusion of certain time in**

63. Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the



**computing period of limitation.**

time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a LLP which is being wound up by the Tribunal, the period from the date of commencement of the winding up of the LLP to a period of one year immediately following the date of the winding up order shall be excluded.

**Filing Fee**

64. A notice, document, form, resolution etc required to be filed with Registrar shall be filed with the Fee as prescribed in Annexure B to the LLP Rules and Forms 200\_\_.

**Part V**  
**Proceedings and Procedures**

**General**

**65. Jurisdiction of the Tribunal:** (1) All proceedings shall be instituted before the Bench of the Tribunal as mentioned in Appendix I and or as modified from time to time by the Central Government.

Provided that the Tribunal may, at its discretion, hold its sittings in any other city or town as may be considered appropriate.

**66. Form of Proceedings** – (1) All petitions, applications, affidavits and other proceedings presented to the Tribunal shall be written, typewritten, or printed neatly and legibly on substantial paper of foolscap size in duplicate and separate sheets shall be stitched together. Numbers and dates shall be expressed in figures, and where dates given are not according to the English Calendar the corresponding English dates shall also be given.

(2) Every proceeding shall be consecutively numbered, dated and shall be instituted in the matter of a Limited Liability Partnership (LLP) or Limited Liability Partnerships (LLPs) to which it relates. The contents shall be divided into separate paragraphs, which shall be numbered serially. The general heading in all proceedings before the Tribunal, and in all advertisements and notices, shall be in Form No. \_\_\_\_\_prescribed in Appendix II

(3) Sitting hours of Tribunal and Appellate Tribunal shall ordinarily be from 10.30 AM to 1.30 PM and from 2.30 PM to 4.30 PM on all working days except Saturday, Sunday and other public holidays subject to any general or special order made by the Chairperson/President.

**67. Language of proceedings** – Every petition, application, affidavit or other proceedings shall be in English or Hindi and except in so far as the Tribunal may otherwise order, no document in other language shall be accepted for use in any proceedings, unless translated into English or Hindi.

**68. Power of Tribunal to enlarge or abridge time** – The Tribunal should not extend the time without any genuine reason and exceptional circumstances and orders should be recorded in detail giving reasons for grant of extension.

**69. Computation of time** – Where any particular number of days is prescribed the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a day on which the offices of the Tribunal are closed, in which case the time shall be reckoned exclusively of that day also and of any succeeding day or days on which the offices of the Tribunal continued to be closed.

**70. Registers to be kept.** – There shall be kept, in every Tribunal, the following registers either in physical or digital format or both physical and digital, relating to proceedings under the Act and these rules:-

- (1) LLP Petitions Register in which shall be entered and numbered serially the petitions filed under the Act or these rules with particulars as to :-
  - (i) Date of presentation,
  - (ii) Name of LLP,
  - (iii) Name of parties and their Advocates,
  - (iv) Provision of law under which the petition is made,
  - (v) Nature of relief sought,
  - (vi) Date and nature of order made,
  - (vii) Date of filing of appeal, if any,
  - (viii) Date of disposal of appeal, and
  - (ix) Result of judgment in appeal.
  
- (2) LLP Applications Register in which shall be entered and numbered serially applications other than petitions with particulars as to :-
  - (i) Date of presentation,
  - (ii) Name of LLP,
  - (iii) Number of main proceeding, if any, to which the application relates,
  - (iv) Name of parties and their Advocates,
  - (v) Provision of law, if any, under which the application is made,
  - (vi) Nature of relief sought,
  - (vii) Date and nature of order made,
  - (viii) Date of filing of appeal, if any,
  - (ix) Date of disposal of appeal, and
  - (x) Result of Judgment in appeal.
  
- (3) Liquidations register in which shall be entered under a separate heading for each LLP ordered to be wound-up in the prescribed form briefly and in chronological order, all proceedings in winding-up until conclusion of the winding-up.
  
- (4) LLP documents register in which shall be entered under a separate heading for each LLP any valuable securities such as negotiable instruments, documents of

title and the like that may be filed in proceedings before the Tribunal as prescribed in the form.

- (5) Appearance of the person appearing before the Tribunal shall be indicated in the order sheet.

Provided that the Central Govt. may modify the mode from the date to be modified.

**71. Serial number of proceedings.** –(1) Every petition or application shall bear its distinctive serial number, and an interlocutory application shall bear, besides its own serial number, the serial number of the main proceeding to which it relates. Every order made, process issued or document filed, shall bear the serial number of the proceedings to which it relates.

(2) All petitions, applications and affidavits, upon being filed and all orders, summons, warrants or processes of any kind (including notices issued by Tribunal) and certified copies, of any proceedings, shall be issued under the authority and seal of the Tribunal.

**72. Powers, functions and duties of Registrar of Tribunal :** -(1) The Registrar of Tribunal shall be principal officer of the Appellate Tribunal and Tribunal and shall exercise his powers and perform his duties under the control of Chairperson/President.

(2) The Tribunal in discharge of its functions under the Act, may take such assistance from the Registrar of Tribunal, as it may deem fit, and the Registrar of Tribunal or other officer, shall be bound to assist the Tribunal.

(3) In particular and without prejudice to the generally of the provisions of this Rule, the Registrar of Tribunal shall have the following powers and perform the following duties namely : -

- (a) The Registrar of Tribunal shall have the custody of the records of the Appellate Tribunal, Principal Bench of the Tribunal and other Benches;
- (b) The Registrar of Tribunal shall receive all petitions, applications or references pertaining to the Appellate Tribunal/Principal Bench and other Benches of the Tribunal;
- (c) The Registrar of Tribunal shall assist the Appellate Tribunal/Principal Bench and other Benches of the Tribunal in the proceedings relating to the powers exercised by them;
- (d) The Registrar of Tribunal shall authenticate the orders passed by the Appellate Tribunal, the Principal Bench and other Benches of the Tribunal;
- (e) The Registrar of Tribunal shall ensure compliance of the orders passed by the Appellate Tribunal, Principal Bench and other Benches of the Tribunal;

- (f) The Official seal of the Appellate Tribunal and Tribunal shall be in the custody and control of the Registrar of Tribunal ;
- (g) The Registrar of Tribunal shall have the right to collect from the Central Government or other officers, companies, LLPs and firms, or any other person such information as may be considered useful for the purpose of efficient discharge of the functions of the Tribunal under the Act and place the said information before the Appellate Tribunal/Tribunal. These Rules shall apply to all Benches of the Tribunal situated all over India.

(4) The Registrar of Tribunal shall have the following powers and duties subject to any general or special order of the Appellate Tribunal/Tribunal concern namely : -

- (i) to receive all petitions or applications and other documents including transferred applications;
  - (ii) to decide all questions arising out of the scrutiny of the petitions and applications before they are registered;
  - (iii) to require any petition or application presented to the Tribunal to be amended in accordance with the Act;
  - (iv) subject to the directions of Appellate Tribunal/Tribunal to fix the date of first hearing of the petition or application or other proceedings and issue notices thereof;
  - (v) to direct any formal amendment of records;
  - (vi) to order grant of copies of documents to the parties to the proceedings;
  - (vii) to grant leave to inspect the records of the Appellate Tribunal/Tribunal;
  - (viii) to dispose of matters relating to the service of notices;
  - (ix) to receive application within 30 days from the date of death for substitution of authorized representatives of the deceased parties during the pendency of the petition or application;
  - (x) to receive and dispose of application for substitution, except where the substitution would involve setting aside an order of abatement;
  - (xi) to receive and dispose of applications by parties for return of documents;
- (5) An appeal against any decision by a Registrar of Tribunal shall be made to the Appellate Tribunal/Tribunal by the aggrieved parties within 15 days from the date such decision communicated to him.

**73. Inspection and copies of proceedings.** – Records of every proceedings pending before the Tribunal will be opened as of right for the inspection of the parties or their authorized representatives on making an application in writing and on payment of a fee as prescribed in Appendix III. A person who is not party to the proceedings is not entitled for inspection of the records/proceedings except with the consent of the parties by whom they were presented/produced or under the orders of the Tribunal on payment of fee.

A person not a party to the proceedings/petitions on which final orders have been passed can obtain copy of the orders on payment of such fee as given in Appendix III.

**74. Forms.** – The forms set forth in Appendix II, where applicable, shall be used with such variations as circumstances may require.

**75. Affidavits.** – (a) Every affidavit shall be drawn up in the first person and shall state the full name, age, occupation and the place of abode of the deponent. It shall be signed by the deponent and sworn to in the manner prescribed by the Code or by the rules and practice of the Court of the State where affirmed.

(b) Every exhibit annexed to an affidavit shall be marked with the number of the proceedings to which it relates, and shall be initialed and dated by the authority before whom it is sworn.

(c) No affidavit having interlineations, alteration or erasure, shall be filed in Tribunal unless such interlineations or alternation is initialed by the authority before whom it is sworn, or, in the case of an erasure the words and figures written on the erasure are rewritten in the margin and initialed by such authority.

**76. Form of summons and service thereof.** – (1) A summon shall be in Form No. \_\_\_\_\_ prescribed in Appendix II and shall, unless otherwise provided by these rules or permitted by the Member, be supported by an affidavit.

(2) The summons, together with a copy of the affidavit, shall be served upon every person against whom an order is sought and such other person as the Member may direct, in person or by prepaid registered post, or under certificate of posting or through empanelled courier agency or upon his representative or advocate/pleader, where he appears by advocate/representative/pleader, or in such other manner as the Member may direct.

(3) Unless otherwise provided by these rules or by an order of Tribunal, a summons which is an interlocutory application in a proceeding, shall be served not less than 3 clear days before the day named in the summons for the hearing thereof, and where the summons is other than interlocutory, it shall be served not less than ten days before the date fixed for the hearing thereof.

**77. Issue of summons.** – Every summons, together with duplicates of the same for service thereof, shall be prepared by the applicant or his advocate/representative/pleader and issued from the office of the Registrar of Tribunal .

**78. Affidavit verifying petition.** – Every petition shall be verified by an affidavit made by the petitioner or by one of the petitioners, where there are more than one, and in the case the petition is presented by a body corporate, by a director, secretary or manager or partner or designated partner or an officer authorized in that behalf thereof; such affidavit shall be filed along with the petition and shall be Form \_\_\_\_\_ prescribed in Appendix II.

**79. Enclosures to petition.** – Unless dispensed with by the Member or Registrar of Tribunal , every petition and application shall be accompanied by the documents required to be annexed.

**80. Summons for direction.** – (a) Where a petition is presented an application shall, in every case, be made by alongwith summons in Form No. \_\_\_\_\_ prescribed in Appendix II to the Member for directions as to the advertisement of the petition, the notices to be served and the proceedings to be taken.

(b) The petition shall be posted for hearing before the Member at the next sitting, and the Member may make such orders thereon and may give such directions as may seem to him appropriate.

**81. Advertisement of petition.** – (1) Where any petition is required to be advertised, it shall, unless the Member otherwise orders, or these rules otherwise provide, be advertised not less than seven days before the date fixed for hearing, in one issue each of a daily newspaper in the English language and a daily newspaper in the regional language circulating in the State or the Union Territory concerned, as may be fixed by the Member.

(2) Except in the case of a petition to wind-up a LLP the Member may, if he thinks fit, dispense with any advertisement required by these rules.

**82. Contents of advertisement.** – Except as otherwise provided in these rules, such advertisement shall be in Form No. \_\_\_\_\_ prescribed in Appendix II and shall state the date on which the petition was presented, the name and address of the petitioner and his advocate/pleader, the nature of the petition and the date fixed for hearing. It shall, unless otherwise ordered, further state that any person who intends either to oppose or support the petition at the hearing should send notice of his intention to the petitioner or his advocate/pleader so as to reach him not later than two days previous to the day fixed for the hearing, and in the case of a petition for a winding-up, not later than 4 days previous to the day fixed for the hearing of the petition.

**83. Service of petition.** – Every petition shall be served on the respondent, if any, named in the petition and on such other persons as the Act or these rules may require or

as the Member or the Registrar of Tribunal may direct. Unless otherwise ordered, a copy of the petition shall be served along with the notice of the petition.

**84. Notice of petition and time of service.** – Notice of every petition required to be served upon any person shall be in Form No. \_\_\_\_\_ prescribed in Appendix II, and shall, unless otherwise ordered by Tribunal or otherwise provided, be served not less than 7 days before the date of hearing.

**85. Service on LLP.** – (1) Where a petition is presented against a LLP, it shall be accompanied by a notice of the petition in the prescribed form together with a copy of the petition for service on the LLP and an envelope addressed to the LLP at its registered office or its principal place of business and sufficiently stamped for being sent by registered post for acknowledgement or through empanelled courier agency. The Registrar of Tribunal shall immediately on the admission of the petition send the notice together with the copy of the petition to the LLP by registered post or through courier.

(2) Every petition, and, save as otherwise provided or by an order of Tribunal, every application, shall unless presented by the LLP, be served on the LLP at its registered office, or if there is no registered office, at its principal or last known principal place of business, by leaving a copy thereof with an officer or employee of the LLP, and in case no such person is available, in such manner, as the Member or Registrar of Tribunal may direct, or, by sending a copy thereof by prepaid registered post or through empanelled courier agency addressed to the LLP at its registered office, or, if there is no registered office, at its principal or last known principal place of business, or to such person and at such address as the Member or Registrar of Tribunal may direct.

**86. Petitioner to effect service.** – Save as otherwise provided and subject to any directions of the Member or Registrar of Tribunal, the petitioner, applicant or any other person having the conduct of proceedings in Tribunal, shall be responsible for the service of all notices, summons and other processes and for the advertisement and publication of notices, required to be effected by these rules or by order of Tribunal.

**87. Affidavit of service.** – (1) An affidavit or affidavits stating whether the petition has been advertised and whether the notices, if any, have been duly served upon the persons required to be served shall be filed not less than 3 days before the date fixed for hearing. Such proof of the advertisement or of the service, as may be available shall be filed along with the affidavit.

(2) An affidavit of service on a LLP or its liquidator shall be in Form No. \_\_\_\_\_ or \_\_\_\_\_ as the case may be prescribed in Appendix II.

**88. Procedure on default of compliance as regards advertisement and service of notice.** – In default of compliance with the requirements of the rules or the directions of the Member or Registrar of Tribunal, as regards the advertisement and service of the petition, the petition shall, on the date fixed for hearing be posted for orders of the Member and the Member may either dismiss the petition or give such further directions as he thinks fit.

**89. Mode of service and service when deemed to be effected.** – (1) Save as otherwise provided or by an order of Tribunal, all notices, summons, and other documents required to be served on any person, may be served either personally by delivering a copy thereof to such person or upon his advocate/pleader where he appears by advocate or pleader; except where personal service is required by prepaid registered post for acknowledgement due addressed to the last known address of such person or through dasti by affixing at the last known address. In the case of service by registered post where no acknowledgement signed by the addressee or his duly authorized agent is received, orders of Tribunal shall be obtained as to the sufficiency of service or as to the further steps to be taken for service as the Tribunal may direct:

*Provided* that where a notice, summons or other document has to be served on any class of persons such as partners , creditors and the like, the same may be sent by prepaid registered post or by ordinary post under certificate of posting, as may be provided by these rules or by an order of Tribunal, and unless otherwise ordered by the Tribunal, the service shall be deemed to be effected at the time when the said notice, summons or other document ought to be delivered in the ordinary course of post by the post office, and notwithstanding the same is returned undelivered by the post office.

(2) Where notice of any petition, application, summons or other proceedings has to be given to the Central Government under these rules, it shall be addressed to and served on the Secretary to Government of India, Ministry of Corporate Affairs, New Delhi, or such other officer at the Central Government as may be authorised to receive notices on its behalf.

(3) Where any person has to be served at an address outside India, the notice or other process to be served on him shall, subject to orders of the Tribunal, be sent to such address by empanelled courier agency or by prepaid airmail registered post for acknowledgment due.

