

# **Companies Regulation 1998**

## **Unvalidated References:**

[Companies Act 1997](#)

[Companies Act 1997](#)

Banks and Financial Institutions Act 2000

This reprint of this Statutory Instrument incorporates all amendments, if any, made before 25 November 2006 and in force at 1 July 2001.

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Legislative Counsel

Dated 25 November 2006

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

No. 1 of 1998.

[Companies Regulation 1998](#)

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*Companies Regulation 1998*

Made under the *Companies Act 1997* to come into effect on 1 March 1998.

Dated                      200 .

## **PART I.** – PRELIMINARY.

### **1. INTERPRETATION.**

(1) In this Regulation, unless the contrary intention appears, “Act” means the [Companies Act 1997](#).

(2) Except so far as the contrary intention appears in this Regulation, Section 2 of the Act applies for the purposes of this Regulation.

(3) In this Regulation, unless the contrary intention appears, “agent” means the person named in a notice of appointment lodged under Section 386(2)(e) or 389(1)(d) of the Act, or the agent or public officer appointed under any corresponding previous law.

## **PART II.** – FORMS AND FEES.

### **2. FORMS.**

(1) Where a provision of the Act is specified in the first column of Schedule 1, the form that is specified in the third column of Schedule 1 in relation to the provision is the form to be used for the purposes of the provision as described in the second column of Schedule 1.

(2) A form that is submitted to the Registrar shall be in the format prescribed in this Regulation, unless the Registrar approves otherwise.

### **3. PARTICULARS PRESCRIBED BY FORMS.**

Where a form prescribed by this Regulation requires completion by the insertion of information, particulars or other matters, or the attachment to the form of a document containing information, particulars or other matters referred to in the form, that information, those particulars or other matters as prescribed are the information, particulars or other matters required under the provision of the Act or this Regulation for the purposes of which the form is prescribed, and shall be completed or attached, as the case may be.

#### **4. DIRECTIONS IN FORMS.**

A form prescribed by this Regulation shall be completed in accordance with such notes, instructions or directions as are specified in the form, or by the Registrar.

#### **5. FEES.**

(1) For the purposes of Section 411 of the Act, the fees set out in Schedule 2 shall be payable to the Registrar in respect of the matters to which they relate.

(2) The fees set out in Schedule 2 may include fees payable for submitting a document to the Registrar after the time limit prescribed by the Act or this Regulation.

(3) The Registrar may waive, in whole or in part, and on such terms and conditions as he thinks fit, the payment of any fees or amounts prescribed in this Regulation under Section 411 of the Act, by any person or class of persons.

### **PART III. – GENERAL PROVISIONS RELATING TO FORMS AND OTHER DOCUMENTS.**

#### **6. DOCUMENTS TO BE SUBMITTED TO REGISTRAR.**

(1) A document to be submitted to the Registrar under the Act or this Regulation shall comply with the following requirements:–

(a) it shall be on paper of medium weight and good quality, and of international A4 size, unless the Registrar approves otherwise;

(b) it shall be typewritten or printed in type of a size not less than 9 point times, or be handwritten in block capitals, and be clearly legible;

(c) it shall bear the original signature of each person required to sign the document, and photocopies, facsimiles or carbon copies will not be registered by the Registrar, unless otherwise approved by the Registrar or the document is signed in a manner or by a means approved by the Registrar;

(d) the name of the person signing the document shall be typewritten or printed in type of a size not less than 9 point times, or be handwritten in block capitals under the signature of that person, and be clearly legible;

(e) it shall have margins of not less than 25mm on the left-hand or inner side of the page and not less than 10mm on all other sides of the page;

(f) where it comprises two or more sheets, the sheets shall be bound together by a suitable fastener placed in the top left-hand corner;

(g) it shall have endorsed–

(i) at the top right-hand side of the first page, the registered company number allotted by the Registrar to the company or overseas company to which the document relates; and

(ii) on the first page, the name of the company or overseas company to which the document relates; and

(iii) on the first page, the title of the document (being, where the document is a form

prescribed by this Regulation, the same as the heading to the form); and

(iv) at the foot of the first page, the name, postal address and telephone number of the person by, or on whose behalf, the document is submitted; and

(v) at the foot of the first page the following words–

“Submitted to the Office of the Registrar on:.”

