

The Companies Winding Up Act

being

Chapter C-24 of *The Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER C-24

An Act respecting the Voluntary Winding Up of Joint Stock Companies

SHORT TITLE

Short title

1 This Act may be cited as *The Companies Winding Up Act*.

R.S.S. 1978, c.C-24, s.1.

INTERPRETATION

Interpretation

2 In this Act:

“company”

(a) “**company**” means a company or association to which this Act is applicable;

“contributory”

(b) “**contributory**” means a person liable to contribute to the assets of a company that is being wound up, and, in proceedings prior to the final determination of such persons, a person alleged to be a contributory, and, unless the context otherwise requires, includes a member of a company whether or not his shares in the company are fully paid up, and includes, also, the personal representatives of any such person or member;

“court”

(c) “**court**” means the Court of Queen’s Bench or a judge thereof sitting in court or in chambers;

“extraordinary resolution”

(d) “**extraordinary resolution**” means a resolution passed by a majority of not less than three-fourths of such members of the company for the time being entitled to vote as are present in person, or by proxy where by the Act or charter or instrument of incorporation or the regulations of the company proxies are allowed, at a general meeting of which notice specifying the intention to propose the resolution has been duly given;

“members”

(e) “**members**” means persons entitled to vote at general meetings of the company;

“special resolution”

(f) “**special resolution**” means a resolution passed in the same manner as an extraordinary resolution and confirmed by a majority of members entitled to vote who are present, in person or by proxy, at a subsequent general meeting of which notice has been duly given, held at an interval of not less than fourteen days nor more than one month from the date of the meeting at which the resolution was first passed.

R.S.S. 1965, c.141, s.2; R.S.S. 1978, c.C-24, s.2.

APPLICATION OF ACT

Application of Act

3 This Act applies to all companies and associations in Saskatchewan incorporated by the Legislature of the North-West Territories or Saskatchewan or under the authority of an Ordinance of the North-West Territories or Act of Saskatchewan.

R.S.S. 1965, c.141, s.3; R.S.S. 1978, c.C-24, s.3.

WHEN COMPANIES MAY BE WOUND UP

By resolution

4 A company may be wound up under this Act:

(a) where the period, if any, fixed for the duration of the company by the Act, charter or instrument of incorporation, has expired; or where the event, if any, has occurred upon the occurrence of which it is provided by the Act or charter or instrument of incorporation that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up;

(b) where the company has passed a special resolution requiring the company to be wound up;

(c) where the company, though it may be solvent as respects creditors, has passed an extraordinary resolution to the effect that it has been proved to the satisfaction of the members thereof that the company cannot by reason of its liabilities continue its business and that it is advisable to wind it up.

R.S.S. 1965, c.141, s.4; R.S.S. 1978, c.C-24, s.4.

By order of court

5 Where no resolution has been passed as mentioned in section 4, the court may, on the application of a contributory, make an order for winding up, if it is of opinion that it is just and equitable that the company should be wound up.

R.S.S. 1965, c.141, s.5; R.S.S. 1978, c.C-24, s.5.

Commencement of winding up

6 A winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up or the making of the order directing the winding up.

R.S.S. 1965, c.141, s.6; R.S.S. 1978, c.C-24, s.6.

CONSEQUENCE OF COMMENCING TO WIND UP

Business ceases except as to beneficial winding up

7 The following consequences shall ensue upon the commencement of the winding up of a company under the authority of this Act:

1. The company shall, from the date of the commencement of the winding up, cease to carry on its business except insofar as may be required for the beneficial winding up thereof; and any transfers of shares except transfers made to or with the sanction of the liquidators, or any alteration in the status of the members of the company after the commencement of the winding up, shall be void, but the corporate existence and all the corporate powers of the company shall, notwithstanding anything in the Act, charter or instrument of incorporation, continue until the affairs of the company are wound up;

2. Subject to section 10, the property of the company shall be applied in satisfaction of its liabilities *pari passu*; and, subject thereto and to the charges incurred in winding up its affairs, shall, unless otherwise provided by the Act, charter or instrument of incorporation, be distributed among the members according to their rights and interests in the company;

3. The company in general meeting, or, in default thereof, the court, shall appoint such persons or person as the company or court thinks fit to be liquidators or a liquidator for the purpose of winding up the affairs of the company and distributing the property, and may fix the remuneration to be paid to them or to him, and they or he shall give such security as the company in general meeting, the inspectors, the contributories or the court may determine;

4. If one person only is appointed liquidator all the provisions of this Act relating to several liquidators shall apply to him;

5. Upon the appointment of liquidators all the powers of the directors shall cease, except insofar as the company in general meeting or the liquidators may sanction the continuance of those powers;