**90. Validity of service and of proceedings.** – No service shall be deemed invalid by reason of any defect in the name or description of a person in the list of partners or in the petition, summons, notice or other proceeding, provided that the Tribunal is satisfied that such service is in other respects sufficient; and no proceedings shall be invalidated by reason of any formal defect or irregularity; unless the Member before whom the objection is taken is of the opinion that substantial injustice has been caused by such defect or irregularity and that the injustice cannot be remedied by an order of Tribunal.

**91. Notice to be given by persons intending to appear at the hearing of petition.** – Every person, who intends to appear at the hearing of a petition, whether to support or oppose the petition, shall serve on the petitioner or his advocate/pleader, notice of his intention at the address given in the advertisement. The notice shall contain the address of such person, and be signed by him or his advocate/pleader or authroised representative, and save as otherwise provided shall be served (or if sent by post or through courier, shall be posted in such time as to reach the addressee) not later than two days previous to the



day of hearing, and in the case of a petition for winding-up not later than four days previous to the day of hearing. Such notice shall be in Form No. \_\_\_\_\_ Prescribed in Appendix II with such variations as the circumstances may require, and where such person intends to oppose the petition, the grounds of his opposition, or a copy of his affidavit, if any, shall be furnished along with the notice. Any person who has failed to comply with this rule shall not except with the leave of the Member, be allowed to appear at the hearing of the petition.

**92. List of persons, intending to appear, to be filed.** – The petitioner or his advocate/authorized representative or pleader shall prepare a list of the names and addresses of the persons who have given notice of their intention to appear at the hearing of the petition. Such list shall be in Form No. \_\_\_\_\_ prescribed in Appendix II, and shall be filed in Tribunal before the hearing of the petition.

**93. Procedure at hearing of petition.** – At the hearing of the petition, the Member may either dispose of the petition finally, or give such directions as may be deemed necessary for the filing of counter-affidavit and reply affidavits, if any, and for service of notice on any person who, in his opinion has been omitted to be served or has not been properly served with the notice of the petition and may adjourn the petition to enable the parties to comply with his directions. All adjournments and postings will be subject to time schedule prescribed under the Act. Except as otherwise ordered by the Member, it shall not be necessary to give notice of the adjourned hearing to any person.

**94. Order to be drawn up.** – (1) Every order, shall be drawn up by the Registrar of Tribunal, unless in any proceeding or class of proceedings the Member or the Registrar of Tribunal, shall direct that the order need not be drawn up. Where a direction is given that no order need be drawn up, the note or memorandum of the order signed or initialed by the Member making the order or by the Registrar of Tribunal shall be sufficient evidence of the order having been made. The date of every order shall be the date on which it was actually made, notwithstanding that it is drawn up and issued on a later date.

Costs should be awarded for every adjournment on the party seeking adjournment at the time of granting adjournment except in cases of serious illness and such similar circumstance.

(2) Where costs are awarded to a party in any proceeding the order shall direct that the party liable to pay the costs shall pay the same.

### **Petition for Winding up, Provisional Liquidator, Winding up Order, and Statement of Affairs,**

**95. Petition for winding-up.** – A petition for winding-up a LLP shall be in Form No. \_\_\_\_\_, or \_\_\_\_\_ or \_\_\_\_\_ prescribed in Appendix II as the case may be, with such variations as the circumstances may require, and shall be presented in duplicate. The Registrar of Tribunal shall note on the petition the date of its presentation. If the petition

is by the LLP it should be accompanied with the statement of affairs of the LLP on the date of petition.

**96. Admission of petition and directions as to advertisement.** – Upon the filing of the petition, it shall be posted before the Member in Chambers for admission of the petition and fixing a date for the hearing thereof and for directions as to the advertisements to be published, and the persons, if any, upon whom copies of the petition are to be served. The Member may, if he thinks fit, direct notice to be given to the LLP before giving directions as to the advertisement of the petition.

**97. Petition by a contingent or prospective creditor.** – A petition for the winding-up of a LLP presented by a contingent or prospective creditor shall be accompanied by an application for the leave of the Tribunal for the admission of the petition. No advertisement of the petition shall be made unless the leave has been granted, or, where the leave has been granted subject to any conditions precedent to the admission of the petition, unless such conditions have been satisfied.

**98. Copy of petition to be furnished.** – Every partner or creditor of the LLP shall be entitled to be furnished by the petitioner or by his advocate/pleader or authorized representative with a copy of the petition within 24 hours on payment of the prescribed charges as given in Appendix III to this Annex.

**99. Advertisement of petition.** – Subject to any directions of the Tribunal, the petition shall be advertised within the time and in the manner provided at Rule 81. The advertisement shall be in Form \_\_\_\_\_prescribed in Appendix II.

**100. Application for leave to withdraw petition.** – (1) A petition for winding-up shall not be withdrawn after presentation without the leave of the Tribunal.

(2) An application for leave to withdraw a petition for winding-up which has been advertised in accordance with the provisions of Rule 81 shall not be heard at any time before the date fixed in the advertisement for the hearing of the petition.

**101. Substitution of creditor or partner for original petitioner.** – Where a petition,

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- (1) is not entitled to present a petition, or
- (2) fails to advertise his petition within the time prescribed by these rules or by order of Tribunal or such extended time as the Tribunal may allow with cost, or
- (3) consents to withdraw the petition, or to allow it to be dismissed, or the hearing to be adjourned or fails to appear in support of his petition when it is called on in Tribunal on the day originally fixed for the hearing thereof, or any days to which the hearing has been adjourned, or

(4) if appearing, does not apply for an order in terms of the prayer of his petition.

or,

where in the opinion of the Tribunal there is other sufficient cause for an order being made under this rule, the Tribunal may, upon such terms as it may think just, substitute as petitioner any creditor or partner who, in the opinion of the Tribunal, would have a right to present a petition, and who is desirous of prosecuting the petition.

(5) Where a member makes an order substituting a creditor or partner as petitioner in winding up petition, such petitioner shall pay an additional fee equivalent to the half of the amount of the original fee paid in the original petition.

**102. Procedure on substitution.** – Where the Member makes an order substituting a creditor or partner as petitioner in a winding-up petition, he shall adjourn the hearing of the petition to a date to be fixed by him and direct such amendments of the petition as may be necessary. Such creditor or partner shall, within seven days from the making of the order, amend the petition accordingly, and file two clean copies thereof together with an affidavit in duplicate setting out the grounds, on which he supports the petition. The amended petition shall be treated as the petition for the winding-up of the LLP and shall be deemed to have been presented on the date on which the original petition was presented.

**103. Affidavit-in-opposition.** – Any affidavit intended to be used in opposition to the petition shall be filed not less than five days before the date fixed for the hearing of the petition, and a copy of the affidavit shall be served on the petitioner or his advocate/pleader or authorized representative forthwith. Statement of Affairs of the LLP along with the affidavit in opposition in question shall also be filed.

Copies of the affidavit shall also be given to any creditor or partner appearing in support of the petition who may require the same, on payment of the prescribed charges.

**104. Affidavit in reply.** – An affidavit intended to be used in reply to the affidavit filed in opposition to the petition shall be filed not less than two days before the day fixed for the hearing of the petition, and a copy of the affidavit in reply shall be served on the day of the filing thereof on the person by whom the affidavit in opposition was filed or his advocate/pleader or authorized representative.

### Provisional liquidator

**105. Appointment of Provisional Liquidator.** – (1) After the admission of a petition for the winding-up of a LLP by the Tribunal, upon the application of a creditor, or a partner, or of the LLP, and upon proof by affidavit of sufficient ground for the appointment of a Provisional Liquidator, the Tribunal, if it thinks fit, and upon such terms as in the opinion of the Tribunal shall be just and necessary, may appoint the Liquidator to be Provisional Liquidator of the LLP pending final orders on the winding-up petition.

Where the LLP is not the applicant, notice of the application for appointment of Provisional Liquidator shall be given to the LLP unless the Tribunal, for special reasons to be recorded (in writing), dispenses with the notice.

(2) The order appointing the Provisional Liquidator shall set out the restrictions and limitations, if any, on his powers imposed by the Tribunal. The order shall be in Form No.\_\_\_\_\_, prescribed in Appendix II with such variations as may be necessary.

**106. Rules and procedures applicable to Provisional Liquidator.** – The rules and procedures relating to Liquidators shall apply to Provisional Liquidators, so far as applicable, subject to such directions as the Tribunal may give in each case.

**107. Costs, etc. of Provisional Liquidator.** – Subject to any order of the Tribunal, all the costs, charges and expenses properly incurred by the Liquidator, as Provisional Liquidator, including such sum as is or would be payable to the Central Government under the scale of fees for the time being in force applicable where the Liquidator acts as liquidator of the LLP, shall be paid out of the assets of the LLP.

### Winding up order

**108. Notice to Liquidator of order.** – Where an order for the winding-up of a LLP or for the appointment of a Provisional Liquidator has been made, the Registrar of Tribunal shall forthwith send to the Liquidator appointed by the Tribunal notice of the order under the seal of the Tribunal in duplicate in Form No. \_\_\_\_\_ or \_\_\_\_\_, as the case may be prescribed in Appendix II, together with a copy of the petition and the affidavit, if any, filed in support thereof with a copy of Statement of Affairs filed with the petition at the time of opposition as the case may be within a period not exceeding two weeks from the date of passing of the order. The Registrar of the State shall also be served with the copy of the order.

**109. Contents of winding-up order and order appointing Provisional Liquidator.** – An order to winding-up a LLP or for the appointment of a Provisional Liquidator shall contain at the foot thereof a note stating that it will be the duty of such of the persons as are liable to make out or concur in making out the LLP's statement of affairs under rule 23, to attend on the Liquidator at such time and place as he may appoint and to give him all information he may require.

**110. Order to be sent to Liquidator and form of order.** – (1) The order for winding-up shall be drawn up by the Registrar of Tribunal forthwith, and after it is signed and sealed two certified copies thereof duly sealed shall be sent to the Liquidator. The order shall be in Form No.\_\_\_\_\_ prescribed in Appendix II with such variations as may be necessary.

(2) Except where the LLP is the petitioner, the Liquidator shall cause a sealed copy of the order to be served upon the LLP by pre-paid registered post or by empanelled courier

agency addressed at its registered office (if any), or, if there is no registered office, at its principal or last known principal place of business, or upon such other person or persons or in such manner as the Tribunal may direct.

**111. Directions on making the winding-up order.** – At the time of making the winding-up order, or at any time thereafter, the Tribunal shall give directions as to the advertisement of the order and the persons, if any, on whom the order shall be served and the persons, if any, to whom notice shall be given of the further proceedings, in the liquidation, and such further directions as may be necessary.

**112. Advertisement of the order.** – Save as otherwise ordered by the Tribunal, every order for the winding-up of a LLP by the Tribunal, shall within 14 days of the date of making the order, be advertised by the petitioner in one issue each of a newspaper in the English language and a newspaper in the regional language circulating in the State or the Union Territory concerned and shall be served by the petitioner upon such person, if any, and in such manner as the Member may direct. The advertisement shall be in Form No. \_\_\_\_\_ prescribed in Appendix II.

**113. Liquidator appointed by the Tribunal to take charge of assets and books and papers of LLP.** – On a winding-up order being made, the Liquidator appointed by the Tribunal shall forthwith take into his custody or under his control all the property and effects and the books and papers of the LLP, and it shall be the duty of all persons having custody of any of the properties, books and papers of the LLP, to deliver possession thereof to the Liquidator.

**114. Form of proceedings after winding-up order is made.** – After a winding-up order is made, every subsequent proceeding in the winding-up shall bear the original number of the winding-up petition besides its own distinctive number, but against the name of the LLP in the cause-title, the words ‘in liquidation’ shall appear in brackets.

**115. Application for stay of winding-up proceedings.** – An application for stay of proceedings in the winding-up shall be made upon notice to the parties to the winding-up petition and to such other persons as the Tribunal may direct, and where the application is made by any person other than the Liquidator, notice shall be given to the Liquidator. Where an order is made staying proceedings, the order shall direct that the applicant shall forthwith file a certified copy thereof with the Registrar.

### Statement of Affairs

**116. Notice to submit statement.** – A notice by the Liquidator requiring any of the persons mentioned in rule 24 to submit and verify a statement of affairs of the LLP shall be in Form No. \_\_\_\_\_ prescribed in Appendix II and shall be served by the Liquidator as soon as may be after the order for winding-up or the order appointing the Liquidator as Provisional Liquidator is made.

**117. Application by Liquidator appointed by Tribunal** – The Liquidator may apply to the Tribunal for an order directing any person, who, in his opinion, is liable to furnish a statement of affairs under rule 24, to prepare and submit such a statement or concur in making the same. Notice of the application shall be served on the person against whom the order is sought. Where the Tribunal makes the order, such order shall be in Form No. \_\_\_\_\_ prescribed in Appendix II with such variations as may be necessary.

**118. Preparation of statement of affairs.** – Any person who under rule 24 is required to submit and verify a statement as to the affairs of the LLP shall be furnished by the Liquidator with the necessary forms and shall be given such instructions and afforded such reasonable facilities for preparing the statement as the Liquidator may in his discretion consider necessary.

**119. Form of the statement.** – The statement as to the affairs of the LLP to be submitted under rule 24 shall be in Form No. \_\_\_\_\_ prescribed in Appendix II and shall be made out in duplicate, one copy of which shall be verified by affidavit. An affidavit of concurrence in the statement of affairs shall be in Form No. \_\_\_\_\_ prescribed in Appendix II. The Liquidator shall cause the verified statement of affairs and the affidavit of concurrence, if any, to be filed in the Tribunal and shall retain the duplicate thereof for his records.

**120. Extension of time for submitting statement.** – (1) Where any person required to submit a statement of affairs under rule 24 requires an extension of time for submitting the same, he shall apply in the first instance of the Liquidator who may, if he thinks fit, give a written certificate extending the time, which certificate shall be filed with the proceedings. The certificate shall be in Form No. \_\_\_\_\_ prescribed in Appendix II.

**121. Expenses of preparing the statement.** – (1) Any person required to make or concur in making any statement of affairs of the LLP, shall submit to the Liquidator for his sanction, a statement, of the estimated costs and expenses of the preparation and making of the statement and shall, after the submission of the statement of affairs, submit his bill of actual expenses.

(2) Except by order of the Tribunal, no person shall be paid out of the assets of the LLP any costs or expenses which have not been sanctioned by the Liquidator, nor shall such costs and expenses be paid until the statement of affairs verified by affidavit has been submitted to the Liquidator.

(3) Any person who has made or concurred in making the said statement and affidavit and whose bill or costs and expenses has not been allowed in full by the Liquidator, may, within 14 days of the notice of the order of the Liquidator disallowing any part of his bill, apply by summons to the Member in Chambers upon notice to the Liquidator for sanction of the amount disallowed or any part thereof and the Member may pass such order thereon as may seem just.

**122. Partners and Officers of LLP to attend and give information.** – The Liquidator may from time to time hold personal interviews with any such person, as is mentioned in

rule 24 or rule 33 for the purpose of investigating the LLP's affairs, and it shall be the duty of every such person to attend on the Liquidator at such time and place as the Liquidator may appoint and give the Liquidator all information that he may require and answer all such questions as may be put to him by the Liquidator. The Liquidator shall maintain minutes of the interview held by him or memoranda containing the substance of such interviews.

**123. Duty of person making or concurring in statement.** – After the statement of affairs of the LLP has been submitted to the Liquidator it shall be the duty of every person who has made or concurred in making it, if and when required, to attend on the Liquidator and answer all such questions as may be put to him, and give all such further information as may be required of him by the Liquidator in relation to the statement of affairs.

**124. Default in complying with rule 24** – Any default on the part of any person in complying with the requirements of rule 24 shall be reported to the Tribunal by the Liquidator, and the Tribunal may thereupon pass such orders or give such directions as it may think fit.