(2) Where the Registrar is of the opinion that a document submitted to him–

(a) contains matter contrary to law; or

(b) by reason of any omission or misdescription has not been duly completed; or

(c) does not comply with the requirements of the Act or this Regulation; or

(d) contains an error, alteration or erasure,

he may refuse to register or receive the document, and the document shall be deemed not to have been submitted, and the Registrar may request that the document be appropriately amended or completed and re-submitted, or that a fresh document be submitted in its place.

(3) A document which is submitted under the Act or this Regulation is deemed not to have been submitted unless it is accepted and registered by the Registrar.

(4) Except with the special leave of the Registrar, granted upon such terms and conditions as the Registrar thinks fit, no document submitted shall be registered by the Registrar where it does not comply with this section.

## **7. TIME FOR SUBMISSION OF DOCUMENTS.**



Where a document is required by the Act or this Regulation to be submitted to the Registrar and a period of time within which the document is to be submitted is not prescribed, the document shall be submitted—

(a) within one month; or

(b) in the case of a document required to be lodged by an overseas company, within such further period as the Registrar in special circumstances allows, after the happening of the event to which the document relates.

#### **8. SIGNATURE AND CERTIFICATION OF DOCUMENTS SUBMITTED TO REGISTRAR.**

Except as otherwise provided in the Act or in this Regulation, a form or document relating to a company or overseas company submitted to the Registrar under the Act or this Regulation shall be signed by—

(a) a director or secretary of the company or overseas company; or

(b) in relation to an application for registration, a proposed director or secretary; or

(c) in the case of a document relating to an overseas company, the agent of the overseas company in Papua New Guinea or, where the agent is a company a director or secretary of that company.

#### **9. CERTIFICATION OF DOCUMENTS.**

(1) A copy of a document to be submitted to the Registrar shall be certified by a person who is able to declare that he has compared the copy with the original document and that it is a true copy of that document.

(2) An annexure to a form, or a document submitted with a form, must—

(a) have an identifying mark; and

(b) be endorsed with the following words:–

“This is the annexure of (insert the number of pages) pages marked (insert an identifying mark) referred to in the (insert a description of the form) signed by (insert the name of each person signing the form) and dated (insert the date of signing).; and”

(c) be signed by each person signing the form to which the document is annexed; and

(d) have each page numbered consecutively.

#### **10. REQUIREMENTS IN RESPECT TO REGISTRATION DOCUMENTS TO BE SUBMITTED BY OVERSEAS COMPANY.**

For the purposes of the Act, an overseas company is required to submit the following documents to the Registrar:–

(a) where any change or alteration is made in the name of the overseas company, the overseas company shall submit to the Registrar, at the time when notice of the change or alteration is lodged with the Registrar–

(i) a copy of the certificate of its incorporation or registration issued in its place of incorporation or origin, or a document of similar effect (being a certificate or document evidencing the change or alteration); or

(ii) where there is no such certificate or document, a certified copy of the instrument effecting the change or alteration;

(b) where any change or alteration is made in the constitution, charter, statute, memorandum, articles or other instrument of the overseas company, a copy of which has been previously submitted by the overseas company under Section 386(2) of the Act, the

overseas company shall submit to the Registrar, at the time when notice of the change or alteration is submitted to the Registrar–

- (i) a copy of the instrument effecting the change or alteration; or
- (ii) a copy of the constitution, charter, statute, memorandum, articles or other instrument as changed or altered.

## **11. TRANSLATION OF DOCUMENTS.**

(1) In this section, “diplomatic or consular officer” means a person appointed to hold or act in any of the following offices in a country or place outside Papua New Guinea:–

- (a) Ambassador;
- (b) High Commissioner;
- (c) Minister;
- (d) Head of Mission;
- (e) Commissioner;
- (f) Charge d’ Affairs;
- (g) Counsellor, Secretary or Attache at an Embassy, High Commission, Legation or other post;
- (h) Consul-General;
- (i) Consul;
- (j) Pro-Consul;
- (k) Trade Commissioner;
- (l) Consular Agent.

(2) For the purposes of the Act, a certified translation is a translation that–

(a) in the case of a translation made outside Papua New Guinea–

(i) is certified by an official to whom the custody of the original instrument, certificate, contract or document is committed, being an official holding or purporting to hold an office corresponding to that of the Registrar in the place in which the corporation is formed or incorporated; or

(ii) is certified by a notary public or a public translator duly admitted and sworn as such in accordance with the law of the place in which the corporation is formed or incorporated; or

(iii) is certified by a diplomatic or consular officer of Papua New Guinea in the place in which the corporation is formed or incorporated; or

(b) in the case of a translation made within Papua New Guinea, is certified by a person approved by the Registrar,

to be a correct translation into the English language.

