



Republic of Namibia  
Annotated Statutes

**REGULATIONS**

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REGULATIONS SURVIVING IN TERMS OF

**Companies Act 28 of 2004**  
section 13

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**Winding-up and Judicial Management  
of Companies Regulations**

Government Notice 2490 of 1973

(RSA GG 4128)

came into force on 1 January 1974

The Winding-up and Judicial Management of Companies Regulations were originally made in terms of section 15 of the Companies Act 61 of 1973, which was repealed by the Companies Act 28 of 2004. Pursuant to section 450 of the Companies Act 28 of 2004, the Winding-up and Judicial Management of Companies Regulations are deemed to have been made under section 13 of that Act.

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**ARRANGEMENT OF REGULATIONS**

1. Definitions
2. Attachment of assets
3. Statement of affairs
4. Examinations
- 5.
- 6.
7. Meetings
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.
- 16.
17. Applications by liquidator to the court

**REGULATIONS**  
**Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

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18. Claims disputed by liquidator
19. Liquidation account - objections
20. Notices
21. Costs and charges
- 22.
23. Master's fees
24. Remuneration of liquidators
25. Prescribed forms
26. Repeal of regulations

**ANNEXURE CM 100**  
**STATEMENT OF AFFAIRS**

**ANNEXURE CM 101**  
**ACCOUNTS**

**ANNEXURE CM 102**  
**AFFIDAVIT/AFFIRMATION VERIFYING THE LIQUIDATOR'S ACCOUNT**

**ANNEXURE CM 103**  
**MASTER'S FEES OF OFFICE**

**ANNEXURE CM 104**  
**TARIFF OF FEES PAYABLE TO LIQUIDATORS**

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**Definitions**

1. In these regulations, unless the context otherwise indicates -

“the Act” means the Companies Act, 1973 (Act 61 of 1973);

“sheriff” includes a deputy-sheriff; and a word or expression to which a meaning has been assigned in the Act, shall bear that meaning.

**Attachment of assets**

2. (1) The sheriff shall, if the Master so directs, attach the movable assets of a company in liquidation or under judicial management.

(2) When effecting an attachment of movable assets of the company in terms of subregulation (1) the sheriff shall follow as far as possible the procedure laid down by section 19 of the Insolvency Act, 1936 (Act 24 of 1936).

(3) In respect of attachment in terms of this regulation a deputy-sheriff shall be entitled to the deputy-sheriff's fees prescribed in terms of the Insolvency Act, 1936, and the preference conferred by section 97 (2) of the said Act in respect of the sheriff's costs shall apply to such fees.

**REGULATIONS**  
**Companies Act 28 of 2004****Winding-up and Judicial Management of Companies Regulations**

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(4) A messenger or sheriff referred to in section 357 of the Act shall without delay transmit to the Master an inventory of all the property attached by him and which appears to belong to the company.

**Statement of affairs**

3. (1) Any person who is required under section 363 of the Act to make out a statement of the affairs of a company, shall, before or after such statement has been lodged with the Master, attend on the Master at such places and times as the Master may appoint and furnish the Master with such information as he may require.

[The word "appoint" is misspelt in the above regulation,  
reproduced as per *Official Gazette*.]

(2) No person who is required to make out a statement of the affairs of a company, shall incur any costs or expenses in connection with the making out of such statement without previously having submitted to the Master an estimate of the costs and expenses which he expects to incur and having obtained the consent of the Master to the incurrence of such costs and expenses, and any costs or expenses incurred without the prior consent of the Master may be disallowed by him.

**Examinations**

4. The provisions of regulation 4 of the regulations promulgated under Government Notice R1379 of 24 August, 1962 shall *mutatus mutandis* apply to any matter referred to in section 418(2) of the Act, and any reference in the said regulation to section 64 of the Insolvency Act, 1936 (Act 24 of 1936) shall for the purposes of this regulation be construed as a reference to section 418(2) of the Act.

[The word "mutatis" is misspelt in the above regulation,  
reproduced as per *Official Gazette*.]

5. When in the course of an enquiry or examination of a witness under the Act before a commissioner or other person it appears that any person may have committed an offence, the said commissioner or person shall, when forwarding to the Master the record of such enquiry or examination, make mention in writing of the facts in the evidence which appear to him to constitute such offence, and thereupon the Master shall submit the record to the Attorney-General.