**125. Dispensing with statement of affairs.** – An application to dispense with the requirements of rule 24 shall be supported by a report of the Liquidator showing the special circumstances which, in his opinion, render such a course desirable. Where an order is made dispensing with the requirements, the Tribunal may give such consequential or other directions as it may think fit.

**126. LLP Liquidator in voluntary winding-up to submit statement.** – Where before the making of the winding-up order the LLP was being wound-up voluntarily the Liquidator may require any liquidator or liquidators in such winding-up to furnish him, not later than 14 days of his making the requisition, or such other time as he may fix, with a statement as to the manner in which the winding-up was conducted, how the assets of the LLP were dealt with, and the position of the liquidation on the date of the order for winding-up by the Tribunal; and on the requisition being made, it shall be the duty of the LLP liquidator or liquidators so required to furnish the statement within the time limited. Where the LLP liquidator or liquidators fail to furnish the statement as required, the LLP Liquidator may apply to the Tribunal for such directions as may be necessary.

**127. Preliminary report by Liquidator.** – The preliminary report to be submitted by the Liquidator under rule 30 shall be in Form No. \_\_\_\_\_ prescribed in Appendix II with such variations as may be necessary.

**128. Inspection of statement and preliminary report.** – Every creditor or partner, by himself, or by his agent, shall be entitled to inspect the statement of affairs submitted under rule 24 and the preliminary report of the Liquidators submitted under rule 30 on payment of a fee as prescribed in Appendix III and to obtain copies thereof or extracts there from on payment of the prescribed charges in Appendix III.

**129. Further report by Liquidator.** – (1) Where the Liquidator makes a further report under rule 30(4), such report shall state whether in the opinion of the liquidator, any fraud has been committed by any person in the promotion or formation of the LLP or by any officer in relation to the LLP since its formation, and shall set out the names of the persons by whom the fraud, in his opinion, was committed and the facts on which such opinion is based. The report shall set out in a narrative form the facts and matters which the liquidator desires to bring to the notice of the Tribunal.

(2) Where the Liquidator makes a further report under rule 30(4), the Registrar of Tribunal shall fix a date for the consideration thereof by the Member and notify the date on the notice board of the Tribunal and to the Liquidator.

**130. Consideration of report by Tribunal.** – The consideration of the report (or reports) made by the Liquidator pursuant to rule 30(4), shall be before the Member in Chambers, and the Liquidator shall personally or by counsel attend the consideration thereof and give the Tribunal any further information or explanation with reference to the matters contained therein which the Tribunal may require. On a consideration of the report (or reports) the Tribunal may pass such orders and give such directions as it may think fit including directions of examination of designated partners, partners, officers etc.

**131. Summons for directions to be taken out by Liquidator.** –

(1) As soon as practicable after the winding-up order is made and, in any event, not later than seven days after the filing of his preliminary report the Liquidator shall make out a report for directions with regard to the settlement of the list of partners and the list of creditors and the performance by the Liquidator of all or any of the duties under rule 36 and any other matters requiring directions of the Tribunal. Notice of the summons shall be given to the petitioner on whose petition the order for winding-up was made. Upon the hearing of the report, the Tribunal, after hearing the Liquidator and any other person appearing on notice or otherwise, may give such directions as it shall think fit in regard to the said matters, including the fixing of dates for the settlement of the list of partners and for the filing of proofs by the creditors of the LLP in respect of their debts and their claims for priority, if any, under preferential payments.

(2) Where the preliminary report of the Liquidator is not filed prior to the hearing of the report and any of the matters in the report cannot be properly or fully dealt with, without a perusal of such report, the Tribunal may adjourn the hearing of any such matter or matters until after the submission of the preliminary report.

#### **Settlement of list of creditors etc**

**132. Fixing a date for proving debts.** – Subject to the provisions of the Act and Rules and in a winding-up by the Tribunal, subject to the directions of the Tribunal, the Liquidator in a winding-up by the Tribunal shall, and the LLP Liquidator in voluntary winding-up may, fix a certain day, which shall be not less than 14 days from the date of



the notice to be given under the next succeeding Rule, on or before which the creditors of the LLP are to prove their debts or claims and to establish any title they may have to priority under preferential payments, or to be excluded from the benefit of any distribution made before such debts or claims are proved, or, as the case may be, from objecting to such distribution.

**133. Notice to creditors.** – (1) The liquidator shall give not less than 14 days' notice of the date so fixed by advertisement in one issue of a daily newspaper in the English language and one issue of a daily newspaper in the regional language circulating in the State or Union Territory concerned, as he shall consider suitable. Such advertisements shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II and released within 30 days from the date of confirmation of the sale or on any earlier day. If the number of creditors do not exceed 100 individual notices may be given under certificate of posting within 30 days from the date of confirmation of the sale or on any earlier date and advertisement in newspapers may be dispensed with.

(2) The Liquidator shall also give not less than 14 days' notice of the date fixed, in a winding-up by the Tribunal, to every person mentioned in the statement of affairs, as a creditor, who has not proved his debt and to every person mentioned in the statement of affairs as a preferential creditor, whose claim to be a preferential creditor has not been established or is not admitted, or where there is no statement of affairs, to the creditors as ascertained from the books of the LLP and, in any other winding-up, to each person who, to the knowledge of the Liquidator, claims to be a creditor or preferential creditor of the LLP and whose claim has not been admitted, to the last known address or place of abode of such person. Such notice shall be in Form No. \_\_\_\_\_ or \_\_\_\_\_ as the case may be as prescribed in Appendix II, and shall be sent to each creditor by pre-paid letter post under certificate of posting.

(3) All proceedings and procedures hereinafter set out as to the admission or rejection of proofs shall apply with necessary variations to any claim to priority as a preferential creditor.

**134. Proof of debt.** – (1) In a winding-up by the Tribunal, every creditor shall, subject as hereinafter provided, prove his debt, unless the Member in any particular case directs that any creditors or class of creditors shall be admitted without proof.

(2) Formal proof of the debts in the case of LLP is being wound up merely for the purpose of re-construction or amalgamation with another LLP shall not be required, unless the Liquidator shall in any special case otherwise direct, in a winding-up by the Tribunal.

**135. Mode of proof and verification thereof.** – A debt may be proved by delivering or sending by post to the Liquidator, an affidavit verifying the debt made by the creditor or by some person authorised by him. If the affidavit is made by a person authorised by the creditor, it shall state the authority and means of knowledge of the deponent. A creditor need not attend upon the investigation unless required to do so by the Liquidator.

**136. Contents of proof.** – An affidavit proving a debt shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The affidavit shall state whether the creditor is a secured creditor, or a preferential creditor, and if so, shall set out the particulars of the security or of the preferential claims. The affidavit shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II.

**137. Workmen's wages.** – In any case where there are numerous claims for wages or accrued holiday remuneration by workmen and other employed by the LLP, it shall be sufficient if one proof in Form No. \_\_\_\_\_ as prescribed in Appendix II for all such claims is made either by a foreman or some other person on behalf of all such creditors. Such proof shall have annexed thereto as forming part thereof, a schedule setting forth the names of the workmen and others and the amounts severally due to them. Any proof made in compliance with this Rule shall have the same effect as if separate proofs had been made by each of the said workmen and others.

**138. Production of bills of exchange and promissory notes.** – Where a creditor seeks to prove in respect of a bill of exchange, promissory note or other negotiable instrument or security of a like nature on which the LLP is liable, such bill of exchange, note, instrument or security shall be produced before the Liquidator and be marked by him before the proof if admitted.

**139. Value of debts.** – The value of all debts and claims against the LLP shall, as far as is possible, be estimated according to the value thereof at the date of the order of the winding-up of the LLP or where before the presentation of the petition for winding-up, a resolution has been passed by the LLP for voluntary winding-up, at the date of the passing of such resolution.

**140. Discount.** – A creditor proving his debit shall deduct therefrom all trade discounts, if any.

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

**142. Periodical payments.** – When any rent or other payment falls due at stated period, and the order or resolution to wind-up is made at any time other than one of those periods, the persons entitled to the rent or payment may prove for a proportionate part thereof up to the date of winding-up order or resolution as if the rent or payment accrued due from day to day. Provided that where the Liquidator remains in occupation of the

premises demised to a LLP which is being wound-up, nothing herein contained shall prejudice or after the right of the landlord of such premises to claim payment by the LLP, or the liquidator, of rent during the period of the LLP's or liquidator's occupation.

**143. Proof of debt payable at a future time.** – A creditor may prove for a debt not payable at the date of the winding-up order or resolution, as if it were payable presently, and may receive dividends equally with the other creditors, deducting only there out a rebate of interest at the rate of four per cent per annum computed from the date of declaration of the dividend to the time when the debt would have become payable according to the terms on which it was contracted.

**144. Examination of proof.** – The Liquidator shall, with all convenient speed, examine every proof of debt lodged with him and the grounds of the debt. He may call for the production of the vouchers if any referred to in the affidavit of proof or require further evidence in support of the debt. If he requires further evidence, or requires that the creditor should attend the investigation in person, he shall fix a day and time at which the creditor is required to attend or to produce further evidence and send a notice to such creditor in Form No. \_\_\_ as prescribed in Appendix II by pre-paid registered post or through empanelled courier agency so as to reach him not later than 7 days before the date fixed.

**145. Liquidator's right to summon any person in connection with the investigation.** – The Liquidator in a winding-up by the Tribunal may summon any person whom he may deem capable of giving information respecting the debts to be proved in liquidation and may require such person to produce any documents in his custody or power relating to such debts and shall tender with the summons such sum as appears to the Liquidator sufficient to defray the traveling and other expenses of the person summoned for one day's attendance. Where the person so summoned fails without lawful excuse to attend or produce any documents in compliance with the summons or avoids or evades service, the Liquidator may apply to the Tribunal for such orders as may be deemed fit for the apprehension of such person and the production before him of such documents as may be required, or for other appropriate orders.

**146. Oaths.** – For the purpose of his duties in relation to the admission of proof of debts the Liquidator may administer oaths and take affidavits.

**147. Costs of proof.** – Unless otherwise ordered by the Member, a creditor shall bear the costs of proving his debt.

**148. Acceptance or rejection of proof to be communicated.** – After such investigation as he may think necessary, the liquidator shall in writing admit or reject the proof in whole or in part. Every decision of the Liquidator accepting or rejecting a proof, either wholly or in part, shall be communicated to the creditor concerned by post under certificate of posting where the proof is admitted and by registered post or through empanelled courier agency for acknowledgement where the proof is rejected wholly or in part within 45 days from the last date fixed for proving the debts, provided that it shall

not be necessary to give notice to the admission of a claim to a creditor who has appeared before the Liquidator and the acceptance of whose claim has been communicated to him or his agent in writing at the time of acceptance. Where the Liquidator rejects a proof, wholly or in part, he shall state the grounds of the rejection to the creditor in Form No. \_\_\_\_\_ as prescribed in Appendix II. Notice of admission of proof shall be Form No. \_\_\_\_\_ as prescribed in Appendix II

**149. Appeal by creditor.** – If a creditor is dissatisfied with the decision of the Liquidator in respect of his proof, the creditor may, not later than 21 days from the date of service of the notice upon him of the decision of the Liquidator, appeal to the Tribunal against the decision. The appeal shall be supported by an affidavit which shall set out the grounds of such appeal, and notice of the appeal shall be given to the Liquidator. On such appeal, the Tribunal shall have all the powers of an appellate Tribunal.

**150. Procedure where creditor appeals.** – (1) The liquidator shall, upon receiving notice of the appeal against a decision rejecting a proof wholly or in part, file with the Registrar of Tribunal such proof with the order containing the grounds of rejection.

(2) It shall be open to any creditor or partner to apply to the Tribunal for leave to intervene in the appeal, and the Tribunal may, if it thinks fit, grant the leave subject to such terms and conditions as may be just. Where such leave has been granted notice of the hearing of the appeal shall be given to such creditor or partner.

**151. Liquidator not to be personally liable for costs.** – The Liquidator shall in no case be personally liable for costs in relation to an appeal from his decision rejecting any proof wholly or in part.

**152. Proofs and list of creditors to be filed in Tribunal.** – In a winding-up by the Tribunal, the Liquidator shall, within two months from the date last date fixed for proving the debts file in Tribunal a certificate in Form No. \_\_\_\_\_ as prescribed in Appendix II containing a list of the creditors who submitted to him proofs of their claims in pursuance of the advertisement and the notices referred to in Rule 133, the amounts of debt for which they claimed to be creditors, distinguishing in such list the proofs admitted wholly, the proofs admitted or rejected in part, and the proofs wholly rejected. The proofs, with the memorandum of admission or rejection of the same in whole or in part, as the case may be, endorsed thereon, shall be filed in Tribunal along with the certificate.

**153. List of creditors not to be varied.** – The list as certified by the Liquidator and filed in Tribunal shall be the list of the creditors of the LLP, and shall not be added to or varied except under orders of Tribunal and in accordance with such orders. Where an order is made adding to or varying the list of creditors, the Liquidator shall amend the list in accordance with such order.

**154. Notice of filing the list and inspection of the same.** – Upon the filing of the certificate containing the list of creditors as settled by the Liquidator, the Registrar of Tribunal shall notify the filing thereof on the Tribunal notice board, and the certificate

and the list of creditors as settled and the proofs relating thereto shall be open to the inspection of every creditor or partner on payment of a fee in Appendix III.

**155. Expunging of proof.** – (1) If after the admission of a proof, the Liquidator has reason to think that the proof has been improperly admitted or admitted by a mistake, he may apply to the Tribunal upon notice to the creditor who made the proof, to expunge the proof or reduce its amount, as the case may be.

(2) Any creditor or partner may also apply to the Tribunal to expunge a proof or reduce the amount thereof, if the Liquidator declines to move in the matter, and on such application, the Tribunal may pass such orders as it may think just.

**156. Payment of subsequent interest.** – In the event of there being a surplus after payment in full of all the claims admitted to proof, creditors whose proofs have been admitted shall be paid interest from the date of the winding-up order or of the resolution as the case may be, up to the date of the declaration of the final dividend, at a rate not exceeding the prime lending rate of SBI on the admitted amount of the claim, after adjusting against the said amount the dividends as on the date of the declaration of each dividend.

**157. Provisional list of partners.** – (1) Unless the Tribunal dispenses with the settlement of a list of partners, the Liquidator shall prepare and file in the Tribunal not later than 21 days after the date of the order on the application for directions referred to in Rule 167 a provisional list of partners of the LLP with their names and addresses, the amount of contribution or the extent of interest to be attributed to each partner, the amount called up and the amount paid up in respect of such contribution or interest, and distinguishing in such list the several classes of partners.

(2) The list shall consist of every person who was a partners of the LLP at the commencement of the winding-up or his representative, and shall be divided into two parts, the first part consisting of those who are partners in their own right, and the second part, of those who are partners as being representatives of, or liable for the debts of, others. The lists shall be in Form No.\_\_\_\_\_.

**158. Notice to be given of date of settlement of list.** – (1) Upon the filing of the provisional list, the Liquidator shall, subject to any directions of the Member, fix a date not later than one month from the date of the filing of the provisional list for the settlement of the list before him, and shall give notice thereof to every person included in such list, stating in such notice in what character and for what amount of contribution or extent of interest such person is included in the list, the amount called up and the amount paid up in respect of contribution or interest. Such notice shall be in Form No.\_\_\_\_\_ as prescribed in Appendix II and shall be sent by pre-paid letter post under certificate of posting to every person included in the list at the address mentioned therein so as to reach him in the ordinary course of post not later than 14 days before the date fixed for the settlement.

(2) The person who posted the notices shall swear to an affidavit in Form No. \_\_\_\_\_ as prescribed in Appendix II relating to the dispatch thereof and the affidavit shall be filed with the proceedings.