(3) Before accepting a translation, the Registrar may require the person submitting the translation to furnish to him such evidence as the Registrar thinks sufficient, of the ability of the person by whom the translation was made to make the translation.

## **12. DETAILS OF SHAREHOLDERS.**

For the purposes of Section 44(1)(b) of the Act, the details that shall be provided are–

(a) the residential address of the shareholder, or where a body corporate, the address of the registered office; and

(b) if a natural person, the date of birth of the shareholder; and

(c) the nationality of the shareholder, or where a body corporate, the country of incorporation.

### **13. PRESCRIBED INFORMATION FOR ANNUAL RETURNS.**

For the purposes of Section 215(1) and Schedule 6 of the Act, the prescribed information which shall be contained in an annual return is—

- (a) the total number of shares of the company on issue; and
- (b) the date of birth of each shareholder in the company; and
- (c) the class of shares held by each shareholder; and
- (d) the name and address of any auditor appointed by the company.

### **14. FEE FOR INSPECTING COMPANY RECORDS.**

For the purposes of Section 216(1) of the Act, the prescribed fee is K1.

## **PART IV. – CHARGES.**

### **15. REGISTRATION OF COMMON TERMS AND PROVISIONS FOR CHARGES.**

(1) In this section—

“common memorandum” means a document that contains provisions, terms or covenants that are incorporated into, or applicable to all charges, or a particular class or type of charge executed in favour of a specific chargee;

“charge” means a charge to which Part XIII of the Act applies;

“chargee” means a person who is entitled to a charge.

(2) The Registrar may register, on such terms and conditions as he thinks fit, a common memorandum in relation to a person, and the registered common memorandum may be incorporated, by reference to its registered number, into a document evidencing or creating a charge under which that person is the chargee.

(3) Upon registration, a common memorandum shall form part of the register.

## **PART V. – LIQUIDATIONS.**

### **Division 1.**

Statutory Demand.

### **16. PRESCRIBED AMOUNT.**

For the purposes of Section 337(2)(a) of the Act, the prescribed amount is K1,000.00.

### **Division 2.**

Claims.

### **17. AMENDMENT OF LIQUIDATOR’S DECISION IN RELATION TO CLAIM.**

Where a liquidator, under Section 352 or Section 353 of the Act, revokes or amends his decision to admit or reject a claim in whole or in part, the liquidator shall record his amended decision in writing, along with the reasons for the revocation or amendment, and within seven days provide a copy to the creditor that made the claim.

#### **18. TRADE DISCOUNTS.**

A creditor making his claim shall deduct all trade discounts which he would otherwise have given if the company had not gone into liquidation.

#### **19. PERIODICAL PAYMENTS.**

(1) When any payment (including rent) falls due at stated periods, and a liquidation commences at any time other than at the beginning of one of those periods, the persons entitled to the payment may claim up to the date of commencement of liquidation as if the payment accrued on a daily basis.

(2) Nothing in Subsection (1) shall affect the right of the lessor of the property to claim rent that accrues on or after the commencement of liquidation.

#### **20. EMPLOYEES' CLAIMS.**

(1) A person may make a claim on behalf of all or a number of employees of a company.

(2) A schedule setting out the names of the employees, and the amounts severally due to them, shall be attached to the claim.

(3) Any claim made in compliance with this section shall have the same effect as if separate claims had been made by each of the employees.

#### **21. NOTICE TO CREDITORS TO CLAIM.**

(1) Subject to the provisions of the Act, and unless otherwise ordered by the Court, the liquidator may fix a certain day, which shall not be less than one month from the date of the notice, on or before which the creditors of the company are to make their claims, and to establish any priority their claims may have under Section 360 of the Act.

(2) The liquidator shall give public notice of the day fixed in accordance with Subsection (1).

**22. FAILURE TO CLAIM BY DAY FIXED FOR CLAIMS.**

(1) Subject to Subsection (2), any creditor who fails to make his claim on or before the day fixed in accordance with Section 21 of this Regulation shall be excluded from the benefit of any distribution made before his claim is made.

(2) A creditor who makes a claim after the day fixed in accordance with Section 21 of this Regulation and whose claim is admitted shall be entitled to receive the benefit of any distribution from which the creditor was previously excluded where any assets remain, or, in the opinion of the liquidator, are likely to remain, available for distribution.