6. Where several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of the appointment or at a subsequent meeting of the company, or, in default of such determination, by any number of the liquidators not less than two;

7. The members of the company may, at any meeting, appoint one or more inspectors to superintend and direct the proceedings of the liquidators in the management and winding up of the estate, and in case of such appointment all the powers of the liquidators shall be exercised subject to the advice and direction of the inspector or inspectors; and the members of the company may also, at any subsequent meeting held for that purpose, revoke the appointment; and upon such revocation, or in case of the death, resignation or absence from Saskatchewan of an inspector, may appoint another in his stead; and the inspectors may be paid such remuneration as the members of the company may determine;

8. If one person only is appointed inspector or if by reason of death, resignation, absence from Saskatchewan or otherwise there is only one inspector, all the provisions of this Act relating to inspectors shall apply to the sole inspector;

9. The members of the company may at any meeting pass a resolution or order directing the liquidators how to dispose of the property, real or personal, of the company; and in default of their doing so the liquidators shall be subject to the directions, orders and instructions of the inspectors with regard to the mode, terms and conditions on which they may dispose of the whole or any part of the property of the company.

GENERAL POWERS OF LIQUIDATORS

Description and general powers of liquidators

8(1) The liquidators may be described in all proceedings by the style of “A. B. and C. D., the liquidators of (*name of company*) “, and shall have power:

Bring actions

1. to bring or defend any action or other legal proceeding in the name and on behalf of the company;

Carry on business

2. to carry on the business of the company so far as may be necessary for the beneficial winding up thereof;

Sell property

3. to sell the real and personal property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or to any company however or wherever incorporated, or to sell the same if parcels, and such sale may be made on such terms and conditions as seem most advantageous; but no sale *en bloc* shall be made without the previous sanction of the members of the company or of the contributories given at a meeting called for that purpose;

Dispose of debts

4. if, after having acted with due diligence in the collection of the debts, the liquidators find that there remain debts the attempted collection of which would be more onerous than beneficial to the estate, they shall report thereon to the members of the company or inspectors, if any; and, with their sanction, the liquidators may sell those debts by public auction after such advertisement thereof as the members of the company or the inspectors, if any, may order; and, pending such advertisement, the liquidators shall keep a list of the debts to be sold open to inspection at their office, and shall also give free access to all documents and vouchers explanatory of those debts; but all debts amounting to more than \$100 shall be sold separately except as provided by paragraph 3;

Draw bills and notes

5. to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company; and to raise, upon the security of the assets of the company, any requisite sum or sums of money; and the drawing, accepting, making or endorsing of such bill of exchange or promissory note on behalf of the company shall have the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business;

Take out letters of administration and collect debts

6. to take out, if necessary, in their official name letters of administration to the estate of a deceased contributory; and to do in their official name any other act necessary for obtaining payment of money due from a contributory or from his estate, which cannot be conveniently done in the name of the company; and, where the liquidators take out letters of administration or otherwise use their official name for obtaining payment of money so due, the money shall, for the purpose of enabling them to take out the letters or recover the money, be deemed to be due to the liquidators themselves;

Execute deeds

7. to execute in the name of the company all deeds, transfers, discharges, assignments, receipts and other documents; and

Do other things

8. to do and exercise all other acts and things necessary for winding up the affairs of the company and distributing its assets; and for those purposes to use when necessary the company's seal.

Exercise option as to unexpired lease

(2) Notwithstanding any provision, stipulation or agreement in a lease or agreement, when an order is made for winding up an incorporated company, the liquidator may, within one month from the date of the order, by notice in writing signed by him and given to the landlord, elect to retain the premises occupied by the company at the time of the winding up order, for the unexpired term of the lease under which the premises were held or for such portion of the term as the liquidator sees fit, upon the terms of the lease and subject to payment of the rent provided by the lease or agreement.

R.S.S. 1965, c.141, s.8; R.S.S. 1978, c.C-24, s.8.

Fix time limit for claim notification

9(1) The liquidators may fix a certain day on or before which creditors of the company and others having claims thereon are to send in their claims.

Limitation of time

(2) The day fixed pursuant to subsection (1) shall be a day at least two months from the first publication of notice thereof.

Distribute assets

(3) Where the liquidators have given notice of such day by publication in an issue of a newspaper published at or nearest to the chief place of business of the company, in each of the first four weeks of the said two months, the liquidators shall, at the expiration of the time named for sending in their claims, be at liberty to distribute the assets of the company or any part thereof among the parties entitled thereto, having regard to the claims of which the liquidators then have notice, and the liquidators shall not be liable for the assets or any part thereof so distributed to any person of whose claim the liquidators had not notice at the time of distribution; but nothing in this Act prejudices the right of a creditor or claimant to follow assets into the hands of a person who has received the same.