**159. Settlement of the list.** – On the date fixed for the settlement of the list, the Liquidator shall hear any person who objects to being settled as a partner or to being settled as a partner in such character or for such amount of contribution or extent of interest as is mentioned in the provisional list, and after such hearing, shall finally settle the list. The list when so settled shall be the list of partners of the LLP.

**160. Certificate of final settlement to be filed in Tribunal.** – Within 7 days after the settlement of the list the Liquidator shall file in Tribunal a certificate of the list of partners as finally settled by him. Such certificate shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II.

**161. Notice of settlement to partners.** – (1) Upon the filing of the certificate, the Liquidator shall forthwith give notice to every person placed on the list of partners as finally settled, stating in what character and for what amount of contribution or interest he has been placed on the list, what amount has been called up and what amount paid up in respect of such contribution or interest and in the notice he shall inform such person that any application for the removal of his name from the list or for a variation of the list, must be made to the Tribunal within 21 days from the date of service on the partner of such notice. Such notice shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II and shall be sent to each person settled on the list by under certificate of posting at the address mentioned in the list as settled.

(2) An affidavit of service relating to the dispatch of the notices to the partners under this Rule shall be sworn to by the persons who dispatched the said notices and shall be filed in Tribunal within 14 days of the filing by the Liquidator of his certificate of the list of partners under Rule 221. Such affidavit shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II.

**162. Supplemental list of partners.** – the Liquidator may from time to time add to the list of partners by a supplemental list or lists and any such addition shall be made in the same manner in all respects as the settlement of the original list. A supplemental list shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II.

**163. Variation of list.** – (1) Save as provided in the preceding Rules the certificate of the list of partners shall not be varied, and no person settled on the list as a partner shall be removed from the list, or his liability in any way varied, except by order of Tribunal and in accordance with such orders.

(2) Where the Tribunal makes an order varying the list of partners, the Liquidator shall amend the list in accordance with the order of the Tribunal.

**164. Application by Liquidator for rectification of list.** – If after the settlement of the list of partners the Liquidator has reason to think that a partner who had been included in the provisional list has been improperly or by mistake excluded or omitted from the list of partners as finally settled or that the character in which or the amount of contribution or extent of interest for which he has been included in the list as finally settled or any other particular contained therein requires rectification in any respect, he may, upon notice to the partner concerned, apply to the Tribunal for such rectification of the list as may be necessary and the Tribunal may, on such application, rectify or vary the list as it may think fit.

**165. Application by partner to vary the list.** – Subject to the power of the Tribunal to extend the time or to allow an application to be made notwithstanding the expiration of the time limit for that purpose, no application to the Tribunal by any person who objects to his being settled on the list of partners as finally settled by the Liquidator shall be entertained after the expiration of 21 days from the date of service on such person of the notice of the settlement of the list. An order varying a list of partners shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II, and an order rectifying the Register of Members and the list of partners shall be in Form No. \_\_\_\_\_ as prescribed in Appendix II .

**166. Liquidator not to be personally liable for costs.** – The Liquidator shall not in any case be personally liable to pay any costs of, or in relation to, an application to set aside or vary his act or decision settling the name of a person on the list of partners of a LLP.

**167. List of partners consisting of past partners.** – It shall not be necessary to settle a list of partners consisting of the past partners of a LLP, unless so ordered by the Tribunal. Where an order is made for settling a list of partners consisting of the past partners of a LLP, the provisions of these Rules shall apply to the settlement of such list in the same manner as they apply to the settlement of the list of partners consisting of the present partners.

**168. List of partners under rule 164**– Where, on the application made under rule 164, the Tribunal thinks fit to direct that a list of persons liable to contribute to his debt or claim be settled, such lists shall be settled in the same manner as a list of ordinary partners of a LLP in a winding-up.

#### **MEETINGS OF CREDITORS AND PARTNERS IN A WINDING-UP BY TRIBUNAL AND OF CREDITORS IN A VOLUNTARY WINDING-UP**

**169. ‘Tribunal meetings’, ‘Liquidators’ meetings’ and ‘Voluntary Liquidation meetings’.** – (1) In addition to the meeting of creditors and partners which may be directed to be held by the Tribunal under rule 57, hereinafter referred to as Tribunal meetings of creditors and partners, the Liquidator may, in a winding-up by the Tribunal, as and when he thinks fit, summon and hold meetings of the creditors and partners, hereinafter referred to as Liquidator’s meetings of creditors and partners, for the purpose of ascertaining their wishes in all matters relating to the winding-up and such meetings shall be summoned, held and conducted in the manner provided by these Rules and subject to the control of the Tribunal.

(2) In a voluntary winding-up, the LLP liquidator may himself from time to time summon, hold and conduct meetings of creditors for the purpose of ascertaining their wishes in all matters relating to the winding-up – (Such meetings and all meetings of creditors which a liquidator of a LLP is by the Act required to convene in or immediately before such a voluntary winding-up and all meetings convened by a creditor in a voluntary winding-up under the Rules or under these paragraphs are hereinafter called voluntary liquidation meeting).

**170. Application of Rules to meetings.** – Except where and so far as the nature of the subject matter or the context may otherwise require, the procedures as to meetings as hereinafter set out shall apply to Tribunal meetings, Liquidator’s meetings of creditors and partners and voluntary liquidation meetings, provided that in the case of Tribunal meetings, the Rules shall apply only subject to any directions given by the Tribunal.

**171. Notice of meeting.** – (1) The liquidator shall summon all meetings of creditors and partners by giving not less than 14 days notice of the time and place appointed for the meeting by advertisement in one daily newspaper in the English language and one daily newspaper in the regional language circulating in the State or Union Territory concerned as the liquidator may consider suitable, and by sending individually to every creditor of the LLP notice of the meeting of creditors, and to every partner of the LLP notice of the meeting of partners, by prepaid letter post under certificate of posting so as to reach such person in the ordinary course of post not less than 14 days before the date fixed for the meeting. However, if the creditors or partners are 100 or less than 100, it shall not be necessary to give notice by advertisement but individual notices shall be issued.

(2) The notice to each creditor shall be sent to the address given in his proof or, if he has not proved, to the address given in the statement of affairs, or, if there is no statement of affairs, to the address given in the books of the LLP, or to such other address as may be known to the person summoning the meeting. The notice to each partner shall be sent to the address mentioned in the books of the LLP as the address of such partner or to such other address as may be known to the person summoning the meeting.

(3) In the case of meetings to fill vacancy in office of liquidator, the continuing liquidator, or if there is no continuing liquidator, any creditor may summon the meeting.

(4) The notices shall be in such of the Form Nos. \_\_\_\_\_ to \_\_\_\_\_ as may be appropriate, and Forms Nos. \_\_\_\_\_ and \_\_\_\_\_ as contained in Appendix II may be used suitably altered in the case of voluntary liquidation meetings.

(5) These procedures shall not apply to meeting of creditors and final meeting for dissolution.

**172. Place and time of meeting.** – Every meeting shall be held at such place and time as the person convening the same considers most convenient for the majority of the



creditors or partners or both. Different times or places or both may, if thought fit, be appointed for the meetings of creditors and the meetings of partners.

**173. Notice of first or other meeting to partners and officers of LLP.** – (1) In a winding-up by the Tribunal, the Liquidator shall also give to each of the officers and partners of the LLP, who in his opinion ought to attend the first or any other meeting of creditors or partners, fourteen days' notice of the time and place appointed for such meeting. The notice may either be delivered personally or sent under certificate of posting as may be convenient. It shall be the duty of every officer or partner who receives notice of such meeting to attend if so required by the Liquidator, and if any such officer or partner fails to attend the Liquidator may report such failure to the Tribunal. Such notice shall be in Form No. \_\_\_\_\_ as contained in Appendix II.

(2) The Liquidator, if he thinks fit, may instead of requiring any of the officer or partner of the LLP to attend the meeting as aforesaid, require such officer or partner to answer any interrogatories or to furnish in writing any information that he may require for purposes of such meeting, and if such officer fails to answer the interrogatories or furnish such information, he shall report such failure to the Tribunal.

**174. Proof of notice.** – An affidavit by the Liquidator, or by any person who sent the notices, that such notices have been duly sent, shall be sufficient evidence of the notices having been sent to the persons to whom the same were addressed. In the case of Tribunal meetings, the affidavit shall be filed in Tribunal and in the case of Liquidator's meetings, the affidavit shall be filed with the Liquidator. Such affidavit shall be in Form No. \_\_\_\_\_ as contained in Appendix II.

**175. Costs of calling meetings at the instance of creditor or partner.** – Where a creditor or partner desires the liquidator to convene a meeting the liquidator may require such creditor or partner to deposit as a condition precedent thereto a sum sufficient for the costs thereof, to be computed as hereinafter provided; and on any application to the Tribunal by a creditor or partner to direct the Liquidator to convene a meeting the Member may, if he thinks fit, require the applicant to deposit a similar sum for such costs. Such sum shall include all disbursements necessary to be made for printing, stationery, postage and hire of room, to be calculated at the rate of Rs.100 for each creditor or partner up to the first 25 creditors or partners, Rs. 75/- for each creditor or partner for the next 75 creditors or partners, Rs. 50/- for each creditor or partner above the first 100 creditors or partners. The sum so deposited shall be repaid to the person depositing the same out of the assets of the LLP, if the Tribunal shall by order, or if the creditors shall by resolution, so direct.

Above shall not apply to meetings to be summoned by the Liquidator or to a meeting summoned at the instance of a creditor.

**176. Chairman of meeting.** – Where a meeting is summoned by the liquidator, the liquidator or some person nominated by him, shall be the Chairman of the meeting. The nomination shall be in Form No. \_\_\_\_\_ as contained in Appendix II. At every other

meeting of creditors or partners, not being Tribunal meetings of creditors and partners, the Chairman shall be such person as the meeting by resolution shall appoint. This procedure shall not apply to meetings of creditors.

**177. Resolution at creditors' meeting.** – At a meeting of creditors, a resolution shall be deemed to be passed, when a majority in number and value of the creditors present personally or by proxy and voting on the resolution have voted in favour of the resolution. In a winding-up by the Tribunal, the value of a creditor, shall, for the purpose of a first meeting of the creditors, be deemed to be the value as shown in the books of the LLP, or the amount mentioned in his proof, whichever is less, and for the purpose of any other meeting, the value for which the creditor has proved his debt or claim.

**178. Resolution of partners' meeting.** – At a meeting of partners, a resolution shall be deemed to be passed when a majority in number and value of the partners present personally or by proxy and voting on the resolution have voted in favour of the resolution. The value of the partners shall be determined according to the number of votes to which each partner is entitled as a partner of the LLP under the provisions of the Act, or the rules or LLP agreement, as the case may be.

**179. Copies of resolutions to be filed.** – In a winding-up by the Tribunal, the Liquidator shall file in Tribunal a copy certified by him of every resolution passed at a meeting of creditors or partners. The Registrar of Tribunal shall keep in each case a file of such resolution.

**180. Non-receipt of notice by a creditor or partner.** – Where a meeting of creditors or partners is summoned by notice, the proceedings and resolutions at the meeting shall, unless the Tribunal otherwise orders, be valid notwithstanding that some creditors or partners may not have received the notice sent to him.

**181. Adjournment.** – The Chairman may, with the consent of the meeting, adjourn it from time to time, but the adjourned meeting shall be held at the same place as the original meeting unless in the resolution for adjournment another place is specified or unless the Tribunal otherwise orders. No adjournment should be granted unless there are compelling circumstances that are recorded in speaking order to be passed by the chairman.

**182. Quorum.** – A meeting may not act for any purpose except for adjournment thereof unless there are present or represented thereat in the case of a creditors' meeting at least three creditors entitled to vote or in the case of a meeting of partners at least three partners or 2 creditors entitled to vote or 2 of the partners if the number of creditors entitled to vote or the number of partners, as the case may be, shall not exceed three.

**183. Procedure in the absence of quorum.** – If, within half an hour from the time appointed for the meeting, a quorum of creditors or partners, as the case may be, is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day, or time or place as the chairman

may appoint, but the day appointed shall be not less than 7 or more than 14 days from the day from which the meeting was adjourned. If at such adjourned meeting, a quorum be not present, two creditors or partners present in person shall form a quorum and may transact the business for which the meeting was convened.

**184. When creditor can vote.** – In the case of a meeting of creditor or any adjournment thereof a person shall not be entitled to vote as a creditor unless he has duly lodged with the Liquidator not later than the time mentioned for that purpose in the notice convening the meeting, a proof of the debt which he claims to be due to him from the LLP. In the case of other meetings of creditors a person shall not be entitled to vote as a creditor unless he has lodged with the Liquidator a proof of the debt which he claims to be due to him from the LLP and such proof has been admitted wholly or in part before the date on which the meeting is held :

*Provided* that the procedure under this Rule and the next four following paragraphs shall not apply to a Tribunal meeting of creditors:

*Provided further* that this Rule shall not apply to any creditors or class of creditors who by virtue of these Rules or any directions given there under are not required to prove their debts, or to any voluntary liquidation meetings.

**185. Cases to which creditors may not vote.** – A creditor shall not vote in respect of any unliquidated or contingent debt or any debt the value of which is not ascertained, nor shall a creditor vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him unless he is willing to treat liability to him thereon of every person who is liable thereon antecedently to the LLP, and against whom no order of adjudication has been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for purposes of dividend, to deduct it from his proof.

**186. When secured creditor can vote.** – (1) For the purposes of voting at a meeting, in a winding-up by the Tribunal, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance due to him, if any, after deducting the value of his security.

(2) For the purpose of voting at any voluntary liquidation meeting, a secured creditor shall, unless he surrenders his security, lodge with the LLP liquidator, or where there is no LLP liquidator, at the registered office of the LLP, before the meeting, a statement giving the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of balance due to him, if any, after deducting the value of his security.

**187. Effect of voting by a secured creditor.** – If a secured creditor votes in respect of his whole debt he shall be deemed to have surrendered his security, unless the Tribunal on application is satisfied that the omission to value the security was due to inadvertence.

**188. Procedure when secured creditor votes without surrendering security.** – The liquidator may within 28 days from the date of the meeting at which a secured creditor voted on the basis of his valuation of the security, require him to give up the security for the benefit of the creditors generally on payment of the value so estimated by him, and may, if necessary, apply to the Tribunal for an order to compel such creditor to give up the security:

*Provided* that the Tribunal may, for good cause shown, permit a creditor to correct his valuation before being required to give up the security, upon such terms as to costs as the Tribunal may consider just.

**189. Admission or rejection of proofs for purposes of voting.** – The chairman shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Tribunal. If he is in doubt whether a proof shall be admitted or rejected, he shall mark it as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

**190. Minutes of proceedings.** – (1) The chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in the Minute Book and the minutes shall be signed by him or by the chairman of the next meeting.

(2) A list of creditors and partners present at every meeting shall be made and kept as in Form No.\_\_\_\_ as prescribed in Appendix II.

**191. Report of Tribunal meetings.** – Where a meeting is summoned under the direction of the Tribunal, the chairman shall, within the time fixed by the Tribunal, or if no time is fixed, within 7 days of the conclusion of the meeting, report the result thereof to the Tribunal. Such report shall be in Form No.\_\_\_\_ as prescribed in Appendix II.

## **PROXIES IN RELATION TO MEETINGS IN WINDING-UP BY TRIBUNAL AND TO MEETINGS OF CREDITORS IN A VOLUNTARY WINDING-UP.**

**192. Voting by proxies.** – A creditor or partner may vote either in person or by proxy. Where a person is authorised to represent a body corporate or corporation at any meeting of creditors or partners, such person shall produce to the Liquidator or other chairman of the meeting a copy of the resolution so authorising him. Such copy must be certified to be a true copy by a director, the manager, the secretary or designated partner or other officer of the body corporate or corporation duly authorised in that behalf, who shall certify that he is so authorised.