**23. FAILURE TO ESTABLISH PRIORITY BY DAY FIXED FOR CLAIMS.**

(1) Subject to Subsection (2), any creditor who fails to establish any priority that his claim may have on or before the day fixed in accordance with Section 21 of this Regulation shall be excluded from objecting to any distribution made before the priority of his claim is established.



(2) The liquidator may, in making any distribution after the claim is admitted, make an assumption as to the priority that the claim may have and accord the creditor the benefit of the distribution accordingly.

(3) A creditor who establishes the priority of his claim after the day fixed in accordance with Section 21 of this Regulation shall be entitled to receive the benefit of any distribution from which the creditor was previously excluded (if any), where any assets remain, or, in the opinion of the liquidator, are likely to remain, available for distribution.

#### **24. DIVIDENDS IN RESPECT OF REJECTED CLAIMS.**

(1) Where any creditor applies to the Court under Section 332(1)(b) of the Act for an order reversing or modifying the decision of a liquidator to reject the creditor's claim, the liquidator may in any such case make provision for the dividend upon the claim, and the probable cost of the application in the event of the claim being admitted.

(2) Where no notice of an application under Section 332(1)(b) of the Act has been given within the time specified in the applicable rules of the Court, or if no time period is specified, then within one month, the liquidator shall exclude all claims which have been rejected from participation in the dividend.

#### **25. COSTS OF PROCEEDINGS RELATING TO A LIQUIDATOR'S DECISION ON CLAIM.**

Where any creditor applies to the Court under Section 332(1)(b) of the Act for an order reversing or modifying the decision of a liquidator to reject the creditor's claim, the Court may, where it thinks fit—

- (a) allow any costs of any creditor to be added to his claim; and
- (b) allow any costs of any party to be paid out of the assets of the company, such costs being deemed to be expenses of the liquidator; and
- (c) order any costs to be paid by any party to the proceedings.

**Division 3.**

Proceedings at Meetings.

**26. PLACE OF MEETINGS.**

Every meeting of creditors or shareholders called under Part XVIII of the Act shall be held at such place in the country as is, in the opinion of the person convening the meeting, most convenient for the majority of the creditors or shareholders.

**27. LIST OF CREDITORS OR SHAREHOLDERS.**

(1) The person chairing a meeting of creditors or shareholders, as the case may be, shall ensure that an accurate record is kept of all creditors or shareholders, as the case may be, present or represented at the meeting, including—

(a) in the case of a meeting of creditors—

(i) the name of each creditor present or represented; and

(ii) whether the creditor has made a claim, and the amount of the claim; and

(iii) whether the creditor has filed a proxy or is present in person; and

(iv) the total number of creditors present or represented; and

(b) in the case of a meeting of shareholders—

- (i) the name of each shareholder present or represented; and
  - (ii) the number of shares issued to that shareholder; and
  - (iii) the number of votes that the shareholder may exercise according to the constitution of the company; and
  - (iv) whether the shareholder has filed a proxy or is present in person; and
  - (v) the total number of shareholders present or represented.
- (2) A record required under Subsection (1) which has been signed as correct by the person chairing or convening the meeting is prima facie evidence of the details set out in the record.

## **28. CREDITORS ENTITLED TO VOTE.**

A person shall not be entitled to vote as a creditor unless, by the time the vote is taken, the creditor has made a claim under Section 352(1) or Section 353(4) of the Act and either–

- (a) the liquidator has admitted the claim wholly or in part either for payment or for voting purposes; or
- (b) the chairman of the meeting of creditors allows the person to vote in accordance with Section 29 of this Regulation.

## **29. ADMISSION AND REJECTION OF CLAIMS BY CHAIRMAN OF MEETING OF CREDITORS FOR PURPOSES OF VOTING.**

(1) The chairman of a meeting of creditors shall have power to admit or reject a claim for the purposes of voting at that meeting, but his decision shall be subject to appeal to the Court.

(2) Where a chairman is uncertain whether a claim may be admitted or rejected, he shall allow the creditor to vote subject to the vote being declared invalid in the event of the claim being rejected for the purpose of voting.

### **30. CASES IN WHICH CREDITORS MAY NOT VOTE.**

A creditor shall not vote in respect of—

(a) any claim that is subject to a contingency, or that is for damages, or that is, for some other reason, of an uncertain amount unless the value of the claim has been estimated by the liquidator or determined by the Court in accordance with Section 355 of the Act; or

(b) a debt on, or secured by a current bill of exchange or promissory note held by him unless the creditor treats the liability to him thereon of every person who is liable thereon antecedently to the company, and who has not been adjudged bankrupt, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his claim.