R.S.S. 1965, c.141, s.9; R.S.S. 1978, c.C-24, s.9.

Priority of wages or salary

10 In distributing the assets of a company the liquidator shall pay, in priority to the claims of the ordinary or general creditors of the company, the wages or salary of all persons other than directors in the employment of the company at the time of the making of the winding up resolution or order, or within one month before the making thereof, not exceeding three months' wages or salary, and those persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims.

R.S.S. 1965, c.141, s.10; R.S.S. 1978, c.C-24, s.10.

Arrangements with creditors

11 The liquidators may, with the sanction of the court or of an extraordinary resolution of the company, make such compromise or other agreement as they deem expedient with any creditors or persons claiming to be creditors or persons having or alleging to have a claim, present or future, certain or contingent, ascertained or sounding only in damages against the company or whereby the company may be rendered liable.

R.S.S. 1965, c.141, s.11; R.S.S. 1978, c.C-24, s.11.

Compromise with debtors and contributories

12 The liquidators may, with the sanction of the court or of an extraordinary resolution of the company, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts and all claims whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory or other debtor or person possibly involving liability to the company, and all questions in any way relating to or affecting the assets of the company or the winding up of the company, upon the receipt of such sums payable at such times and generally upon such terms as may be agreed upon; with power to take any security for the discharge of the debts or liabilities and to give a complete discharge in respect of all or any such calls, debts or liabilities.

R.S.S. 1965, c.141, s.12; R.S.S. 1978, c.C-24, s.12.

Accept shares, etc., as consideration for sale of property to another company

13(1) Where a company is proposed to be or is in the course of being wound up, and the whole or a portion of its business or property is proposed to be transferred or sold to another company however or wherever incorporated, the liquidators of the first mentioned company may, with the sanction of a special resolution of the company by whom they were appointed, conferring upon them either a general authority or an authority in respect of a particular arrangement, receive in compensation or in part compensation for the transfer or sale shares, policies, guaranteed certificates, securities or other like interests in the other company for the purpose of distribution among the members of the company that is being wound up, or may enter into any other arrangement whereby the members of the first mentioned company may, in lieu of receiving cash, shares, policies, guaranteed certificates, securities or other like interests, or in addition thereto, participate in the profits of or receive any additional benefit from the purchasing company.

Sale or arrangements by liquidators binding unless a member objects

(2) Any sale made or arrangement entered into by the liquidators pursuant to this section shall be binding on the members of the company that is being wound up, but if a member of the company that is being wound up, who has not voted in favour of the special resolution at either of the meetings held for passing it, expresses his dissent therefrom in writing addressed to the liquidators or one of them and left at the head office of the company not later than seven days after the date of the meeting at which the special resolution was passed, the dissentient member may require the liquidators to do one of the following things as the liquidators may prefer, that is to say, either:

- (a) to abstain from carrying the resolution into effect; or
- (b) to purchase the interest held by the dissentient member at a price to be determined in the manner mentioned in subsection (4), the purchase money to be paid before the company is dissolved and to be raised by the liquidators in such manner as may be determined by special resolution.

Validity of special resolution authorizing sale

(3) No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with a resolution for winding up the company or for appointing liquidators.

How price determined

(4) The price to be paid for the purchase of the interest of a dissentient member may be determined by agreement, but if the parties cannot agree the dispute shall be settled by arbitration.

Arbitrators

(5) For the purposes of the arbitration the liquidators shall appoint one arbitrator and the dissentient member another, and the two arbitrators thus chosen, or, if they disagree, the court, shall appoint a third.

Duties

(6) The arbitrators thus chosen or any two of them or the arbitrator of one party and an arbitrator appointed by the court, in case of the refusal or neglect of either party to appoint an arbitrator, shall finally determine the matter in dispute.

Umpire

(7) In case of the disagreement of two arbitrators where two only are acting, they may appoint an umpire whose award shall be conclusive.

R.S.S. 1965, c.141, s.13; R.S.S. 1978, c.C-24,
s.13.

LIABILITIES OF CONTRIBUTORIES**Liquidators settle list of contributories**

14(1) As soon as possible after the commencement of the winding up the liquidators shall settle a list of contributories.

Shareholders' liability to contribute

(2) Every shareholder or member of the company or his representative shall be liable to contribute the amount unpaid on his shares of the capital or on his liability to the company or to its members or creditors under the Act, charter or instrument of incorporation of the company; and the amount that he is liable to contribute shall be deemed assets of the company and a debt due to the company payable as may be directed or appointed under this Act.