6. The record of every enquiry or examination of a witness under the Act except an enquiry or examination referred to in section 417 of the Act, shall be filed in the office of the Master.

**Meetings**

7. (1) Any separate meeting of members, contributories or debenture-holders referred to in section 364(1)(b), 370(2)(a), 377 or 429(1)(b)(ii) of the Act shall be summoned by the Master by notice in the *Gazette* on a date not less than 10 days before the date upon which the meeting is to be held and such notice shall state the time when and place where the meeting is to be held: Provided that the Master may direct the company concerned or the provisional liquidator or the provisional judicial manager to send a notice of such meeting by post to every member, contributory or debenture-holder of the company.

**REGULATIONS  
Companies Act 28 of 2004****Winding-up and Judicial Management of Companies Regulations**

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(2) Unless the court otherwise directs, a meeting referred to in section 364(1)(b), 370(2)(a) or 377 of the Act shall be presided over by the Master or by a magistrate or an officer in the public service designated by the Master for that purpose.

**8.** (1) A general meeting of the company or contributories of the Company under section 386(1)(d) of the Act shall be Summoned by the liquidator by notice in the *Gazette* as prescribed in regulation 7(1) and by sending a notice by post of the time and place of the meeting to every person who is a member or contributory of the company.

(2) Unless the court or the Master otherwise directs, any meeting referred to in subregulation (1) shall be presided over by the Master or by a magistrate or an officer in the public service designated by the Master for that purpose.

**9.** A meeting shall be held at such place as in the opinion of the Master or liquidator, as the case may be, appears to be the most convenient for the majority of the members, creditors, contributories or debenture holders, as the case may be, of the company.

**10.** The liquidator shall, subject to regulation 11, if thereto required by the Master or by creditors having one-fourth in value of the votes of all the creditors who have proved claims, or by members or contributories having one-fourth of the votes of the members or contributories, summon a general meeting of the company or the creditors or the contributories of the company for the purpose of obtaining authority or sanction in regard to any matter or for any other purpose which the company, creditors or contributories may consider necessary.

**11.** (1) The costs of summoning any meeting of members, creditors or contributories of the company at the instance of any person other than the Master or the liquidator, shall, subject to subregulation (3), be paid by the person at whose instance the meeting is summoned and shall be deposited with the liquidator before the meeting is summoned.

(2) If the Act or the regulations require notice of a meeting to be sent to the members, creditors, contributories, or debenture-holders of the company the costs of summoning the meeting, including all disbursements for printing, stationery, postage and the hire of accommodation, for each member, creditor, contributory or debenture-holder, shall, subject to subregulation (3), be calculated at the rate of 50c for each member, creditor, contributory or debenture-holder to whom notice is sent.

(3) The costs of a meeting shall, if the Court so directs or if the members, creditors, contributories or debenture-holders affected by the payment, so resolve, be repaid out of the assets of the company.

**12.** (1) Members or contributories may vote at a meeting either personally or by an agent specially authorised thereto or acting under a general power of attorney.

(2) A power of attorney intended to be used at any meeting of members, creditors or contributories shall be lodged with the presiding officer not later than 24 hours before the advertised time of the meeting and in default thereof it shall for the purpose of voting at the meeting be deemed to be invalid.

**13.** At a meeting of members or contributories a resolution shall be deemed to be passed when a majority in value of members or contributories present, either personally or by proxy, have voted in favour thereof, and the value shall be determined according to the number of votes conferred on each member or contributory by the articles.

**REGULATIONS  
Companies Act 28 of 2004****Winding-up and Judicial Management of Companies Regulations**

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**14.** (1) It shall be the duty of the provisional liquidator, without notice, or, if there be no provisional liquidator, then of the secretary, any director or any other officer of the company, upon receiving at least 10 days notice thereof from the Master, to attend at the first meeting of members or contributories with the books of the company, and to give the chairman all information he may require as to the shareholding of each member or contributory, and as to the number of votes to which each member or contributory is entitled under the articles.

(2) Any person who fails to comply with a notice referred to in subregulation (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R50 or to imprisonment for a period not exceeding three months.

**15.** (1) Minutes shall be kept of the proceedings at every meeting of members, creditors or contributories and shall be signed by the presiding officer.

(2) The original minutes of any such meeting shall be filed with the Master.

**16.** The report submitted by the liquidator in terms of section 402 of the Act to a meeting of creditors and contributories and two copies thereof shall be annexed to the minutes of the meeting at which it is so submitted.