### **31. VOTES OF SECURED CREDITORS.**

(1) A secured creditor shall be entitled to vote—

(a) for the whole debt, where he surrenders the charge to the liquidator for the general benefit of creditors; or

(b) in respect of the balance of the debt, where he values the charge and claims as an unsecured creditor under Section 353(4) of the Act for the balance due; or

(c) in respect of the balance of the debt, where he realises property subject to a charge and claims as an unsecured creditor under Section 353(3)(a) of the Act for any balance due after deducting the net amount realised.

(2) Subject to the Act, where a secured creditor votes in respect of the creditor's whole debt, the creditor shall be taken to have surrendered his charge.

(3) A secured creditor who is not entitled to vote may, with the leave of the liquidator, attend and speak at a meeting of creditors.

#### **Division 4.**

Proxies.

#### **32. APPOINTMENT OF LIQUIDATOR, ETC., AS PROXY.**

A creditor or shareholder may appoint any person, including the liquidator or, where there is no liquidator, the chairman of a meeting, to act as his proxy.

#### **33. LIQUIDATOR NOT TO SOLICIT FOR PROXIES.**

(1) Subject to a direction of a meeting of creditors or shareholders, a liquidator shall not solicit for proxies.

(2) Without limiting the orders that a Court may make, where a liquidator has not complied with Subsection (1), the Court may—

(a) order that the liquidator shall not be entitled to his remuneration; and

(b) make an order removing the liquidator from office; and

(c) make an order declaring any transaction entered into by the liquidator to be void or overturning any vote, and granting such consequential relief as the Court thinks fit.

(3) For the purposes of this section, the term “liquidator” includes a person who has been, or may be, nominated for appointment as a liquidator in place of the person already holding office as liquidator.

#### **34. IRREGULARITY IN NOTICE OF PROXY.**

Where an irregularity that is not material is contained in a notice of proxy, the liquidator or chairman of a meeting, as the case may be, may accept the proxy as being valid for voting purposes, where he is satisfied that the proxy holder represents the creditor or shareholder.

#### **35. DISQUALIFICATION FROM VOTING.**

(1) Subject to Subsection (2), no person acting under a proxy shall vote in favour of or against any resolution which would place that person, either directly or indirectly, in a position to receive any benefit out of the assets of the company otherwise than as a creditor rateably with the other creditors of the company.

(2) Any person who holds a proxy to vote for the appointment of a liquidator may use the proxy to vote in favour of the appointment of himself as liquidator where it is not inconsistent with the terms of the proxy to do so.

#### **36. USE OF PROXIES BY LIQUIDATOR’S NOMINEE.**

(1) Where a liquidator who holds a proxy cannot attend a meeting called under Part XVIII of the Act, he may, in writing, nominate his partner (where the liquidator is a member of a partnership) or some person in his employment, to use the proxy on his behalf and in such manner as he may direct.

(2) The liquidator shall be responsible for, and bound by, all acts, omissions, conduct or decisions of his nominee.

(3) Nothing in this section authorizes the person nominated to vote in a manner that would be in contravention of Section 35 of this Regulation if the liquidator had acted under the proxy personally.

#### **Division 5.**

Liquidators and Liquidation Committees.

#### **37. RESTRICTIONS RELATING TO REMUNERATION.**

(1) Subject to the Act, a liquidator shall not make any arrangement for, or accept from any person, any benefit beyond the remuneration to which he is entitled as liquidator.

(2) A liquidator shall not make any arrangement for giving up, whether in whole or in part, his remuneration to any person.

#### **38. LIQUIDATOR'S CHARGES.**

(1) Where a liquidator receives remuneration for his services, no payment shall be allowed on his accounts in respect of the performance by any other person of the ordinary duties which are required by the Act to be performed by himself.

(2) Where a liquidator is a lawyer or accountant, he may contract that the remuneration for his services as liquidator shall include all professional services.

**39. RESTRICTION ON PURCHASE OF COMPANY'S ASSETS BY LIQUIDATOR OR LIQUIDATION COMMITTEE.**

(1) Subject to the leave of the Court, a liquidator or any member of a liquidation committee of a company shall not, either directly or indirectly, become a purchaser of any part of the company's assets.

(2) The Court may set aside any purchase made contrary to this section, and grant such consequential relief as it thinks fit.

(3) The Court may give its leave under Subsection (1) on such terms and conditions as it thinks fit.