Case of transfer of shares by shareholders

(3) Where a shareholder has transferred his shares under circumstances that do not by law free him from liability in respect thereof, or where he is by law liable to the company or its contributories or any of them to an amount beyond the amount unpaid on his shares, he shall be deemed a member of the company for the purposes of this Act and shall be liable to contribute as aforesaid to the extent of his liabilities to the company or the contributories independently of this Act, and the amount that he is so liable to contribute shall be deemed assets of the company and a debt due to the company payable as may be directed or appointed under this Act.

Contributories liable

(4) The list of contributories shall distinguish between persons who are contributories on their own account and those who are contributories as representatives of or liable for others.

List is evidence of liability

(5) Any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories.

R.S.S. 1965, c.141, s.14; R.S.S. 1978, c.C-24, s.14.

Settlement of list by court

15(1) The list of contributories may be settled by the court, in which case the liquidators shall make out and leave at the chambers of the judge a copy of the list verified by the affidavit of the liquidators or one of them, and shall, so far as is practicable, state the respective addresses of and the number of shares or extent of interest to be attributed to each contributory, and distinguish the several classes of contributories; and the list may from time to time by leave of the judge be varied or added to by the liquidators.

(2) Upon the list of contributories being left at the chambers of the judge, the liquidators shall obtain an appointment for the judge to settle the list and shall give notice in writing of the appointment to every person included in the list, stating in what character and for what number of shares or interest such person is included in the list; and, if a variation in or addition to the list is made by the liquidators, a similar notice in writing shall be given to every person to whom the variation or addition applies; all such notices shall be served four clear days before the day appointed to settle the list or the variation or addition.

(3) The result of the settlement of the list of contributories shall be stated in a certificate by the local registrar of the court; and certificates may be made from time to time for the purpose of stating the result of the settlement down to any particular time or to any particular person, or stating any variation of the list.

R.S.S. 1965, c.141, s.15; R.S.S. 1978, c.C-24, s.15.

Contributories' estates

16 If a person, made a contributory as personal representative of a deceased contributory, makes default in paying any sum to be paid by him, proceedings may be taken for administering the estate of the deceased contributory and for compelling payment thereof of the money due.

R.S.S. 1965, c.141, s.16; R.S.S. 1978, c.C-24, s.16.

Calls on contributories

17 The liquidators may, at any time and before they have ascertained the sufficiency of the assets of the company, call on all or any of the contributories for the time being settled on the list to pay, to the extent of their liability, all or any sums the liquidators deem necessary to satisfy the debts and liabilities of the company and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories among themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call.

R.S.S. 1965, c.141, s.17; R.S.S. 1978, c.C-24, s.17.

Employment of solicitor

18(1) Liquidators shall not employ a solicitor without the consent of the inspectors or of the members of the company.

Not to purchase assets of company

(2) No liquidator or inspector shall purchase directly or indirectly any part of the stock-in-trade, debts or assets of any description of the estate.

Deposit of funds in bank

(3) The liquidators shall deposit at interest in a chartered bank, to be indicated by the inspectors or by the court, all sums of money in their hands belonging to the company whenever those sums amount to \$100.

Separate deposit account kept

(4) No deposit made pursuant to subsection (3) shall be made in the name of the liquidators generally on pain of dismissal; but a separate deposit account shall be kept for the company of the moneys belonging to the company, in the name of the liquidators as such and of the inspectors, if any; and those moneys shall be withdrawn only on the joint cheque of the liquidators and of one of the inspectors, if any.

Investment of funds

(5) Where there are moneys to the credit of a company in liquidation that are not required for the time being to answer demands in respect of the company's estate, the liquidator may:

- (a) at the direction of the inspectors or with the approval of the court, to be given *ex parte*, or upon such notice as the court may direct, invest those moneys in:
 - (i) guaranteed trust or investment certificates, promissory notes, certificates of deposit, deposit receipts or other evidence of indebtedness given by a trust company or a loan company incorporated under the laws of Canada or of a province of Canada;
 - (ii) promissory notes, certificates of deposit, deposit receipts or other evidence of indebtedness given by a chartered bank in consideration of a deposit or deposits made with the bank;
- (b) with the approval of the court, to be given *ex parte*, or upon such notice as the court may direct, invest those moneys in securities of or guaranteed by the Government of Canada or in securities of or guaranteed by the Province of Saskatchewan.

Produces bank pass book at meetings

(6) At every meeting of the members of the company, the liquidators shall produce a bank pass book or statement of account showing the amount of deposits made for the company, the dates at which the deposits were made, the amounts withdrawn and dates of withdrawal; of which production mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass book or statement was not produced.