**Applications by liquidator to the court**

**17.** The registrar of the court shall forward any application by the liquidator under section 387(3) of the Act to the Master for his report before setting it down for hearing.

**Claims disputed by liquidator**

**18.** A liquidator, who under section 45 (3) of the Insolvency Act, 1936 (Act 24 of 1936), read with section 339 of the Act, disputes a claim, shall furnish to the Master in duplicate the reasons for disputing the claim and shall at the same time -

- (a) forward a copy of the said reasons to the creditor and request him to furnish his reasons to the Master within 14 days or such longer period as the Master may on application allow, why his claim should not be expunged or reduced; and
- (b) report to the Master in writing the steps taken by him in this regard.

**Liquidation account - objections**

**19.** (1) Any person objecting to an account in terms of section 407 of the Act shall, when laying his objection before the Master, forward to the liquidator a copy thereof together with copies of any documents submitted to the Master in support of the objection not already in the liquidator's possession, and thereupon the liquidator shall submit his written remarks to the Master in duplicate.

(2) The Master may refer the liquidator's remarks to the person objecting or may require the attendance, personally or by agent, of the liquidator or the person objecting.

**Notices**

**20.** Whenever under the Act or these regulations any notice is to be sent to a member, creditor or contributory of a company, it may be sent by registered post to -

**REGULATIONS**  
**Companies Act 28 of 2004****Winding-up and Judicial Management of Companies Regulations**

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- (a) an address within the Republic supplied by such member, creditor or contributory to the company for the sending of notices to him; or
- (b) if no such address has been supplied, any address within the Republic known to the liquidator or judicial manager.

**Costs and charges**

**21.** All costs and charges incurred and all advances made by the Master on account of a company in liquidation and all costs and charges incurred by the Master in connection with a company under judicial management shall, subject to the order of the court, be costs in the winding-up or judicial management, as the case may be, of the company.

**22.** No bill of legal costs or charges arising out of a liquidation under a winding-up by the court or under a creditor's voluntary winding-up shall be paid by the liquidator unless it has been taxed.

[The word "shall" is misspelt in the above regulation,  
reproduced as per *Official Gazette*.]

**Master's fees**

**23.** The matters in respect of which Master's fees shall be payable and the tariff of such fees shall be as specified in Annexure CM 103 of these regulations.

**Remuneration of liquidators**

**24.** Every liquidator shall be entitled to the remuneration set out in Annexure CM 104.

[The word "entitled" is misspelt in the above regulation,  
reproduced as per *Official Gazette*.]

**Prescribed forms**

**25.** (1) The statement of affairs of a company referred to in section 363 of the Act shall be substantially in the form set out in Annexure CM 100.

[The word "shall" is misspelt in the above regulation,  
reproduced as per *Official Gazette*.]

(2) The account referred to in section 403 of the Act shall be substantially in the form set out in Annexure CM 101.

(3) The affidavit referred to in section 403(2) of the Act shall be substantially in the form set out in Annexure CM 102.

**Repeal of regulations**

**26.** Rules 1 to 15 inclusive and rules 24 to 49 inclusive as published in Government Notice 2270 of 1926, as amended by Government Notices 1250 of 1939 and 239 of 1953, and the fourth and fifth tables of the Third Schedule and Forms N to O inclusive of the Fourth Schedule to the Companies Act, 1920 (Act 46 of 196), are hereby repealed.

**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

**ANNEXURE CM 100**

Master's Reference No. ....

**STATEMENT OF AFFAIRS  
(Section 363 of the Act)**

Name of company .....

Date of winding-up order .....

Name and address of liquidator .....

.....

.....

Statement of affairs on the ..... day of ..... 19 .....  
the date of the winding-up order.

**I. AS REGARDS CREDITORS**

Liabilities	R	c	Assets	R	c
Debts and liabilities:			(a) Property as per List C .....		
(i) Unsecured creditors and claimants as per List A .....			(b) Book debts as per List D:		
			Recoverable ..... R .....		
(ii) Secured and preferent creditors as per List B .....			Doubtful ..... R .....		
			Irrecoverable ..... R .....		
Estimated surplus (if any) after meeting liabilities of company, subject to costs of liquidation .....			Estimated to realise .....		
			(c) Bills of exchange or other similar securities as per List E:		
			Estimated to realise .....		
			(d) Unpaid share capital as per List F:		
			Estimated to realise .....		
			Estimated deficiency of assets to meet liabilities and costs of liquidation .....		
	R			R	

The nominal amount of unpaid capital liable to be called up is R .....