**40. RESTRICTION ON PURCHASE OF GOODS OR SERVICES FROM PERSONS CONNECTED WITH LIQUIDATOR.**

(1) Subject to the leave of the Court, a liquidator shall not purchase goods or services for the purposes of the liquidation from any person whose connection with him would result in the liquidator directly or indirectly obtaining any benefit arising out of the transaction.

(2) The Court may give its leave under Subsection (1) on such terms and conditions as it thinks fit.



(3) The Court may disallow or recover any benefit made contrary to the provisions of this section.

#### **41. LIQUIDATION COMMITTEE NOT TO OBTAIN BENEFIT.**

(1) Subject to the leave of the Court, no member of a liquidation committee may directly or indirectly be entitled to—

(a) derive any benefit from any transaction arising out of the assets of the company; or

(b) receive out of the assets of the company any payment for services rendered by him in connection with the administration of the assets, or for any goods supplied by him to the liquidator for, or on account of the company.

(2) Where the leave of the Court is sought in respect of any payment for services, leave shall only be given where the services performed are of a special nature, and the order shall specify the nature of the services for which leave is given.

(3) Except with the leave of the Court, no remuneration shall, under any circumstances, be paid to a member of a liquidation committee for services rendered by him in the discharge of the duties attaching to his office as a member of the committee.

(4) The Court may disallow or recover any benefit or payment made contrary to the provisions of this section.

(5) The Court may give its leave under this section on such terms and conditions as it thinks fit.

**42. TRANSMISSION OF DOCUMENTS AND PROPERTY TO LIQUIDATOR'S SUCCESSOR.**

Where a new liquidator is appointed, the person vacating the office of liquidator shall forthwith, or within such reasonable time as may be specified by the new liquidator, deliver—

- (a) books, records, or documents of the company; and
- (b) other property of the company; and
- (c) all claims; and
- (d) accounts and records of the liquidation,

in his possession, or under his control to the new liquidator.

**43. FEES, EXPENSES AND REMUNERATION OF VACATING LIQUIDATOR.**

(1) A person vacating the office of liquidator is entitled to deduct fees, expenses and remuneration reasonably and properly incurred by him in carrying out the duties and exercising the powers of liquidator, and such fees, expenses, and remuneration shall rank in priority to the fees, expenses, and remuneration of that person's successor.

(2) Where there are no available assets of the company from which to pay the vacating liquidator's fees, expenses, and remuneration at the time the person vacates the office of

liquidator, then the new liquidator shall pay such fees, expenses, and remuneration from the assets of the company as soon as it is practicable.

#### **Division 6.**

Miscellaneous Liquidation Provisions.

#### **44. INITIAL REPORT OF LIQUIDATOR.**

For the purposes of Section 305(2)(c)(ii) of the Act the prescribed details which shall be contained in a liquidator's initial report are—

- (a) the full names of the company officers; and
- (b) the number of shares on issue by the company; and
- (c) if the company has failed, the preliminary opinion of the liquidator as to the causes of the failure of the company; and
- (d) whether, in the opinion of the liquidator, further inquiry is desirable as to any matter relating to the promotion, formation or failure of the company or the conduct of the business of the company; and
- (e) the estimated amount of the assets and liabilities of the company; and
- (f) any other information which, in the opinion of the liquidator, a creditor or shareholder would reasonably require.

#### **45. SIX MONTHLY REPORT OF LIQUIDATOR.**

For the purposes of Section 305(2)(d)(ii) of the Act the prescribed details which shall be contained in a liquidator's six monthly report are—

- (a) in relation to the liquidator—

- (i) his full name; and
- (ii) his office address and postal address; and
- (iii) his telephone and facsimile number, and any other address for electronic communication; and
- (b) the date of commencement of the liquidation; and
- (c) an account of receipts and payments for the applicable period and an aggregate amount of receipts and payments during all preceding periods, and a statement of the position in the winding up; and
- (d) details of dividends declared in respect of creditors during the winding up; and
- (e) the estimated date of completion of the winding up; and
- (f) details of any remuneration and expenses paid to the liquidator for the applicable period and an aggregate amount paid to the liquidator during all preceding periods; and
- (g) the estimated amount of the assets and liabilities of the company; and
- (h) any other information which, in the opinion of the liquidator, a creditor or shareholder would reasonably require.

**46. DEFECT IN APPOINTMENT NOT TO INVALIDATE ACTS OF LIQUIDATOR.**

No defect or irregularity in the appointment of a liquidator shall invalidate any act done by him in good faith.