When ordered by court

(7) The liquidators shall also produce the pass book or statement whenever so ordered by the court at the request of the inspectors or a member of the company, and on their refusal to do so they shall be treated as being in contempt of court.

Subject to summary jurisdiction

(8) Every liquidator or inspector shall be subject to the summary jurisdiction of the court in the same manner and to the same extent as are the ordinary officers of the court; and the performance of his duties may be compelled and all remedies sought or demanded for enforcing a claim for a debt, privilege, mortgage, lien or right of property upon, in or to any effects or property in the hands, possession or custody of a liquidator, may be obtained by an order of the court on summary application and not by action, attachment, seizure or other proceeding of any kind; and obedience by a liquidator to such order may be enforced by the court under penalty of imprisonment as for contempt of court or disobedience thereto; or he may be removed in the discretion of the court.

R.S.S. 1965, c.141, s.18; 1971, c.4, s.1; R.S.S. 1978, c.C-24, s.18.

EXPENSES**Cost and expenses**

19 All costs, charges and expenses properly incurred in the winding up of a company, including the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims.

R.S.S. 1965, c.141, s.19; R.S.S. 1978, c.C-24, s.19.

Remuneration of liquidators

20 Where there is no agreement or provision fixing the remuneration of the liquidators, they shall be entitled to a commission on the net proceeds of the estate of the company of every kind after deducting expenses and disbursements, such commission to be five per cent on any amount realized not exceeding \$1,000, the further sum of two and a half per cent on any amount realized in excess of \$1,000 and not exceeding \$5,000, and a further sum of one and a quarter per cent on any amount realized in excess of \$5,000, which commission shall be lieu of all fees and charges for their services.

R.S.S. 1965, c.141, s.20; R.S.S. 1978, c.C-24, s.20.

MEETINGS**Filling vacancies in office of liquidator**

21(1) If a vacancy in the office of liquidator appointed by the company occurs by death, resignation or otherwise, a general meeting for the purpose of filling the vacancy may be convened by the liquidator or liquidators, if any, or if not then by any member of the company.

General meetings during winding up

(2) The liquidators may, during the continuance of the winding up, summon general meetings of the company for the purpose of obtaining the sanction of the company by special resolution or extraordinary resolution, or for any other purpose they think fit.

Annual meetings

(3) If the winding up continues for more than one year, the liquidators shall summon a general meeting of the company at the end of the first year and of each succeeding year from the commencement of the winding up, or as soon thereafter as may be convenient; and shall lay before the meeting an account showing their acts and dealings and the manner in which the winding up has been conducted during the preceding year.

Liquidators call meetings

(4) The liquidators shall also call meetings of the company, when required in writing to do so by the inspector or five members of the company or by the court, and they shall state succinctly in the notice calling a meeting the purpose thereof.

Subsequent meetings

(5) The members of the company may at any meeting determine where subsequent meetings shall be held, and, in the absence of a resolution, all meetings shall be held at the office of the liquidators or of the company, unless otherwise ordered by the court.

Notices of meetings

(6) Notice of any meeting shall for the purposes of this Act be deemed to be duly given, and the meeting to be duly held, when the notice is given and meeting held in the manner prescribed by the Act, charter or instrument of incorporation or by the regulations of the company or by the court; or notice of the meeting may be given by publication thereof in at least two issues of *The Saskatchewan Gazette*, or by such other or additional notice as the court or the inspectors or the company may direct, and, except where the court otherwise directs, by addressing notices of the meeting to the members of the company or to the contributories, as the case may be, within Saskatchewan, and to the representatives within Saskatchewan of contributories who reside outside Saskatchewan; and the notices shall be posted at least ten days before the day on which the meeting is to take place, the postage being prepaid by the liquidators.

Voting in person or by proxy

(7) No member of the company shall vote at a meeting unless present personally or represented by some person having a written authority, filed with the liquidators, to act on his behalf at the meeting or generally; and, when a poll is taken, reference shall be had to the number of votes to which each member is entitled by the Act, charter or instrument of incorporation or the regulations of the company.

R.S.S. 1965, c.141, s.21; R.S.S. 1978, c.C-24,
s.21.

ASSISTANCE OF THE COURT

Applications to court

22(1) The liquidators or any member of the company may apply to the court to determine any question arising in the matter of the winding up or to exercise all or any of the powers conferred by this section; and the court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application, on such terms and subject to such conditions as the court thinks fit; or it may make such other order on the application as it thinks just.

Stay of action against company before order to wind up

(2) The court, after the issue of a summons for winding up a company and before making an order therefor, may restrain further proceedings in an action or proceeding against the company under any authority over which the Legislature of Saskatchewan has jurisdiction, upon such terms as the court thinks just.