**193. Form of proxies.** – A creditor or partner may give a general proxy or a special proxy to any person. A general proxy shall be in Form No.\_\_\_\_ as contained in Appendix II. and a special proxy in Form No.\_\_\_\_ as contained in Appendix II.

**194. Proxies to Liquidator or Chairman.** – A creditor or partner in a winding-up by the Tribunal may appoint the Liquidator, and in a voluntary winding-up, the liquidator, or if there is no liquidator, the chairman of the meeting, to act as his general or special proxy.

**195. Use of proxies by deputy.** – Where an Liquidator who holds any proxies cannot attend the meeting for which they are given, he may in writing depute some person under his official control to use the proxies on his behalf and in such manner as he may direct.

**196. Forms to be sent with notice.** – Forms of proxies shall be sent to the creditors and partners with the notice summoning the meeting. No name shall be inserted or printed in the form before it is sent.

**197. Proxies to be lodged.** – A proxy shall be lodged not later than 48 hours before the meeting at which it is to be used, with the Liquidator in a winding-up by the Tribunal, with the LLP at its registered office for a meeting of creditors, and with the LLP liquidator, or if there is no LLP liquidator, with the person named in the notice convening the meeting to receive the same, in a voluntary winding-up.

**198. Holder of proxy not to vote on matter in which he is financially interested.** – No person acting either under a general or special proxy, shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the assets of the LLP otherwise than as a creditor rateably with the other creditors of the LLP.

**199. Minor not to be appointed proxy.** – No person shall be appointed as a general or special proxy who is a minor.

**200. Filling in proxy where creditor or partner is blind or incapable.** – The proxy of a creditor or a partner blind or incapable of writing may be accepted if such creditor or partner has attached his signature or mark thereto in the presence of a witness who shall add to his signature his description and address: provided that all insertions in the proxy are in the handwriting of the witness and such witness shall have certified at the foot of the proxy that all such insertions have been made by him at the request and in the presence of the creditor or partner before he attached his signature or mark.

**201. Proxy of person not acquainted with English.** – The proxy of a creditor or partner who does not know English may be accepted if it is executed in the manner prescribed in the last preceding Rule and the witness certifies that it was explained to the creditor or partner in the language known to him, and gives the creditor's or partner's name in English below the signature.

#### **ATTENDANCE AND APPEARANCE OF CREDITORS AND PARTNERS**

**202. Attendance proceedings.** – (1) Save as otherwise provided or by an order of Tribunal, every person for the time being on the list of partners of the LLP and every creditor whose debt has been admitted by Liquidator wholly or in part shall be at liberty

at his own expense to attend the proceedings before the Tribunal or before the Liquidator and shall be entitled upon payment of the costs occasioned thereby to have notice of all such proceedings as he shall, by request in writing addressed to the Liquidator, desire to have notice of; but if the Tribunal shall be of opinion that the attendance of any such person has occasioned any additional costs which ought not to be borne by the funds of the LLP, it may direct such costs or a gross sum in lieu thereof to be paid by such person and such person shall not be entitled to attend any further proceedings until he had paid the same.

(2) No partner or creditor shall be entitled to attend any proceedings before the Member, unless and until he or an Advocate/pleader or authorized representative on his behalf has filed an appearance with the Registrar of Tribunal. The Registrar of Tribunal shall keep an "Appearance Book" in which all such appearances shall be entered. Such book shall be open to the inspection of the Liquidator.

**203. Representation of creditors and partners before Tribunal.** – The Tribunal may, if it thinks fit, appoint from time to time any one or more of the creditors or partners to represent before the Tribunal at the expense of the LLP all or any class of creditors or partners upon any question or in relation to any proceedings before the Tribunal, and may remove any person so appointed, if more than one person is appointed under this Rule to represent one class, the persons so appointed, shall employ the same advocate/pleader or same authorized representative to represent them, and where they fail to agree as to the advocate or the authorized representative to be employed, the Member may nominate an advocate/pleader for them.

#### **COLLECTION AND DISTRIBUTION OF ASSETS IN A WINDING-UP BY TRIBUNAL**

**204. Powers of Liquidator.** – The duties imposed on the Tribunal with regard to the collection of the assets of the LLP and the application of the assets in discharge of the LLP's liabilities shall be discharged by the Liquidator as an officer of the Tribunal subject to the control of the Tribunal.

**205. Liquidator to be in the position of a receiver.** – For the discharge by the Liquidator of the duties imposed by rule 37 and the last preceding Rule the Liquidator shall, for the purpose of acquiring and retaining possession of the property of the LLP, be in the same position as if he were a Receiver of the property appointed by the Tribunal, and the Tribunal may on his application enforce such acquisition or retention accordingly.

**206. LLP's property to be surrendered to Liquidator on requisition.** –Any partner for the time being on the list of partners, trustee, receiver, banker or agent or officer of a LLP which is being wound-up under order of the Tribunal, shall on notice from the Liquidator and within such time as he shall by notice require, pay, deliver, convey, surrender or transfer to or into the hands of the Liquidator any money; property or documents, books or papers which happen to be in his hands for the time being and to

which the LLP is *prima facie* entitled. Where the person so required fails to comply with the notice, the Liquidator may apply to the Tribunal for appropriate orders. The notice shall be in Form No.\_\_\_\_ as contained in Appendix II.

## **MONIES DUE FROM A PARTNER IN A WINDING-UP BY THE TRIBUNAL**

**207. Powers of Liquidator.** –The powers and duties conferred upon the Tribunal in realisation of debts may be exercised by the Liquidator as hereinafter provided.

**208. Liquidator to realise unrealized contribution.** – Notwithstanding any charge or encumbrance on the unrealized contribution of the LLP including unrealized contribution in respect of contracts for services to be performed, the Liquidator shall alone be entitled to realise the unrealized contribution of the LLP.

**209. Application for leave to realize contribution.** – (1) The Liquidator shall not demand any unrealized contribution without obtaining the leave of the Tribunal for the purpose.

(2) At any time after the settlement of the list of partners, the Liquidator may apply by summons to the Tribunal for leave to realize the unrealized contribution on the partners. The summons shall state the proposed amount and shall be in Form No.\_\_\_\_ as prescribed in Appendix II. It shall be supported by the affidavit of the Liquidator which shall be in Form No.\_\_\_\_ as contained in Appendix II.

**210. Notice of application.** – Notice of an application for leave to realize the unrealized contribution shall be served on every partner proposed to be included in such demand, by post under certificate of posting so as to reach such partner, in the ordinary course of post not less than 7 clear days before the date appointed for the hearing thereof, or if the Tribunal so directs, notice of the application may be given by advertisement in Form No.\_\_\_\_ as contained in Appendix II, in such papers as the Tribunal shall direct not less than 7 days before the date appointed for the hearing, without a separate notice to each partner. The affidavit of service relating to the dispatch of notice to each partner, or to the advertisement, as the case may be, shall be filed three days before the date fixed for the hearing.

**211. Order granting leave to realize and document demanding the dues.** – The order granting leave to make a demand shall be in Form No.\_\_\_\_ as contained in Appendix II, and shall contain directions as to the time within which such payments shall be made. When an order has been made granting leave to make a demand, the Liquidator shall file with Tribunal, document indicating demand in Form No.\_\_\_\_ as contained in Appendix II with such variations as circumstances may require.

**212. Service of notice of demand.** – Soon after filing the document indicating the demand under the last preceding Rule, the Liquidator shall serve under certificate of posting a copy of the order granting leave to make the demand upon each of the partners included in such demand together with a notice in Form No.\_\_\_\_ as contained in

Appendix II specifying the amount due from such partner in respect of such demand. The order granting leave to make such demand need not be advertised unless the Tribunal otherwise orders for any special reason.

**213. Order for payment of demand.** – The Liquidator may apply to the Tribunal for an order against any partner or partners for payment of moneys due on the demands made by him. The application shall be made by summons in Form No.\_\_\_\_ as prescribed in Appendix II and shall be supported by an affidavit in Form No.\_\_\_\_ as contained in Appendix II. Notice of the application together with a copy of the affidavit shall be served on the partner by registered post for acknowledgement or through empanelled courier agency not less than 14 days before the date fixed for the hearing of the summons. The order for payment shall be in Form No.\_\_\_\_ as contained in Appendix II.

**214. Other moneys due by partners.** – When any money is due to the LLP from a partner or from the estate of the person whom he represents, other than moneys due on demands made subsequent to the winding-up on unrealized contribution, the Liquidator may make an application to the Tribunal supported by an affidavit for an order against such partner for the payment of such moneys. Notice of the application shall be given to such partner by registered post or through empanelled courier agency not less than 14 days prior to the date fixed for the hearing of the application.

**EXAMINATION OF PERSON SUSPECTED OF HAVING PROPERTY OF LLP  
ETC AND EXAMINATION OF PARTNERS, DESIGNATED PARTNERS,  
OFFICERS ETC IN CONNECTION WITH THE FRUAD ETC .**

**215. Application for examination of persons suspected of having property etc.** – (1) An application for the examination may be made *ex parte*, provided that where the application is made by any person other than the Liquidator, notice of the application shall be given to the Liquidator.

(2) The summons shall be in Form No.\_\_\_\_ as contained in Appendix II.

and, where the application is by the Liquidator, it shall be accompanied by a statement signed by him setting forth the facts on which the application is based. Where the application is made by a person other than the Liquidator, the summons shall be supported by an affidavit of the applicant setting forth the matters in respect of which the examination is sought and the grounds, relied on in support of the summons.

**216. Directions at hearing of summons.** – Upon the hearing of the summons the Member may, if satisfied that there are grounds for making the order, make an order directing the issue of a summons against the person named in the order for his examination and/or for the production of documents. Unless the Member otherwise directs the examination of such person shall be held in Chambers. The order shall be in Form No.\_\_\_\_ as contained in Appendix II.



**217. Examination on commission or by interrogation.** – The Tribunal may, if it thinks fit, instead of issuing a summons to any person for his appearance before the Tribunal for examination, issue a commission to the Member within whose jurisdiction such person resides for the examination of such person, or make an order for his examination by interrogatories, as the Tribunal may think fit.

**218. Service of the summons.** – The summons issued in pursuance of the order shall be in Form No. \_\_\_ as contained in Appendix II. and shall be served on the person to be examined not less than 7 days before the date fixed for the examination. When the summons is served in person there shall be paid or tendered to the person summoned along with the summons a reasonable sum for his expenses to be fixed by the Member or Registrar of Tribunal with due regard to the scale of fees in force in the Tribunal. When the summons is served by registered post, such sum shall be sent to such person by postal money order.

**219. Conduct of the examination.** – (1) The Liquidator shall conduct an examination. However, the Tribunal may, if for any reasons it thinks fit to do so, entrust the conduct of the examination to any partner or creditors. Where the conduct of the examination is entrusted to any person other than the Liquidator, the Liquidator shall nevertheless be entitled to be present at the examination in person or by advocate or by authorized representative, and may take notice of the examination for his own use and put such questions to the person examined as the Tribunal may allow.

(2) Save as aforesaid, no person shall be entitled to take part in an examination except the Liquidator and his advocate, but any person examined shall be entitled to have the assistance of his advocate, who may re-examine the witness:

*Provided* that the Tribunal may permit, if it thinks fit, any creditor or partner to attend the examination subject to such conditions as it may impose.

(3) Notes of the examination may be permitted to be taken by the witness or any person on his behalf on his giving an undertaking to the Tribunal that such notes shall be used only for the purpose of the re-examination of the witness. On the conclusion of the examination, the notes shall, unless otherwise directed, be handed over to the Tribunal for destruction.

**220. Notes of the deposition.** – (1) The notice of the deposition of a person examined shall be signed by such person and shall be lodged in the office of the Registrar of Tribunal. But the notes shall not be open to the inspection of any creditor, partner or other person, except the Liquidator, nor shall a copy thereof or extract therefrom be supplied to any person other than the Liquidator, save upon orders of Tribunal.

(2) The Tribunal may from time to time give such general or special directions as it shall think expedient as to the custody any inspection of such notes and the furnishing of copies thereof of extracts therefrom.

**221. Order for public examination of partners, designated partners, officers etc in connection with fraud etc-** (1) Where an order is made for the examination of any person or persons, the examination shall be held before the Member, the Member may direct that the whole or any part of the examination of any such person or persons, be held before any of the officers as may be mentioned in the order. Where the date of the examination has not been fixed by the order, the Liquidator shall taken an appointment from the Member, or officer before whom the examination is to be held as to the date of the examination. The order directing a public examination shall be in Form No.\_\_\_\_ as contained in Appendix II.

(2) The Member may, if he thinks fit, either in the order for examination or by any subsequent order, give directions as to the specific matters on which such person is to be examined.

**222. Notice of public examination.** – Not less than 7 clear days before the date fixed for the examination, the Liquidator shall give notice thereof to the creditors and partners of the LLP by advertisement in Form No.\_\_\_\_ as contained in Appendix II, in such newspapers as the Member shall direct, and shall within the same period, serve, either personally or by registered post or through empanelled courier agency, on the person or persons to be examined, a notice in Form No.\_\_\_\_ as contained in Appendix II, of the date and hour fixed for the examination and the officer before whom it is to be held, together with a copy of the order directing the examination. Where a public examination is adjourned, it shall not be necessary to advertise the adjournment or serve notice thereof unless otherwise ordered.

**223. Adjournment of public examination to Tribunal.** – Where on an examination held before an officer appointed by the Member such officer is of the opinion that the examination is being unduly or unnecessarily protracted or, for any other sufficient cause, he is of the opinion that the examination should be held before the Member, such officer may adjourn the examination of any person, or any part of the examination to be held before the Member and submit his report to the Member. The Member may thereupon hold the examination himself or pass such orders as he may think fit.

**224. Procedure for contumacy.** – If a person examined before an officer appointed by the Member refuses to answer to the satisfaction of such officer any question which he may put or allow to be put such officer shall report such refusal to the Member and upon such report being made the person in default shall be in the same position and be dealt with in the same manner as if he had made default in answering before the Member.

The report shall be in writing and shall set forth the question or questions put and the answer or answers given (if any) by the person examined, and the officer shall notify the person examined of the date when he should attend before the Member. The report shall be in Form No.\_\_\_\_ as contained in Appendix II. Upon receiving the report, the Member may take such action thereon as he shall think fit.

**225. Notes of Examination.** – The notes of every public examination shall, after being signed, form part of the records of winding-up. The Liquidator, the person examined and any creditor or partner of the LLP, shall be entitled to obtain a copy thereof from the Tribunal on payment of the prescribed charges.

**226. Shorthand notes of examination under above Rules**– In respect of any examination, the Tribunal may order that the evidence be taken down in shorthand. Where such order is made, the Member or the officer before whom the evidence is taken shall nominate a person to take down the evidence and the costs, if any, occasioned thereby shall be paid out of the assets of the LLP. The shorthand note of the examination shall be transcribed and the transcript shall be read over to or by the person examined, and signed by him.

**227. Application by any person under examination for fraud etc to be exculpated** – An application by any person ordered to be exculpated from any charges made or suggested against him, shall be made upon notice to the Liquidator and to such other persons as the Tribunal may direct.

**228. Default in attending examination under above Rules-** (1) If any person who has been directed by the Tribunal to attend for examination fails to attend at the time and place appointed for holding or processing with the same and no good cause is shown by him for such failure, or if before the day appointed for such examination the Liquidator satisfies the Tribunal that such person has absconded or that there is reason to believe, that he is about to abscond with the view of avoiding the examination, the Tribunal may, if satisfied that notice of the date and hour fixed for the examination was duly served on such person, such orders as may be deemed fit.

**229. Public examination in connection with fraud etc-** Where, in a voluntary winding-up, an order is made for the public examination of any of the persons in connection with fraud etc, the procedures relating to a public examination in a winding-up by the Tribunal shall apply *mutatis mutandis* in respect of such examination.