**II. AS REGARDS CONTRIBUTORIES**

	R	c		R	c
Capital issued and allotted			Estimated surplus as above (if any), subject to costs of liquidation .....		
Founder's share of R ..... per share .....					
Ordinary shares of R ..... per share .....					
Preference shares of R ..... per share .....					
Particulars of any other capital .....					
Less unpaid calls estimated to be irrecoverable .....					
Add deficiency to meet liabilities as above .....			Total deficiency .....		
	R			R	

**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

I, ..... of ....., being a director,  
and I, ..... of ....., being the secretary of  
the above-named company make oath/truly affirm and say that the above statement and the several lists hereunto  
annexed, marked .....,  
are to the best of our know ledge and belief a complete and true statement of the affairs of the said company on the ..  
..... day of ..... 19 ....., the date of the winding-up order.

.....  
Director

.....  
Secretary

The deponents have acknowledged that they know and understand the contents of this affidavit/declaration.

Signed and sworn to/declared before me at ..... this ..... day of ..... 19 .....

.....  
Signature

Exempt from stamp duty.

\* If the Master so directs, this deficiency is to be explained by Statement C or in such other manner as the Master may require.

**LIST A  
UNSECURED CREDITORS**

The names must be numbered consecutively, creditors for R20 and upwards being placed first.

**Notes**

1. If any creditor of the company is also a debtor thereof, but for an amount less than the amount of his claim against the company the gross amount due to the creditor and the amount of his counter-claim must be shown in the third column, and the balance only be inserted under the heading "Amount of Debt", as follows;

Gross amount due to creditor.....

Less counter-claim.....

Such set-off must not be included in List D.....

2. Particulars of any bills of exchange and promissory notes in possession of a creditor must be inserted wider the heading "Remarks".

3. The names of any creditors who are also contributories or alleged contributories of the company, must be shown separately and described as such at the end of the list.

No.	Name	Address and occupation	Amount of debt		Remarks
			R	c	

**LIST B  
LIST OF SECURED AND PREFERENT CREDITORS**



**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

The names must be arranged in alphabetical order and numbered consecutively.

No.	Name of creditor	Address	Amount		Particulars, extent and date of security
			R	c	

**LIST C  
PROPERTY**

Full particulars of every description of property not included in any other list are to be set forth herein.

Full statement and nature of property	Estimated to realise
(a) Cash at bank (as per bank certificate attached) .....	R c
(b) Cash in hand .....	
(c) Stock-in-trade at.. (as per valuation attached") .....	
(d) Machinery at.....(as per valuation attached") .....	
(e) Trade fixtures, office furniture, utensils, etc. ....	
t(f) Investments in stocks or shares .....	
t(g) Loans for which mortgage or other security held .....	
†(h) Other property (excluding book debts, bills of exchange or unpaid calls) .....	

\* The valuation must be made by a person approved by the Master.

† State particulars.

**LIST D  
DEBTS DUE TO THE COMPANY**

The names must be numbered consecutively.

*Note.*—If any debtor of the company is also a creditor thereof, but for an amount less than his indebtedness, the gross amount due to the company and the amount of **the** counter-claim must be shown in the third column, and the balance only be inserted under the heading “Amount of Debts”, as follows:

R c

Gross amount due to company .....

Less counter-claim .....

Such set-off must not be included in List A.

**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

No.	Name of debtor	Address and occupation	Amount of debt						Particulars of any securities held for debt
			Recoverable		Doubtful		Irrecoverable		
			R	c	R	c	R	c	
.....									

**LIST E  
BILLS OF EXCHANGE, PROMISSORY NOTES, ETC., ON HAND AND AVAILABLE  
AS ASSETS**

No.	Name of acceptor or maker	Address	Amount		Due date	Particulars of any property held as security for payment of bill or note
			R	c		

**LIST F  
UNPAID SHARE CAPITAL**

Number in share register	Name of shareholder	Address and occupation	Number of shares held	Amount due on each share		Total amount due		Estimated to realise	
				R	c	R	c	R	c

**STATEMENT G  
DEFICIENCY ACCOUNT**

(N.B.—This account is prepared\* only at the request of the Master)

(1) Deficiency account where the winding-up order has been made within three years of formation of company.