**47. DEPOSIT OF COMPANY FUNDS.**

A liquidator shall deposit the funds of a company under his administration in—

- (a) a bank account to the credit of the company; or
- (b) a trust account at a bank.

**48. INVESTMENT OF FUNDS.**

(1) Notwithstanding Section 47 of this Regulation, in any liquidation all or any part of the balance standing to the credit of the company in any bank account or trust account kept by the liquidator, and not required for the time being to meet claims made against the company, may be invested in or deposited with a bank licensed under the Banks and Financial Institutions Act 2000, or any securities as authorized by the Court.

(2) All dividends, interest, and other profits from investments under this section shall from time to time as received be paid into the bank account or trust account kept by the liquidator under Section 47 of this Regulation.

**49. LIQUIDATOR CARRYING ON BUSINESS.**

Where a liquidator carries on the business of the company, he shall keep accounting records for the carrying on of the business of the company that comply with Section 188 of the Act to the extent that that section is applicable.

**50. SERVICE.**

(1) Where the Act does not provide the method of service for documents in legal proceedings, service shall be effected in the manner provided for under the National Court Rules.

(2) Where the methods of service specified by the Act or the National Court Rules do not apply, then documents shall be served on persons in accordance with Section 435 of the Act as if the person is a creditor or shareholder.

## **PART VI. – MISCELLANEOUS.**

### **51. COMMISSION PAYABLE TO REGISTRAR.**

For the purposes of Section 373(6) of the Act, commission is prescribed at the rate of 10% of the moneys received by the Registrar in the exercise of the powers conferred on him by Section 373 of the Act.

### **52. GENERAL PENALTY.**

A person who contravenes or fails to comply with a provision of this Regulation is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

### **53. PRESCRIBED INFORMATION FOR REGISTRATION OF OVERSEAS COMPANY.**

For the purposes of Section 386 of the Act the prescribed details which shall be included in an application for registration of an overseas company are–

- (a) where the overseas company is carrying on, or intending to carry on business in Papua New Guinea, the date of commencement of carrying on business; and
- (b) the principal activities, if any, of the overseas company; and
- (c) the following information relating to the directors of the overseas company:–

- (i) the residential and postal address of each director;
- (ii) the date of birth of each director;
- (iii) the nationality of each director; and
- (d) the following information relating to the resident agent of the overseas company:–
  - (i) the residential address or address of the registered office, whichever is applicable, and the postal address of each resident agent;
  - (ii) the date of birth of each resident agent who is a natural person;
  - (iii) the nationality or country of incorporation, whichever is applicable, of each resident agent.

**54. PRESCRIBED INFORMATION FOR ANNUAL RETURN OF OVERSEAS COMPANY.**

For the purposes of Section 391(1) of the Act, the prescribed information which shall be contained in an annual return of an overseas company is–

- (a) whether the overseas company carried on business in the country since the date of the last annual return, or in the case of the first annual return of the overseas company, the date of registration under the Act; and
- (b) the principal activities of the overseas company; and
- (c) the following information relating to the ten largest shareholders of the overseas company:–
  - (i) the name and residential address or address of the registered office, whichever is applicable, of each shareholder;
  - (ii) the number and class of shares held by each shareholder;
  - (iii) the date of birth of each shareholder who is a natural person;

(iv) the nationality or country of incorporation, whichever is applicable, of each shareholder; and

(d) the number of part time and full time employees of the overseas company in the country.

#### **55. FINANCIAL STATEMENTS OF OVERSEAS COMPANY TO BE AUDITED.**

(1) An auditor's report on the financial statements and any group financial statements of an overseas company which are required by Section 391(3) of the Act to accompany the annual return of the overseas company shall also accompany the annual return to be submitted to the Registrar.

(2) For the purposes of this section, the term "auditor's report", in relation to an overseas company, means a report by a person qualified for appointment as an auditor in accordance with Section 193 of the Act.

(3) The provisions of Section 200 of the Act shall apply, with such modifications as may be necessary, to the auditor's report, as if the overseas company were a reporting company within the meaning of that section.

(4) An overseas company need not comply with this section if it is a overseas company that is, or is of a class that is, exempted from the requirements of this section by the Registrar by notice in the National Gazette.

#### **PART VII. – TRANSITIONAL PROVISIONS.**

#### **56. REGISTRAR MAY EXTEND TRANSITIONAL PERIOD.**



The Registrar may by notice in the National Gazette extend the transitional period of six months in Section 443(1) of the Act for a company, or any class of company.