## **APPLICATION AGAINST DELINQUENT PARTNERS, DESIGNATED PARTNERS AND OFFICERS OF THE LLP**

**230. Applications in connection with Liability for fraudulent conduct of business or to assess damages against delinquent partners etc.** – An application shall be made by a summons returnable in the first instance in chambers. The summons shall state the nature of the declaration or order for which the application is made, and the grounds of the application, and shall be served on every person against whom an order is sought not less than 7 days before the day named in the summons for the hearing of the application. It shall not be necessary to file any affidavit or report before the return of the summons. The summons shall be in Form No. \_\_\_\_\_ or \_\_\_\_ as contained in Appendix II, with such variations as may be necessary.

**231. Directions at preliminary hearing of summons.** – On the return of the summons the Tribunal may give such directions as it shall think fit as to whether points of claim and defense are to be delivered, as to the taking of evidence wholly or in part by affidavit or orally, as to the cross-examination, before the Member on the hearing, either in Tribunal or in Chambers, of any deponents to affidavits in support of or in opposition to the application, as to any report it may require the Liquidator to make, and generally as to the procedure on the summons for the hearing thereof. Points of claim to be delivered shall be in Form No. \_\_\_\_ or \_\_\_\_ as contained in Appendix II, with such variations as may be necessary.

**232. Liberty to apply for further directions.** – Where the Tribunal has directed that points of claim and defense shall be delivered, it shall be open to either party who wishes to apply for any further direction as to any interlocutory matter, to apply, by restoration, of the summons, before the summons has been set down for trial, for such direction, upon giving two clear days' notice in writing to the other party stating the grounds of the application. A copy of the notice shall be filed with the Registrar of Tribunal two clear days before the day fixed for the hearing of the application.

#### **DISCLAIMER OF ONEROUS PROPERTY**

**233. Application for disclaimer of onerous property.** – (1) An application for leave to disclaim any part of the property of a LLP shall be made by a summons supported by an affidavit setting out the full facts relating to the property, the parties interested and the nature of their interests, and stating whether the LLP is solvent and whether any notice has been served on the liquidator by any party requiring him to elect whether or not he will disclaim.

(2) Form Nos. \_\_\_\_ to \_\_\_\_ as contained in Appendix II, shall be used in respect of the matters to which they relate with such variations as may be necessary.

**234. Preliminary hearing of the summons.** – The summons shall be posted before the Tribunal *ex parte* in the first instance for directions as to the persons on whom notice of the summons should be served, and the Tribunal shall thereupon fix a date for the hearing of the summons and give such directions as may be necessary as to the persons on whom notice of the summons should be served.

**235. Claimant to furnish statement of his interest.** – Where a person claims to be interested in any part of the property of a LLP, which the Liquidator wishes to disclaim, such person shall, if so required by the Liquidator, furnish a statement of the interest claimed by him.

**236. Service of notice.** – Notice of the date fixed for the hearing of the summons shall be in Form No. \_\_\_\_ as contained in Appendix II, and shall be served not less than 7 days before the date fixed for the hearing, together with a copy of the summons and of the affidavit filed in support thereof. The notice shall require that any affidavit-in-opposition

to the summons shall be filed in Tribunal and a copy thereof served on the Liquidator of the LLP not later than 2 days before the date fixed for the hearing.

**237. Order granting leave to disclaim.** – On the hearing of the summons, the Tribunal may after hearing the Liquidator and such parties as may appear in response to the notices issued, and such other persons appearing and interested as the Tribunal may think fit to hear, grant leave to the Liquidator and to disclaim on such terms and conditions if any, as to the Tribunal may seem just. The order granting leave to disclaim shall be in Form No.\_\_\_\_ as contained in Appendix II.

**238. Disclaimer to be filed in Tribunal.** – Every disclaimer shall be filed in Tribunal by the Liquidator and shall not be operative until it is so filed. Where the disclaimer is in respect of a leasehold interest, it shall be filed in Tribunal forthwith. Notice of the filing of the disclaimer shall be given to the persons interested in the property. The disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. A disclaimer shall be in Form No.\_\_\_\_ as contained in Appendix II., and a notice of disclaimer in Form No.\_\_\_\_ as contained in Appendix II.

Where a disclaimer has been filed in Tribunal, the Liquidator shall file a copy thereof with the Registrar .

**239. Vesting of disclaimed property.** – Where the disclaimed property is a leasehold interest and an application is made for an order vesting the property in any person and it appears that there is an under-lessee or mortgagee or holder of a charge by way of demise in respect of such property, claiming under the LLP, the Tribunal may direct that notice shall be given to such under-lessee, mortgagee or holder of charge, that if he does not elect to accept and apply for a vesting order upon the terms required by the abovementioned sub-section and such other terms as the Tribunal may think just, within a time to be fixed by the Tribunal and stated in the notice, he will be excluded from all interest in and security upon the property. The Tribunal may adjourn the application for such notice to be given and for such under-lessee, mortgagee or holder of charge, to be added as a party to and served with a copy of the application, and to make, if he sees fit, such election and application as is mentioned in the notice. If at the expiration of the time so fixed by the Tribunal, such under-lessee, mortgagee or holder of charge, fails to make such election and application, the Tribunal, may make an order vesting the property in the applicant or other person who, in the opinion of the Tribunal, may be entitled thereto, and excluding such under-lessee, mortgagee or holder of charge, from all interest in or security upon the property.

An order requiring parties interested in a disclaimed lease to apply for a vesting order or to be excluded from all interest in the lease shall be in Form No.\_\_\_\_ as contained in Appendix II, and an order vesting lease and excluding persons who have not elected to apply, shall be in Form No.\_\_\_\_ as contained in Appendix II.

## **COMPROMISE OR ABANDONMENT OF CLAIMS**

**240. No claim to be compromised or abandoned without sanction of Tribunal.** – In a winding-up no claim by the LLP against any person shall be compromised or abandoned by the Liquidator without the sanction of the Tribunal upon notice to such person as the Tribunal may direct.

**241. Application for sanction of compromise.** – Every application for sanction of a compromise or arrangement with any person shall be accompanied by a copy of the proposed compromise or arrangement and shall be supported by an affidavit of the Liquidator stating that for the reasons set out in the affidavit he is satisfied that the proposed compromise or arrangement is beneficial to the LLP. The Tribunal may, if it thinks fit, direct notice of the application to be given to the Committee of Inspection, if there is one, and to such other person as it may think fit.

#### **SALES BY THE LIQUIDATORS**

**242. Sale to be subject to sanction and to confirmation by Tribunal.** – Unless the Tribunal otherwise orders, no property belonging to LLP which is being wound-up by the Tribunal shall be sold by the Liquidator without the previous sanction of the Tribunal, and every sale shall be subject to confirmation by the Tribunal and such order of confirmation or otherwise may be passed within 60 days of the filing of the report by the liquidator or the provisional liquidator as the case may be.

**243. Procedure at sale.** – Subject to the provisions of the Act and rules every sale shall be held by the Liquidator by an agent or an auctioneer approved by the Tribunal, and subject to such terms and conditions, if any, as may be approved by the Tribunal. All sales shall be made by public auction or by inviting sealed tenders or in such manners as the Member may direct.

**244. Expenses of sale.** – Where property forming part of a LLP's assets is sold by the Liquidator through an auctioneer or other agent, the gross proceeds of the sale shall, unless, the Tribunal otherwise orders, be paid over to the Liquidator by such auctioneer or agent and the charges and expenses connected with the sale shall afterwards be paid to such auctioneer or agent in accordance with the scales, if any, fixed by the Tribunal or as approved by the Tribunal.

#### **DIVIDEND AND RETURNS OF CONTRIBUTION/ASSETS IN A WINDING-UP BY TRIBUNAL**

**245. Declaration of dividend or return of contribution/assets.** – No dividend to creditors or return of contribution/assets to partners shall be declared by the Liquidator without the sanction of the Tribunal.

**246. Notice of declaration.** – The Liquidator shall give notice of the declaration of dividend not less than one month prior to the date fixed for the payment thereof. Unless otherwise directed by the Member, such notice shall be given by advertisement in such newspapers as the Member shall direct and by sending by prepaid letter post under

certificate of posting a notice to every person whose name appears in the list of creditors as on such date. The advertisement shall be in Form No. \_\_\_\_\_ as contained in Appendix II, and the notice to creditor in Form No. \_\_\_\_\_ as contained in Appendix II.

**247. Form of authority to pay dividend.** – A person to whom dividend is payable may lodge with the Liquidator an authority in writing to pay such dividend to another person named therein. Such authority shall be in Form No. \_\_\_\_\_ as contained in Appendix II.

**248. Transmission of dividends by post.** – Dividend may, at the request and risks of the persons to whom they are payable, be transmitted to him by registered post or any other mode as approved by the Tribunal, by money order, as may be appropriate within 45 days from the date of filing the list of creditors before the Tribunal.

**249. Form of order directing return of contribution.** – Every order by which the Liquidator is authorised to make a return to partners of the LLP, shall, unless the Tribunal otherwise directs, contain or have appended thereto a list (which the Liquidator shall prepare) setting out in a tabular form the full names and addresses of the persons to whom the return is to be paid, and the amount of money payable to each person, and particulars of the transfers of economic interest (if any) which have been made or the variations in the list of partners which have arisen since the date of the settlement of the list of partners and such other information as may be necessary to enable the return to be made. The list shall be in Form No. \_\_\_\_\_ as contained in Appendix II, with such variations as circumstances shall require and the Liquidator shall send a notice of return to each partner by ordinary post under certificate of posting in Form No. \_\_\_\_\_ as contained in Appendix II. Payment may be sent either by registered post or any other mode as approved by the Tribunal at the risk of the partners.

**250. Payment of dividend or return of contribution due to a deceased creditor or partner.** – Where a claim made in respect of a dividend due to a deceased creditor or a return of contribution due to a deceased partner is Rs.500 or less, the Liquidator may, upon satisfying himself as to the claimant's right and title to receive the dividend or the return as the case may be, apply to the Tribunal for sanctioning the payment of such dividend or return to the claimant without the production of a succession certificate or like authority. Where the Tribunal sanctions the payment, the Liquidator shall make the payment upon obtaining a personal indemnity from the payee.

## **TERMINATION OF WINDING-UP**

**251. Liquidator to apply for dissolution.** – As soon as the affairs of the LLP have been fully wound-up, the Liquidator in a winding-up by the Tribunal, shall file his final account with the Tribunal and apply for orders as to the dissolution of the LLP subject to his final account being passed in accordance with these Rules. The application shall not be set down for hearing until the completion of the audit of the final account and the filing of the auditor's certificate in relation thereto. In the event, affairs of the LLP have not been wound up within 1 year from the date of the winding up order, the liquidator

shall file an application before the Tribunal explaining the reasons and seek appropriate directions.

**252. Dissolution of the LLP.** – Upon the hearing of the application, the Tribunal may, after hearing the Liquidator and any other person to whom notice may have been ordered by the Tribunal, upon perusing the account as audited, make such orders as it may think fit to the dissolution of the LLP, the application, subject to the provisions of the Act, of the balance in the hands of the Liquidator or the payment thereof into the LLPs Liquidation Account in the public account of India in the Reserve Bank of India/the designated bank, and the disposal of the books and papers of the LLP and of the Liquidator.

**253. Liquidator to pay the balance into public account.** – Upon an order for dissolution being made, the Liquidator shall forthwith pay into the LLPs Liquidation Account in the public account of India in the Reserve Bank of India/the designated bank any unclaimed dividend payable to creditors or undistributed assets refundable to partners in his hands on the date of the order of dissolution, and such other balance in his hands as he has been directed by the Tribunal to deposit into the LLPs Liquidation Account in the Reserve Bank of India/the designated bank. Every order of dissolution shall direct that the Liquidator do forward a certified copy of the order to the Registrar not later than 14 days from the date of the order. Along with the copy of the order shall be filed with the Registrar , a statement signed by the Liquidator that the directions of the Tribunal regarding the application of the balance as per his final account have been duly complied with.

**254. Conclusion of winding-up.** – The winding-up of a LLP shall, deemed to be concluded –

(a) In the case of a LLP wound-up by order of the Tribunal, at the date on which the order dissolving the LLP has been reported by the Liquidator to the Registrar ;

(b) In the case of a LLP wound-up voluntarily, at the date of the dissolution of the LLP, unless at such date any fund or assets of the LLP remain unclaimed or undistributed in the hands or under the control of the LLP Liquidator, or any person who has acted as Liquidator, in which case the winding-up shall not be deemed to be concluded until such funds or assets have either been distributed or paid into the LLP Liquidation Account in the Reserve Bank of India/designated bank.

**255. Application to declare dissolution void.** – An application shall be made upon notice to the Central Government and the Registrar. Where the Tribunal declares the dissolution to have been void, the order shall direct that the applicant to file a certified copy of the order with the Registrar not later than 21 days from the date of the order.

## **REGISTERS AND BOOKS OF ACCOUNT OF THE LIQUIDATOR**



**256. Registers and Books to be maintained by the Liquidator.** – (1) The Liquidator shall maintain the following Registers and Books :-

- (a) Register of Liquidations in Form No. \_\_\_\_ as contained in Appendix II.
- (b) Central Cash Book in Form No. \_\_\_\_ as contained in Appendix II.
- (c) LLP's Cash Book in Form No. \_\_\_\_ as contained in Appendix II.
- (d) General Ledger in Form No. \_\_\_\_ as contained in Appendix II.
- (e) Cashier's Cash Book in Form No. \_\_\_\_ as contained in Appendix II.
- (f) Bank Ledger in Form No. \_\_\_\_ as contained in Appendix II.
- (g) Register of Assets in Form No. \_\_\_\_ as contained in Appendix II.
- (h) Securities and Investment Register in Form No. \_\_\_\_ as contained in Appendix II.
- (i) Register of Book Debts and Outstanding in Form No. \_\_\_\_ as contained in Appendix II.
- (j) Tenants Ledger in Form No. \_\_\_\_ as contained in Appendix II.
- (k) Suits Register in Form No. \_\_\_\_ as contained in Appendix II.
- (l) Decree Register in Form No. \_\_\_\_ as contained in Appendix II.
- (m) Sales Register in Form No. \_\_\_\_ as contained in Appendix II.
- (n) Register of Claims and Dividends in Form No. \_\_\_\_ as contained in Appendix II.
- (o) Partners Ledger in Form No. \_\_\_\_ as contained in Appendix II.
- (p) Dividends Paid Register in Form No. \_\_\_\_ as contained in Appendix II.
- (q) Commission Register in Form No. \_\_\_\_ as contained in Appendix II.
- (r) Suspense Register in Form No. \_\_\_\_ as contained in Appendix II.
- (s) Documents Register in Form No. \_\_\_\_ as contained in Appendix II.
- (t) Books Register in Form No. \_\_\_\_ as contained in Appendix II.
- (u) Register of unclaimed dividends and undistributed assets, deposited into the LLPs liquidation account in the Reserve Bank, in Form No. \_\_\_\_ as contained in Appendix II, and
- (v) A Record Book for each LLP in which shall be entered all minutes of proceedings and the resolutions passed at any meeting of the creditors or partners or of the Committee of Inspection, the substance of all orders passed by the Tribunal in the liquidation proceedings, and all such matters other than matters of account as may be necessary to furnish a correct view of the administration of the LLP's affairs.

In maintaining the registers and books mentioned above, the Liquidator shall follow the instructions contained in the respective forms prescribed for the said books and registers.

(2) The Liquidator shall, in addition to the Registers and Books prescribed above, maintain such books as may be necessary for the proper and efficient working of his office such as Petty Cash Register, Correspondence Register, Dispatch Register, Daily Register of Money Orders and Cheques received, and so on, and shall also keep the necessary files of correspondence and of proceedings in respect of each LLP under liquidation in his charge.