Stay of action against company before order to wind up

(3) The court may make an order that no action or other proceedings shall be continued or commenced against the company except with the leave of the court and subject to such terms as it may impose, and a copy of such order shall forthwith be advertised as the court may direct, but this subsection does not apply to proceedings under an Act of the Parliament of Canada.

Settlement of list of contributories

(4) The court may settle the list of contributories.

Meetings of members of company

(5) The court may direct a meeting of the members of the company to be summoned, held and conducted in such manner as it thinks just, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of the meeting and to report the result thereof to the court.

Order for delivery by contributories and others of property, etc.

(6) The court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the company to pay, deliver, convey, surrender or transfer, forthwith or within such time as the court directs, to or into the hands of the liquidators, any sum or balance, books, papers, estate or effects that may be in his hands for the time being and to which the company is *prima facie* entitled.

Order for payment by contributories

(7) The court may make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in the manner mentioned in the order, of moneys due from him or from the estate of the person whom he represents to the company, exclusive of moneys that he, or the estate of the person whom he represents, may be liable to contribute by virtue of a call made or to be made by the court in pursuance of this Act.

Power to order payment

(8) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the money into a bank appointed for the purpose in a general order made under this Act, or, in default of such appointment, into a bank named in the order or a branch of that bank, to the account of the liquidators instead of to the liquidators, and the order may be enforced in the same manner as if it had directed payment to the liquidators.

Order on contributory conclusive evidence

(9) An order made by the court pursuant to this Act upon a contributory shall, subject to the provisions for appeal herein contained, be conclusive evidence that the moneys, if any, thereby appearing to be due or ordered to be paid, are due; and all other pertinent matters stated in the order are to be taken to be truly stated as against all persons and in all proceedings.

Inspection of books

(10) The court may make such order for the inspection by the creditors and contributories of the company of its books and papers as the court thinks just; and any books and papers in the possession of the company may be inspected in conformity with the order of the court but not further or otherwise.

Examination of persons before court or liquidator

(11) The court may, after the commencement of the winding up of the company, summon to appear before the court or liquidators any officer of the company or other person known or suspected to have in his possession any of the estate or effects of the company or supposed to be indebted to the company, or any person whom the court may deem capable of giving information concerning the trade dealings, estate or effects of the company; and, in case of refusal to appear or answer the questions submitted, he may be committed and punished by the judge as for a contempt.

Production of books

(12) The court may require such officer or person to produce any books, papers, deeds, writings or other documents in his custody or power relating to the company.

Penalty on persons summoned not attending

(13) If a person so summoned, after being tendered the fees to which a witness is entitled in the court, refuses to come before the court or liquidators at the time appointed, being prevented from so doing by no lawful impediment, the court may cause him to be apprehended and brought before the court or liquidators for examination.

Mode of examination

(14) The court or liquidators may examine upon oath any person appearing or brought before them in the manner aforesaid, concerning the affairs, dealings, estate or effects of the company, and may reduce into writing the answers of such person and require him to subscribe the same.

Subpoenas

(15) In proceedings under this Act, the court may order a writ of *subpoena ad testificandum* or of *subpoena duces tecum* to issue, commanding the attendance as a witness of any person within Saskatchewan.

Liens

(16) Where a person claims a lien on papers, deeds or writings or documents produced by him, the production shall be without prejudice to the lien; and the court shall have jurisdiction in the winding up to determine all question relating to the lien.

Power of court to assess damages against delinquents

(17) Where, in the course of winding up, it appears that a past or present director, manager, liquidator or an officer of the company has misapplied or retained in his own hands or become liable or accountable for moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court may, on the application of a liquidator or of a contributory, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of the director, manager, liquidator or officer and compel him to repay the moneys so misapplied or retained or for which he has become liable or accountable, together with interest at such rate as the court thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust, as the court thinks just.

R.S.S. 1965, c.141, s.22; R.S.S. 1978, c.C-24,
s.22.

Proceedings by contributories at their own expense and for their own benefit only

23 If a member of the company desires to cause any proceeding to be taken that in his opinion would be for the benefit of the company, and the liquidators, with or without the authority of the members of the company or of the inspectors, refuse or neglect to take such proceeding after being duly required to do so, that member of the company shall have the right to obtain an order of the court authorizing him to take such proceeding in the name of the liquidators or company but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidators as the court may prescribe; and thereupon any benefit derived from such proceeding shall belong exclusively to the member of the company instituting the proceeding, for his own benefit and that of any other member of the company who may have joined him in causing the institution of the proceeding; but if, before such order is granted, the liquidators signify to the court their readiness to institute the proceeding for the benefit of the company, an order shall be made prescribing the time within which they shall do so and in that case any advantage derived from the proceeding shall appertain to the company.