<b>I.</b> —Gross profit (if any) arising from carrying on business from date of formation of company to date of winding-up order (as per trading <b>II.</b> —Receipts (if any) during the said period from undermentioned sources: Amount paid on shares issued and subsequently forfeited (as	R	c	<b>I.</b> —Expenditure in carrying on business from date of formation of company to date of winding-up order:	R	c
				Amount discharged	Amount due at date of winding up order

**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

		General expenditure: Salaries..... Wages not charged in trading account Rent..... Rates and taxes..... Interest on debentures..... Miscellaneous expenditure (as per list	R c	R c	
<b>III.</b> —Other receipts (if any) during the said period not included under any of the above headings:		<b>II.</b> —Directors’ fees from date of formation of company to date of winding-up order.... <b>III.</b> —Dividends declared during the said period			
<b>IV.</b> —Deficiency as per statement of affairs (Part II).....		<b>IV.</b> —Losses and depreciation written off in the company’s books:.* <b>V.</b> —Losses and depreciation not written off in the company’s books, now written off by the directors:.* <b>VI.</b> —Other losses and expenses:			.....~
Total amount to be accounted for. †R		Total amount to be accounted for..... †R			.....

\* Lengthy particulars must be entered in a separate schedule.

† These figures must agree.

**STATEMENT G**

**(N.B.—This account is prepared only at the request of the Master)**

(2) Deficiency account where winding-up order has been made more than three years after the formation of the company.

<b>I.</b> —Excess (if any) of assets over capital and liabilities on the *..... day of.....19....., as per the company’s balance sheet (this and any previous balance sheets to be annexed) .....	R c	<b>I.</b> —Excess (if any) of capital and liabilities over assets on the*.....day of.....19.....,as per the company’s balance sheet (this and any previous balance sheets to be annexed)..... <b>II.</b> —Expenses of carrying on business from the *.....day of.....19.....to date of winding-up order:		R c
<b>II.</b> —Gross profit (if any) arising from carrying on business from the *..... day of.....19.....to date of winding-up order (as per trading account annexed)			Amount discharged	Amount due at date of winding up order
<b>III.</b> —Receipts (if any) during the said period from undermentioned				

**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

Transfer fees,..... Amount paid on shares issued and subsequently forfeited (as per list annexed)..... <b>IV.</b> —Other receipts (if any) during the said period not included under any of the above headings..... <b>V.</b> —Deficiency as per statement of <b>Total amounted</b> to be accounted for.. † <b>R</b>		General expenditure: Wages not charged in trading account Rent..... Rates and taxes..... Legal expenses..... Commission..... Interest on debentures..... Miscellaneous expenditure (as per list <b>III.</b> —Directors’ fees from the *..... day of.....19..... to date of the <b>IV.</b> —Dividends declared during the said period	R c	R c	
		<b>V.</b> —Losses and depreciation from the *..... day order written off in the company’s books:† Irrecoverable debts..... <b>VI.</b> —Losses and depreciation not written off in the company’s books, now written off by directors’ Irrecoverable debts..... <b>VII.</b> —Other losses and expenses:† Total amount to be accounted for.....† <b>R</b> .			

\* **Three years before date of the winding-up order.**

‡ **Lengthy particulars must be entered in separate schedule.**

‡ **These figures must agree.**

**ANNEXURE CM 101**

Master’s Reference No. ....,

**ACCOUNTS**

(Section 403 of the Act)

**GENERAL DIRECTIONS**

**FORM AND CONTENTS OF ACCOUNTS**

1 The accounts must be lodged in duplicate on A4 standard paper.

2 A detailed account of all the liquidator’s receipts and payments in respect of the company must be given. The account of receipts must contain a record of all receipts derived from the realisation of assets existing at the date of the winding-up order or resolution including any balance in the bank, book debts and calls collected, property sold, etc. The account of payments must contain a record of all payments any respect of costs and charges and of payments to creditors or contributories. Where property has been realised the gross proceeds of the sale must be entered as a receipt and the necessary payments incidental to the sale must be entered as a payment. This account must not contain payments into or withdrawals from the bank, which must be shown separately by means of a bank statement.



**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

		.						.....R R		
		Balance.....	.....R R							

**RECONCILIATION STATEMENT**

	R	c
Balance as per bank statement at date of the liquidation account. , . R		

**DETAILED LIST OF UNREALISED ASSETS (IF ANY)**

Description of Assets	Estimated value
	R

Date.....