(3) Where the accounts of the LLP are incomplete, the Liquidator shall, with all convenient speed, as soon as the order for winding-up is made, have them completed and brought up-to-date and audited by the partners and officers of the LLP in liquidation. In case of default the partners and officers of the LLP should be proceeded with in terms of the Act/Rule

(4) (i) Where the Liquidator is authorised to carry on the business of the LLP, he shall keep separate books of account in respect of such business and such books shall, as far as possible, be in conformity with the books already kept by the LLP in the course of its business. The Liquidator shall incorporate in the Central Cash Book and in the LLP's Cash Book, the total weekly amounts of the receipts and payments on such trading account.

(ii) The trading account shall from time to time not less than once in every month, be verified by affidavit.

(5) The Liquidator shall also keep a counterfoil Receipt Book in triplicate in Form No.\_\_\_\_as contained in Appendix II, the leaves of which shall be machine numbered serially, from which shall be issued all receipts for payment made to the Liquidator. The duplicate and the triplicate shall bear the same number as the original.

(6) The Liquidator shall keep proper vouchers for all payments made or expenses incurred by him. The vouchers shall be serially numbered.

### **Banking Account of the Liquidator**

**257. All money to be paid into the Reserve Bank/Designated Bank.** – (1) The Liquidator shall pay into the public account of India in the Reserve Bank of India/designated bank (hereinafter referred to as the Bank) to the credit of an account in his Official name, all moneys received by him as the Liquidator of any LLP, and the realizations of each day shall be paid into the Bank without deduction not later than the next working day of the Bank, provided that the remittance of money into the Bank may be deferred until the realizations exceed Rs.100. The money needed for meeting expenses or for making payments in cash shall be drawn from the Bank by cheques drawn upon the Bank by Liquidator. All payments out of the account by the Liquidator above Rs.100/- shall ordinarily be made by cheques drawn against the said account.

(2) The Liquidator shall maintain a Bank remittance challan book in counterfoil, the leaves of which shall be serially numbered in which the acknowledgement of the Bank shall be obtained for all moneys (whether in cash or cheques) deposited into the Bank to the credit of the account mentioned in clause (1) above. The Form of the challan book shall be settled by the Liquidator in consultation with the bank.

**258. Bills, cheques and securities to be deposited into bank.** – All bills, cheques, hundies notes and other securities of a like nature payable to the LLP or to the Liquidator thereof shall, as soon as they come into the hands of the Liquidator, be deposited by him with the Bank for the purpose of being presented for acceptance and payment or for payment only, as the case may be, and the proceeds when realised shall be credited by the Bank to the account of the Liquidator.

**259. Payments into Bank**– Where the Tribunal makes an order directing any person to pay any money due to the LLP into the public account of India, in the Reserve Bank of India/designated bank instead of the Liquidator, the person so directed shall, at the time of making the payment, produce to the Bank a certified copy of the order or a payment in challan endorsed by the Liquidator under his signature. The money so paid shall be credited to the Liquidator’s account with the Reserve Bank of India/designated bank. The person making the payment shall give notice thereof to the Liquidator and produce before him the Bank receipt relating thereto.

**260. Liquidator’s Dividend Account.** – The Liquidator shall also open a separate dividend account for each LLP under liquidation either in the designated bank, or, with the sanction of the Tribunal, in any other Scheduled Bank, as may be convenient, under the name ‘the Dividend Account of ..... (name of the LLP) in liquidation by the Liquidator’, into which account he shall, upon a declaration of dividend being made in the winding-up of any LLP, deposit by transfer from his account, with the Reserve Bank of India/designated bank the total amount of the dividend payable upon such declaration. There shall be a separate account in respect of each declaration of dividend. All payments of dividend shall be made from the said Liquidator’s dividend account and any unpaid balance in the account shall be transferred back to the Liquidator’s account in the Reserve Bank of India/designated bank before being paid into the LLPs liquidation account as unclaimed dividends.

All payments of dividends above Rs.100 shall ordinarily be made by cheques drawn against the said account.

**261. (1) Fees to be credited to Central Government.** – In every winding-up where the official Liquidator becomes or acts as Liquidator or is appointed as Liquidator in terms of rule 25, there shall be paid into the public account of India in the designated bank to the credit of the Central Government, from out of the assets of the LLP in liquidation (or by the petitioner as provided in clause (1) below) such amount as laid down in sub-clause (1).

In the cases where Liquidator is appointed in terms of rule 25, the remuneration of the Liquidator shall be approved by the Tribunal subject to a maximum remuneration of 5% of the value of the debt recovered and realization by sale of assets. The remuneration shall be determined in accordance with the following provisions, the fees determined in accordance with the following provisions:-

(a) Where the official Liquidator acts as a provisional Liquidator only.

Such fees as the Tribunal may consider reasonable, to be paid out of the assets of the LLP or by the petitioner as the Tribunal may direct, in respect of the services of the Liquidator as Provisional Liquidator.

(b) Where a winding-up order is made and the official Liquidator acts as liquidator of a LLP.

(i) Upon the total assets, including produce of calls on partners, interest on investments and rents from properties, realised or brought to credit by the Liquidator, after deducting sums on which fees are chargeable under clauses (3) and (4) below and the amount spent out of the money received in carrying on the business of the LLP, upon each year's collections.

On the first Rs.10,0000 or fraction thereof	4 per cent.
On the next Rs.40,0000 or fraction thereof	3 per cent.
On the next Rs.50,0000 or fraction thereof	2 per cent.
Above Rs.1,00,0000	1 per cent.

(ii) On the total amount distributed in dividend or paid to partners, preferential creditors, and debenture-holders by the Liquidator, half the above percentages.

(c) Where the official Liquidator collects, calls or realises property for debenture-holders.

The same scale of fees as under clause (2) to be paid out of the proceeds of such calls or property.

(d) Where the official Liquidator realises property for secured creditors other than debenture-holders.

On the amount realised for each secured creditor.-

On the first Rs.10,0000 or fraction thereof	5 per cent.
On the next Rs.40,0000 or fraction thereof	3½ per cent.
On the next Rs.50,0000 or fraction thereof	3 per cent.
Above Rs.1,00,0000	2 per cent.

(e) When the official Liquidator acts as trustee, under a scheme of arrangement, such fees not exceeding the scale of fees under clause (2) above, as the Tribunal shall allow.

(f) When the official Liquidator performs any special duties not provided for above such fees as the Tribunal may fix on the application of the Liquidator, in addition to any other fees payable.

- (g) Where the official Liquidator acts as liquidator in a creditor's voluntary winding-up, such fees as the Tribunal may fix, not exceeding the scale under clause (2) above.
  - (h) Where the Tribunal appoints any persons who are already liquidators in a winding-up to be additional liquidators in a winding-up of the LLP by the Tribunal, subject to the control of the official Liquidator, such fees as may be fixed by the Tribunal after taking into consideration the remuneration payable to such additional liquidators.
  - (i) Where the Tribunal has sanctioned the reconstruction of the LLP under liquidation or a scheme of arrangement of its affairs, or where for any reason the Tribunal is of the opinion that the fees prescribed above would be insufficient. Such fee may be made as the Tribunal thinks fit.
- (2) In every winding up where Liquidator has been appointed under any other rule, the remuneration of the Liquidator shall be approved by the Tribunal subject to a maximum remuneration of 5 per cent of the value of the debt recovered and realization by sale of assets.

**262. Where the LLP has no available assets.** – Where a LLP against which a winding-up order has been made has no available assets, the Liquidator may, with the leave of the Tribunal, incur any necessary expenses in connection with the winding-up out of any permanent advance or other fund provided by the Central Government/Tribunal, and the expenses so incurred shall be recouped out of the assets of the LLP in priority to the debts of the LLP :

*Provided* that where any money has been advanced to the Liquidator by the petitioning or other creditor or partner for meeting any preliminary expenses in connection with the winding-up, the Liquidator may incur any necessary expenses out of such amount, and the money so advanced shall be paid out of the assets of the LLP in priority to the debts of the LLP.

### Investment of Surplus Funds

**263. Investment of moneys.** – All such money for the time being standing to the credit of the Liquidator at the Bank as is not immediately required for the purposes of winding-up, shall be invested in Government securities or in interest bearing deposits in the designated bank, or, with the previous sanction of the Tribunal, in interest bearing deposits in any other Scheduled Bank within the same city, in the name of the Liquidator as Liquidator of the LLP to which the funds belong wherever beneficial to the liquidation.

**264. Liquidator to examine the accounts for purposes of investment.** – The Liquidator shall, at the end of every three months, examine the account of each

liquidation in his charge to ascertain what moneys are available for investment, and shall make an entry at the end of every three months in the Record Book relating to the LLP of his having examined the account for the purpose and of the decision taken by him regarding the investment, and in case he decides not to invest any surplus funds, the reasons for such decision.

**265. Investments to be made by the Bank.** – All investments shall be made by the Bank upon the written request of the Liquidator. The securities shall be retained in the Bank in the name and on behalf of the Liquidator, and shall not be sold except by the Bank and under the written instructions of the Liquidator. When the securities are sold the proceeds shall be credited by the Bank to the account of the Liquidator.

**266. Dividend and interest to be credited.** – All dividends and interest accruing from securities or investments shall from time to time be received by the Bank and placed to the credit of the account of the Liquidator and intimation thereof shall be given to the Liquidator, who shall thereupon credit such dividend or interest in his accounts to the LLP to which the security or the investment relating thereto belongs.

**267. Refunds of Income-tax.** – The Liquidator shall claim such refunds of income-tax as may be due in respect of any dividends or interest received on the securities or investments and credit the same when realised to the appropriate account.

### **FILING, AUDIT AND INSPECTION OF THE LIQUIDATOR'S ACCOUNT**

**268. Half-yearly accounts to be filed.** – Unless otherwise ordered by the Tribunal, the Liquidator shall file his accounts into Tribunal twice a year. Such accounts shall be made up to the 31<sup>st</sup> of March and 30<sup>th</sup> of September every year, the account for the period ending 31<sup>st</sup> March being filed not later than the 30<sup>th</sup> of June, following and account for the period ending 30<sup>th</sup> September, not later than the 31<sup>st</sup> of December following :

Provided that the final account of the Liquidator shall be filed as soon as the affairs of the LLP having been fully wound-up, irrespective of the period prescribed above.

**269. Form of account.** – The account shall be a statement of receipts and payments in Form No.\_\_\_\_\_ as contained in Appendix II. and shall be prepared in accordance with the instructions contained therein. Three copies thereof shall be filed, and the account shall be verified by an affidavit of the Liquidator in Form No.\_\_\_\_\_ as contained in Appendix II. The final account shall be in Form No.\_\_\_\_\_ as contained in Appendix II.

**270. Nil account.** – Where the Liquidator has not during the period of account received or paid any sum of money on account of the assets of the LLP, he shall file an affidavit of no receipts or payments on the date on which he shall have to file his accounts for the period.

**271. Registrar of Tribunal to send copy of account to the Auditor.** – As soon as the accounts are filed, the Registrar of the Tribunal shall forward to the auditor one copy thereof for purposes of audit with a requisition in Form No. \_\_\_\_\_ as contained in Appendix II requesting that the accounts may be audited and a certificate of audit issued to the Tribunal not later than 2 months from the date of receipt of the copy of the account.

Provided that the accounts need not be got audited by the Chartered Accountant where the transaction during the period is for Rs. 5000/- or less than that.

**272. Audit of the Liquidator's accounts.** – The accounts shall be audited by one or more Chartered Accountants appointed by the Tribunal, or, if the Tribunal so directs, by the Examiner of Local Fund Accounts of the State concerned. The audit shall be a complete check of the accounts of the Liquidator and of each of the LLPs in liquidation in his charge. The Liquidator shall produce before the auditor all his books and vouchers for the purposes of the audit, and shall give the auditor all such explanations as may be required of him in respect of the accounts.

**273. Audit certificate to be filed.** – After the audit of each of the accounts of the Liquidator filed in Tribunal, the auditor shall forward to the Registrar of Tribunal a certificate of audit relating to the account with his observations and comments, if any, on the account, together with a copy thereof and shall forward another copy to the Liquidator. The Registrar of Tribunal shall file the original certificate with the records and forward the copy to the Registrar together with a copy of the account to which it relates.

**274. Audit fees.** – (1) Audit fees according to the following scale on the gross amount brought to credit, including the produce of calls on partners interest on investments and rents from properties, but after deducting (a) the amount spent out of the money received in carrying on the business of the LLP and (b) the amounts paid by the Liquidator to secured creditors (other than debenture-holders), shall be paid to the auditor and debited to the account of the liquidation to which the audit relates :-

On the amount brought to credit including the produce of calls on partners, interest on investments and rents from properties, but after deducting (a) the amount spent out of the money received in carrying on the business of the LLP, and (b) amounts paid by the Liquidator to secured creditors (other than debenture-holders) 1/2 per cent.

On disbursements, other than payments to secured creditors not being debenture holders 1/2 per cent.

(2) Where the audit is by the Examiner of Local Funds Accounts, audit fees calculated on the above scale shall be paid into the public account of India in the Reserve Bank of India to the credit of State Government concerned.

Provided that the minimum audit fee for the account of the Liquidator shall be not less than Rs. 250/- in respect of one LLP for a period of one year and the maximum audit fee

shall be Rs. 10,000/- for the audit of account of a LLP for one year subject to variation of 25% of the aforesaid fee at the discretion of the Member/Tribunal for reasons to be recorded in writing.

**275. Inspection of the account and certificate of audit.** – Any creditor or partner shall be entitled to inspect the accounts and the auditor’s certificate in the office of the Tribunal on payment of a fee of Rs.50, and to obtain a copy thereof on payment of the prescribed charges.

**276. Account and auditor’s report to be placed before Member.** – Upon the audit of the account, the Registrar of Tribunal shall place the statement of account and the auditor’s certificate before the Member for his consideration and orders.

**277. Assistance for the Liquidator where official Liquidator acts as Liquidator .** – The Liquidator shall, as far as possible, personally appear and conduct all proceedings before the Tribunal in the liquidation, provided that the Liquidator may apply to the Tribunal for sanction to use the services of professional such as advocates, chartered accountants or company secretary or cost accountant or technical experts to assist him and the Tribunal may, on such application, sanction such engagement or pass such further or other orders as it may think fit.

**278. Employment of additional or special staff where official Liquidator acts as Liquidator.** – Where the Liquidator is of opinion that the employment of any special or additional staff is necessary in any liquidation, he shall apply to the Tribunal for sanction, and the Tribunal may sanction such staff as it thinks fit on such salaries and allowances as to the Tribunal may seem appropriate. The special or additional staff shall be from ex-servicemen and in case of their non-availability , persons retired from Central Government, State Government, autonomous bodies of Central or State Governments and public sector undertakings. They shall be on contractual basis till dissolution of a particular LLP or for five years whichever is earlier. In case his services are availed for more than one LLP, contract shall terminate as aforesaid and fresh contract may be entered into for another LLP.

**279. Apportionment of expenses of common staff where official Liquidator acts as Liquidator** – Where any staff is employed to attend to the work of more than one liquidation, or any establishment or other charges are incurred for more than one liquidation, the expenses incurred on such staff and the common establishment and other charges, shall be apportioned by the Liquidator between the several liquidations concerned in such proportions as he may think fit, subject to the directions of the Member, if any.

**280. Application for examination**– An application to examine on oath the liquidator appointed from panel or any other person concerning the winding-up, and an application for an order conferring on any person designated by the Central Government the powers of investigating the affairs of the LLP concerned, shall be made *ex parte* and shall be supported by an affidavit stating the circumstances in which the application is made.



**281. Annual statement by the Liquidator**– (1) The Liquidator shall file his first annual statement within one month after the expiry of a year from the date of commencement of the winding-up and thereafter his subsequent statements at intervals of one year until the conclusion of the winding-up. The annual statements to be filed by the Liquidator shall be in Form No.\_\_\_\_ as contained in Appendix II.