R.S.S. 1965, c.141, s.23; R.S.S. 1978, c.C-24,
s.23.

Appointment of liquidators by court

24(1) If, from any cause, there is no liquidator acting either provisionally or otherwise, the court may, on the application of a member of the company, appoint one or more liquidators.

(2) The court may also, on due cause shown, remove a liquidator and appoint another in his place.

(3) When there is no liquidator, the estate shall be under the control of the court until a liquidator is appointed.

R.S.S. 1965, c.141, s.24; R.S.S. 1978, c.C-24,
s.24.

Rescinding of resolution, etc., by court

25(1) Any one or more members of the company, whose shares therein exceed in the aggregate \$500, and who are dissatisfied with a resolution adopted or order made by the members of the company or the inspectors, or with an action of the liquidators for the disposal of the property of the company or any part thereof, or for postponing the disposal thereof, or with reference to any matter connected with the management or winding up of the estate, may, within four clear days after a meeting of the members of the company where the subject of dissatisfaction is a resolution or order of the members, or within four clear days after becoming aware or having notice of the resolution of the inspectors or action of the liquidators where such resolution or action is the subject of dissatisfaction, give to the liquidators notice that he or they will apply to the court on the day and at the hour fixed by the notice, not being later than four clear days after the notice has been given, or as soon thereafter as the parties may be heard, to rescind the resolution or order.

Confirmation or variation of resolutions, etc.

(2) The court, after hearing the inspectors, the liquidators and members of the company present at the time and place so fixed, may approve, rescind or modify the resolution or order.

Costs

(3) If the application is refused, the party applying shall pay all costs occasioned thereby, and in other cases the costs and expenses shall be in the discretion of the court.

R.S.S. 1965, c.141, s.25; R.S.S. 1978, c.C-24, s.25.

Appeals

26(1) Any party who is dissatisfied with an order or decision of the court in a proceeding under this Act may appeal therefrom to the Court of Appeal.

Security for damages and costs

(2) No appeal shall be entertained unless the appellant has, within eight days after the rendering of the order or decision, taken proceedings on the appeal by giving notice in accordance with the rules of the court with respect to appeals from final judgments, nor unless within that time he has given security, by way of deposit or otherwise, to the satisfaction of the court, that he will duly prosecute the appeal and pay such damages and costs as may be awarded to the respondent.

Dismissal of appeal

(3) If the appellant does not proceed with his appeal according to the law or rules of practice, the court, on the application of the respondent, may dismiss the appeal and order the appellant to pay the respondent the costs by him incurred.

Judgment final

(4) The judgment of the Court of Appeal on such appeal shall be final.

R.S.S. 1965, c.141, s.26; R.S.S. 1978, c.C-24, s.26.

Powers of court in addition to usual powers

27 Any powers by this Act conferred on the court shall be deemed to be in addition to any other power of instituting proceedings against a contributory or against a debtor of the company for the recovery of a call or other sum due from the contributory or debtor or his estate.

R.S.S. 1965, c.141, s.27; R.S.S. 1978, c.C-24, s.27.

Enforcing orders

28 All orders made by the court may be enforced in the same manner as orders made in an action pending therein.

R.S.S. 1965, c.141, s.28; R.S.S. 1978, c.C-24, s.28.

MATTERS OF PRACTICE

Petition on winding up

29(1) An application to the court for winding up a company shall be by originating summons which may be issued at the instance of the company or of any contributory or contributories, and thereafter the matter shall proceed as a cause in court and be subject, except where inconsistent herewith, to all the rules applicable to ordinary causes.

Action by court on hearing

(2) Upon hearing the application, the court may dismiss it with or without costs or may adjourn the hearing, conditionally or unconditionally, and may make an interim order or any other order that it deems just.

R.S.S. 1965, c.141, s.29; R.S.S. 1978, c.C-24, s.29.

Stay of proceedings

30 The court, at any time after an order has been made for winding up a company, may, upon the application of a contributory to be made by notice and upon proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the winding up either altogether or for a limited time, on such terms and subject to such conditions as the court deems just.

R.S.S. 1965, c.141, s.30; R.S.S. 1978, c.C-24, s.30.

Rules of procedure

31 The rules of procedure for the time being as to amendments of pleadings and proceedings in the court apply, as far as practicable, to all pleadings and proceedings under this Act; and a court before which such proceedings are being carried on shall have full power and authority to apply the appropriate rules as to amendments to the proceedings so pending; and no pleading or proceeding shall be void by reason of an irregularity or default that can or may be amended or disregarded under the rules and practice of the court.

R.S.S. 1965, c.141, s.31; R.S.S. 1978, c.C-24, s.31.