.....  
Liquidator

**LIST A**

**DISTRIBUTION AND CONTRIBUTION ACCOUNT**

Master's Reference No.....

Name of company.....

No. of claim	Name of creditor		Address	Secured and preferent creditors				Concurrent creditors				Contrib ution	Deficiency		
	Surname	Christian names		Claim		Award		Claim		Aw ad		Amoun t	Amount		
				R	c	R	c	R	c	R	c	R	c	R	C

The respective vouchers must accompany this statement.

Date.....

.....  
Liquidator

**LIST B**

Master's Reference No.....

**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

Name of company .....

**LIST OF AMOUNTS RETURNABLE TO CONTRIBUTORIES**

Name of contributory		Number of shares held	Amount returnable to contributory at in the R1	
Surname	Christian names		R	c

Date.....

.....  
Liquidator

The Companies Act, 1973  
Master's Reference No.....

**LIQUIDATOR'S TRADING ACCOUNT**

Name of company.....

Name of liquidator.....

Dr. Receipts		Payments	Cr.	
Date.....	R c	Date.....	R	c
		By stock on hand on the.....day of.....19....., the date of R		
	R			

Date.....

.....  
Liquidator

**ANNEXURE CM 102**  
[Section 403(2) of the Act]  
Master's Reference No.....

**AFFIDAVIT/ AFFIRMATION VERIFYING THE LIQUIDATOR'S ACCOUNT**

Name of company .....

I, ..... of, .....  
the liquidator of the above-mentioned company, make oath and declare/hereby affirm that the account hereunto annexed contains a full and true account of my administration of the company up to the date of the account, that so far as I am aware all the assets of the company have been disclosed in the account, and that the particulars contained in the attached trading account are true to the best of my knowledge and belief.

.....  
Liquidator

**REGULATIONS  
Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

The deponent has acknowledge that he knows and understands the contents of his affidavit/declaration.

Signed and sworn to/declare before me at ....., this .....day of.....19 .....

Exempt from stamp duty.

.....  
Signature

**ANNEXURE CM 103  
MASTER’S FEES OF OFFICE**

[Section 15(g) of the Act]

1. On all companies in liquidation or under judicial management the gross value of the assets of which -

R

- (a) is R1 000 or more but less than R4 000..... 8,00
- (b) is R4 000 or more for each complete R2 000 ..... 8, 00  
subject to a maximum fee of..... 25 000,00

2. (a) For a copy of an extract made in the office of a Master from any document, for every hundred words or part thereof (including certification of such copy or extract) 0,20

- (b) For certifying a copy or an extract from a document, when such copy or extract was not made in such office, for every hundred words or part thereof 0,40

3. On any amount paid by the liquidator or judicial manager into the Guardian’s Fund for account of members, creditors, contributories or debenture-holders of a company a commission upon the amount paid in of five per cent shall be payable in cash and be deducted from the unclaimed moneys so paid into the Guardian’s Fund.

4. (a) The fees referred to in paragraph 1 shall be assessed by the Master and shall be payable to any receiver of revenue. Proof of such payment shall be submitted by the liquidator or judicial manager, as the case may be, to the Master.

- (b) The fees referred to in paragraph 2 shall be payable by means of revenue stamps affixed to an application made to the Master, in writing, for the required service.

**ANNEXURE CM 104**

**TARIFF OF FEES PAYABLE TO LIQUIDATORS**

[Pursuant to section 15 (1) (h) of the Act]

I. Where the appointment is provisional; and

- (a) the petition is withdrawn or dismissed; or



**REGULATIONS**  
**Companies Act 28 of 2004**

**Winding-up and Judicial Management of Companies Regulations**

---

- (b) a winding-up order is made but the provisional liquidator does not continue as liquidator— a fee to be taxed by the Master with due regard to the special circumstances of the case.

II. Where a liquidator is appointed to liquidate the company, the tariff of remuneration for trustees of insolvent estates in force for the time being.

III. Where the liquidator is appointed for the purpose of carrying out a reconstruction or other scheme by which the affairs of the company are wound up otherwise than by the realization and distribution of the assets:

On the value of the company's property as estimated in the statement of affairs:

On the first R10000 or fraction thereof.....	1 Per cent.
On the next R40000 or fraction thereof .....	½ per cent.
On the next R50 000 or fraction thereof .....	½ per cent.
On the next R100000 or fraction thereof .....	½ per cent.
Thereafter .....	1/16 per cent.