(2) Upon the filing of the statement, the Registrar of Tribunal shall obtain orders of the Member fixing a date for a consideration thereof and notify the date on the notice board of the Tribunal and to the Liquidator. The Liquidator shall attend the consideration of the statement and shall give the Member any explanation or information with reference to the matters contained therein as the Member may require.

(3) Any creditor or a partner shall be entitled to inspect the statement on payment of a fee of Rs.50 and to obtain a copy thereof on payment of the prescribed fee/charges.

### **VOLUNTARY WINDING-UP**

**282. Applicability of rules.** –Where an application is made to the Tribunal under the provisions of the Act/rules in the voluntary winding-up of a LLP, whether or not an order shall have been made that the voluntary winding-up shall continue the procedures/proceedings contained hereinabove, so far as may be, shall be applied to the subject-matter and mode of such application in a voluntary winding up.

**283. Declaration of solvency** – The declaration of solvency to be made by the partners of a LLP in Form No.\_\_\_\_ as contained in Appendix II, with such variations as the circumstances may require.

**284. Statement to be laid before meeting of creditors.** – The statement of the assets and liabilities of the LLP to be laid before a meeting of creditors by a liquidator in a voluntary winding-up shall be in Form No.\_\_\_\_ as contained in Appendix II with such variations, as may be necessary.

### **LLP LIQUIDATOR APPOINTED BY TRIBUNAL IN VOLUNTARY WINDING-UP**

**285. Notice of appointment of LLP liquidator appointed by the Tribunal under rule 7(4)/(5).** – The notice of his appointment which every liquidator is required to publish in the Official Gazette under rule, shall be in Form No. \_\_\_\_\_ as contained in Appendix II and the notice of the appointment to be delivered to the Registrar shall be in Form No.\_\_\_\_\_ as contained in Appendix II.

**286. Security by LLP liquidator appointed by Tribunal.** – (1) Unless otherwise ordered, every liquidator appointed by the Tribunal in a voluntary winding-up, shall, before entering upon his duties as Liquidator, furnish security in such sum and in such

manner as the Tribunal may direct, for the due discharge of his duties as liquidator. The cost of furnishing the required security, including any premiums which he may pay to a Guarantee Society/Bank, shall be borne by the liquidator personally, and shall not be charged against the assets of the LLP as an expense incurred in the winding-up.

(2) If it shall appear at any time to the Tribunal that the security furnished by the Liquidator as above is inadequate, the Tribunal may require the Liquidator to furnish additional security. Where the security furnished is excessive, the Liquidator may apply to the Tribunal for reducing the amount of security, and the Tribunal may make such order thereon as it thinks fit.

**287. Limit of remuneration of LLP liquidator appointed by the Tribunal.** – A liquidator shall not, under any circumstances whatever, make any arrangement for, or accept from any advocate, auctioneer or any other person connected with LLP of which he is the liquidator, or employed in or in connection with the winding-up of the LLP, any gift, remuneration, or pecuniary or other benefit whatever beyond the remuneration to which under the Act and the Rules he is entitled as liquidator, nor shall he make any arrangement for giving up, or give up any part of such remuneration to any such person.

**288. Restriction on purchase of goods by LLP liquidator appointed by the Tribunal.** – Where the LLP liquidator carries on the business of the LLP, he shall not, without the express sanction of the Tribunal, purchase goods for the carrying on of such business from any person whose connection with him is of such a nature as would result in his obtaining directly or indirectly any benefit out of the transaction. Where the LLP liquidator applies for sanction, he shall disclose in his application the nature of his interest in the transaction, and the cost of obtaining sanction of Tribunal shall be borne by the liquidator personally.

**289. Office of LLP liquidator appointed by the Tribunal vacated by his insolvency.** – A LLP liquidator against whom an order of adjudication is made shall thereby vacate his office, and for the purpose of the application of the Act and the Rules, he shall be deemed to have been removed.

**290. Resignation of LLP liquidator appointed by the Tribunal.** –

(1) In a voluntary winding-up, a LLP liquidator who desires to resign his office shall summon separate meetings of the creditors and partners of the LLP to decide whether or not his resignation shall be accepted. If the creditors and partners by ordinary resolution both agree to accept the resignation of the liquidator, the resignation shall take effect. In any other case, the liquidator shall report to the Tribunal the result of the meetings and apply for appropriate orders of the Tribunal and the Tribunal may, upon such application, determine whether or not the resignation of the liquidator shall be accepted, and may give such directions and make such orders as it considers necessary.

(2) The LLP liquidator shall, along with his resignation, submit an account of his acts and dealings as liquidator and a statement as to the position of the liquidation, in a form

in all respects similar to the statement prescribed under rule 52, commencing from the date when the last previous statement, if any, under the said section terminated, or from the date of his appointment as liquidator, whichever is later, and brought down to the date of his resignation.

(3) The expenses of summoning meetings under sub-rule(1), and of the application to be made to the Tribunal, shall be part of the expenses of the liquidation.

**291. Duty of LLP liquidator appointed by the Tribunal upon resignation.** – Upon a LLP liquidator resigning or being released or removed from his office, he shall deliver over to the new liquidator all books kept by him, and all other books, documents, papers and accounts in his possession relating to the LLP or to the office of the liquidator.

**292. Books to be kept by the LLP liquidator appointed by the Tribunal.** – (1) The LLP liquidator appointed by Tribunal from panel shall keep proper books of account showing all receipts and payments made by him in the course of the liquidator.

(2) In a voluntary winding-up, he shall keep such books as the Committee of Inspection, or if there is no such Committee, as the creditors, direct, and submit all the books and accounts and documents and papers in his possession relating to his office as liquidator or to the LLP, to the Committee of Inspection, or if there is none, to the creditors whenever required by the Committee or creditors as the case may be.

(3) In addition to the books of account, the liquidator shall keep a record book in which shall be entered all minutes of proceedings and the resolutions passed at any meeting of the creditors or partners or of the Committee of Inspection, particulars of all his transactions and negotiations in relation to the winding-up and all such matters other than matters of account as may be necessary to furnish a correct view of the administration of the LLP's affairs. He shall also keep a book showing the dates at which all notices to creditors and partners were sent out and posted. The person who dispatched the notices shall initial the entries in the book relating thereto.

(4) The accounts of the liquidator shall be open to the inspection of every creditor or partner during office hours upon payment of a fee of Rs.10 for every hour of inspection or part thereof.

**293. Banking account of the LLP liquidator appointed by the Tribunal.** – The liquidator shall open a account of the liquidator called the “Liquidation Account of ..... LLP.” at a Scheduled Bank, Designated Bank into which he shall pay all money received by him as liquidator, and the realization of each day shall be paid into the said account without deduction not later than the next working day of the Bank, provided that the remittance of moneys into the Bank may be deferred until the realization exceed Rs.100. The money needed for meeting the expenses of liquidation or for making any payments by the liquidator in cash shall be drawn from the Bank by cheques drawn upon the Bank by the liquidator. All payments by the liquidator above Rs.50 shall ordinarily be made by cheque.

Unless the contrary appears, all references in these Rules to the Bank in a voluntary winding-up shall mean references to the Bank in which an account has been opened as aforesaid.

**294. Bills, cheques and securities to be deposited in Bank.** – All bills, cheques, hundies, notes and other securities of a like nature payable to the LLP or to the liquidator thereof shall, as soon as they come into the hands of the liquidator be deposited by him with the Bank for the purpose of being presented for acceptance and payment or for payment only, as the case may be, and the proceeds when realised shall be credited by the Bank to the account of the liquidator.

**295. Investment of surplus funds.** – (1) All such moneys for the time being standing to the credit of the liquidation account as is not immediately required for the purposes of the winding-up, shall be invested by the liquidator in Government or trust securities or in interest bearing deposits in a Scheduled Bank situated in the city.

(2) Rules relating to investment shall apply *mutatis mutandis* to investments made by the LLP liquidator in every voluntary winding-up.

**296. Liquidator's statements under rule 52.** – In a voluntary winding-up, the statements required to be filed under rule 52 with respect to the proceedings in and position of the liquidation of a LLP the winding-up of which is not concluded within a year after its commencement, shall be filed with the Registrar twice in every year as follows :-

(1) The first statement, commencing from the date when a liquidator was first appointed and brought down to the end of twelve months from the commencement of the winding-up, shall be filed within one month from the expiration of such twelve months, and subsequent statements shall be filed at intervals of half a year, each statement being brought down to the end of the half year for which it is filed. Where the winding-up is concluded before the expiration of a half-yearly interval, the final statement of account brought down to the close of the winding-up shall be filed forthwith.

(2) Where the time for filing the statement has expired the Tribunal may on application extend the time, and unless the Tribunal otherwise orders, the costs of such application shall be borne by the liquidator personally.

(3) The statements shall be in Form No. \_\_\_\_\_ as contained in Appendix II (with such variations as may be necessary in the case of the final account) and shall be prepared in accordance with the instructions contained in the Form, and verified by an affidavit in Form No. \_\_\_\_\_ as contained in Appendix II.

(4) Where the liquidator has not, during any period for which the statement has to be filed, received or paid any money on account of the LLP, he shall, at the period when he is required to file his statement, file with the Registrar the prescribed statement in the

above Form No.\_\_\_\_\_ as contained in Appendix II, in duplicate, containing the particulars therein required with respect to the proceedings in and the position of the liquidation, together with an affidavit of no receipt or payment.

(5) Every statement shall be filed in duplicate with the Registrar , and a copy of the statement shall also be filed in the Tribunal, within the time prescribed in clause (1) above.

**297. Annual Statement** – The statement to laid in the case of voluntary winding-up before a meeting of the LLP and a meeting of the creditors, shall be prepared in the same form as the liquidator’s statements under rule 52.

**298. Notice convening final meeting and the account to be laid before the meeting.** – The notice convening the final meeting of the LLP and the creditors in a voluntary winding-up, shall be in form \_\_\_\_ as contained in Appendix II. The Accounts of the winding up to be laid by the Liquidator before the said meeting or meetings shall be Form No.\_\_\_\_\_ as contained in Appendix II.

**299 Returns to Registrar .** – The returns to be made to the Registrar after final meeting and dissolution during voluntary winding up shall be in Forms Nos\_\_\_\_ and \_\_\_\_\_ respectively as contained in Appendix II.

**300. Inspection by creditor or partner of statements filed by liquidator.** – Any creditor or partner of a LLP which is being wound-up shall be entitled to inspect any of the statements filed with the liquidator on payment of a fee as prescribed in Appendix-III and to obtain a copy thereof or extract therefrom on payment of the prescribed charges as prescribed in Appendix III.

**301 Audit of the liquidators’ account.** – The LLP in a meeting in a voluntary winding-up, , may, if and when they think fit, appoint an auditor to audit the accounts of the liquidator, and shall fix the fees to be paid to such auditor.

**302. Applications stay of proceeding in the winding up** – (1) An application shall be made by a summons, and notice of the application shall be given to the liquidator where he is not the applicant, to the respondents, if any, named in the application, and to such other persons and in such manner as the Tribunal may direct.

(2) Where an order is made staying the proceeding in the winding-up, the order shall direct that the applicant at whose instance the order for stay was made shall, within seven days of the making of the order, file a certified copy thereof with the Registrar .

#### **PAYMENT OF UNCLAIMED DIVIDENDS AND UNDISTRIBUTED ASSETS INTO THE LLPS LIQUIDATION ACCOUNT IN A WINDING-UP**

**303. Statement to accompany payment.** – (1) The Statement to be furnished, under rule 56 to the officer appointed by the Central Government, by the Liquidator in a

winding up by the Tribunal and a LLP Liquidator in a voluntary winding-up, when making any payment of unclaimed dividends or undistributed assets into the LLPs Liquidation Account in the Reserve Bank of India/designated Bank under rule 56, shall be in Form No. \_\_\_\_\_ as contained in Appendix II

(2) The Liquidator/LLP Liquidator shall, whenever called upon by the Central Government to do so, certify whether a person claiming payment from the LLPs Liquidation Account under rule 56 is or is not entitled to the whole or any part of the amount claimed.

**304. Unclaimed dividends or undistributed assets under investment.** - For purposes of payment of unclaimed dividends and undistributed assets into the LLPs Liquidation Account, money invested or deposited at interest by the liquidator shall be deemed to be money in his hand, and when such money forms part of the unclaimed dividends or undistributed assets of the LLP, the liquidator shall realize the investment or withdraw the deposit and shall pay the proceeds into the LLPs Liquidation Account.

**305. Application by person for payment of money paid into the LLPs Liquidation Account.** - An application under rule 56 by any person claiming to be entitled to any money paid into the LLPs Liquidation Account for payment of such money shall state whether the applicant had made an application to the Central Government for the payment, and, if so, the result of the application.

**306. Cost and expenses payable out of the assets in a winding-up by the Tribunal –**

(1) The assets of a LLP in a winding-up by the Tribunal remaining after payment of the fees and expenses properly incurred in preserving, realizing or getting in the assets including, where the LLP has previously commenced to be wound-up voluntarily, such remuneration, cost and expenses as the Tribunal may allow to the liquidator in such voluntary winding-up, shall, subject to any order of the Tribunal and to the rights of secured creditors if any, be liable to the following payments which shall be made in the following order of priority, namely :-

First – the costs of the petition including the costs of any person appearing on the petition, whose costs are allowed by the Tribunal;

Next – the costs and expenses of any person who makes, or concurs in making, the LLP's statement of affairs;

Next – the necessary disbursements of the Liquidator other than expenses properly incurred in preserving, realizing or getting in the properties of the LLP;

Next – the cost of any person properly employed by the Liquidators;

Next – the fees to be credited to Government.

Next – the actual out of pocket expenses necessarily incurred by the members of the Committee of Inspection, and sanctioned by the Tribunal.

(2) Save as otherwise ordered by the Tribunal no payments in respect of bills of advocates, shall be allowed out of the assets of the LLP without proof that the same have been considered and allowed by the Tribunal.

(3) Nothing contained in this Rule shall apply to or affect costs which in the course of legal proceeding by or against the LLP which is being wound up by the Tribunal, are ordered by the Tribunal in which such proceedings are pending, to be paid by the LLP or the liquidator, or the rights of the person to whom such costs are payable.

### **307. Appeal from Order of Tribunal to National LLP Law Appellate Tribunal.**

(1) Any aggrieved person may prefer an appeal against the order or decision of the Tribunal within a period of 45 days from the date on which the copy of the order is delivered in the form of Memorandum of Appeal duly signed by the Appellate or his attorney. The appeal should be accompanied by a copy of the order along with copies of all other documents relied upon by the appellant. Further, seven copies of the Memorandum of Appeal and other documents relied upon should also be filed along with the Principal Appeal.

(2) The Memorandum of Appeal shall set forth concisely and under distinct heads the grounds of objections to the order appealed from, without any arguments or narrative and such grounds shall be consecutively numbered.

## **MISCELLANEOUS**

**308. Inspection of file.** – (1) Every duly authorized officer of the Central Government and save as otherwise provided by the Rules, every person who has been a partner or officer of a LLP which is being wound-up, shall be entitled, free of charge, at all reasonable times to inspect the file of proceeding of the liquidation and to take copies of extracts from any document therein, and, on payment of prescribed charges, to be furnished with such copies or extracts.

(2) Save as otherwise provided by the Rules, every partner and every creditor whose claim proof has been admitted, shall be entitled, on payment of the prescribed charges, at all reasonable time to inspect the file of proceedings and to be furnished with copies and extracts from any document therein.

**309. Saving of Rules under special Acts.** – Nothing in the rules shall affect the operation of any rules framed under the Banking Companies Act, 1949 or the Insurance Act, 1938, or other Special Acts relating to any class of LLPs and these Rules shall apply to such LLPs subject to the Rules, any, made under the special Acts.

**310** Wherever no rules/proceedings/procedures/forms have been made or prescribed relating to any matter of winding up or otherwise, the Companies (Court) Rules, 1959 shall be applicable with suitable modifications.

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