Books, etc., prima facie evidence

32 All books, accounts and documents of the company and of the liquidators shall as between contributories be *prima facie* evidence of the truth of all matters purporting to be recorded therein.

R.S.S. 1965, c.141, s.32; R.S.S. 1978, c.C-24, s.32.

Affidavit, before whom sworn

33 An affidavit, affirmation or declaration, required to be sworn or made under the provisions or for the purposes of this Act, may be sworn or made before a person authorized to take affidavits for use in the Court of Queen's Bench.

R.S.S. 1965, c.141, s.33; R.S.S. 1978, c.C-24, s.33.

DISSOLUTION OF COMPANY**Account of winding up**

34(1) As soon as the affairs of the company are fully wound up, the liquidators shall make up an account showing the manner in which the winding up has been conducted and the property of the company disposed of; and thereupon they shall call a general meeting of the company for the purpose of having the account laid before it and hearing any explanation that may be given by the liquidators; and the meeting shall be called by advertisement specifying the time, place and object of the meeting; and the advertisement shall be published in at least two prior issues of the *Gazette*.

Return of holding of meeting

(2) The liquidators shall make a return to the Registrar of Companies of such meeting having been held and of the date at which it was held; which return shall be filed in his office; and, on the expiration of three months from the date of filing the return, the company shall be deemed to be dissolved, and the registrar shall strike the name of the company off the register.

R.S.S. 1965, c.141, s.34; R.S.S. 1978, c.C-24, s.34.

Order for dissolution

35(1) When the affairs of the company have been completely wound up, the court may, before the expiration of the said period of three months, make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) The order shall be reported by the liquidators to the Registrar of Companies, who shall strike the name of the company off the register in accordance with the order.

R.S.S. 1965, c.141, s.35; R.S.S. 1978, c.C-24, s.35.

Penalty on default in reporting by liquidator

36 If the liquidators make default in transmitting to the Registrar of Companies the return mentioned in section 34 or in reporting the order, if any, declaring the company dissolved, they are guilty of an offence and severally liable on summary conviction to a fine not exceeding \$20 for every day during which they are in default.

R.S.S. 1965, c.141, s.36; R.S.S. 1978, c.C-24, s.36.

Disposition of unclaimed dividends: when already in bank at dissolution

37 All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the company shall be left for three years in the bank where they are deposited, and if still unclaimed, shall then be paid over by the bank with interest accrued thereon to the Minister of Finance and if afterwards duly claimed shall be paid over to the person entitled thereto upon satisfactory proof of his claim.

R.S.S. 1965, c.141, s.37; R.S.S. 1978, c.C-24, s.37.

When still in liquidator's hands

38(1) Every liquidator shall, within thirty days after the date of the dissolution of the company, deposit in the bank appointed or named as provided in subsection (8) of section 22 any other money belonging to the estate then in his hands not required for any other purpose authorized by this Act, with sworn statement and account of the money and that it is all he has in his hands; and if he fails to make such deposit within the said period he is guilty of an offence and liable on summary conviction to a fine not exceeding \$10 for every day on which the failure continues; and he shall be a debtor to Her Majesty for the money, and may be compelled as such to account for it and pay it over.

Money remains on deposit for three years

(2) The money so deposited shall be left for three years in the bank and shall be then paid over with interest accrued thereon to the Minister of Finance, and if afterwards claimed shall be paid over to the person entitled thereto upon satisfactory proof of his claim.

Disposal of books, etc., after winding up

(3) Where a company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the company and of the liquidators may be disposed of in such manner as the company by an extraordinary resolution directs.

After five years, responsibility as to custody of books, etc., ceases

(4) After the lapse of five years from the date of such dissolution, no responsibility shall rest on the company or liquidators or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any party claiming to be interested therein.

R.S.S. 1965, c.141, s.38; R.S.S. 1978, c.C-24, s.38.

RULES OF COURT

Judges make rules and forms as to proceedings and costs, etc.

39(1) The judges of the Court of Queen's Bench or a majority of them may make and frame and settle the forms, rules regulations to be followed and observed in proceedings under this Act, and may make rules as to costs, fees and charges which shall or may be had, taken or paid by or to barristers or solicitors and by or to officers of the court, and by or to sheriffs or other persons whom it may be necessary to provide for or for any service performed or work done under this Act.

Practice in cases not provided for

(2) Until such forms, rules and regulations are so approved and subject to any that may be approved, the practice under this Act shall in cases not hereinbefore provided for be the same as nearly as may be as under the *Winding-Up Act (Canada)* and the rules of the said court made thereunder or applicable thereto.

R.S.S. 1965, c.141, s.39; R.S.S. 1978, c.C-24,
s.39.