**57. DEEMING PROVISIONS APPLYING TO REREGISTERED COMPANIES.**

In addition to the provisions of Schedule 14 of the Act, where a company is deemed to be registered under the Act pursuant to Section 443 of the Act or is registered after submitting an application under Section 442 of the Act, referred to in this section as deemed to be registered—

- (a) any person holding office as a secretary of the company immediately before the company was deemed to be registered is a secretary of the company; and
- (b) any person holding office as a manager of the company immediately before the company was deemed to be registered is a director of the company.

**SCHEDULE 1 – LIST OF FORMS.**

Section 2.

<b>SECTION OF ACT.</b>	<b>DESCRIPTION OF FORM.</b>	<b>FORM NUMBER.</b>
13(1)(a)	Application for registration of a company.	1
13(1)(b) & 236(f)	Consent of director of proposed company.	2
13(1)(c) & 236(f)	Consent of secretary of proposed company.	3

13(1)(d)(i)	Consent of shareholder of proposed company.	4
14, & 442	Certificate of incorporation.	5
23(1)	Application for reservation of a company name.	6
24(1)(a)	Application to change name of company.	7
24(3)(b), & 25(3)	Certificate of incorporation on change of name.	8
33(3)	Notice of adoption, alteration or revocation of constitution.	9
44(1)	Notice of issue of shares.	10
56(4)	Notice of redemption or acquisition of shares by company.	11
62(3)	Notice of failure to redeem shares on fixed date.	12
65(6)	Notice of change of shareholder (share transfer).	13
68(4)	Notice of location or change in location of share register of listed company divided into two or more registers.	14

130(1)	Consent and certificate of director (existing company).	15
137(1)	Notice of change of directors and particulars of directors.	16
162(2)	Notice of change of registered office.	17
164(4)	Notice of location of records not kept at registered office.	18
168(2)	Notice of change of address for service.	19
170(2)	Consent of secretary (existing company).	20
170(3)	Notice of appointment or change of secretaries or particulars of secretaries.	21
215(1)	Annual return.	22
215(4)(d)	Notice of shareholding in company.	23
222(1) & (6)	Notice for registration of charge.	24
222(5)	Certificate of compliance with Stamp Duties Act.	25
222(7)	Notice of issue of further debentures in a series.	26

223(1)(a) & (c)	Notice of property acquired by company or overseas company while property subject to a charge.	27
223(1)(b)	Notice in respect to charge created before registration as an overseas company.	28
224(1)(a) & (2)	Notice of assignment or variation of charge.	29
225(3)	Certificate of registration of charge.	30
227(1)(c)	Notice of partial or total satisfaction of registered charge.	31
227(1)(d)	Notice of release or disposal of charged property.	32
236	Application for registration of amalgamation proposal.	33
237	Certificate of amalgamation.	34
244(4)	Notice of result of creditors' vote.	35
259(1)(c)	Notice of appointment of receiver.	36
261(4)	Notice of resignation or disqualification of receiver.	37
278(1)	Notice of end of receivership.	38
305(2)(b)	Notice of appointment of liquidator.	39

305(2)(c)(iii)	Notice to creditors and shareholders.	40
331	Notice of resignation or disqualification of liquidator.	41
337(2)(b)	Creditor's statutory demand for payment of debt.	42
352(1)	Form of claim by unsecured creditor.	43
353(4)	Valuation and claim by secured creditor.	44
366(1)(d)	Request to remove company from register.	45
386(1)	Application for registration of overseas company.	46
387(1)(b), & (2)	Certificate of registration of overseas company.	47
388(2)	Notice of change of name of overseas company.	48
389(1)(a)	Notice of change in constitution of overseas company.	49
389(1)(b) & (d)	Notice of change in directors or resident agent of overseas company.	50
389(1)(c)	Notice of change in address of	51

principal place of business in Papua  
New Guinea of overseas company.

391(1)	Annual return of overseas company.	52
392(1) & (2)(a) & (b)	Notice of cessation of business or deregistration or appointment of liquidator to overseas company.	53
442(6)	Application for reregistration by existing company.	54

## SCHEDULE 1 – LIST OF FORMS.

### Section 2.

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 1** – Application for registration of a company.

### Section 13(1)(a)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 2** – Consent of director of proposed company.

### Sections 13(1)(b) & 236(f)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 3** – Consent of secretary of proposed company.

Sections 13(1)(c) & 236(f)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 4** – Consent of shareholder of proposed company.

Section 13(1)(d)(i)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 5** – Certificate of incorporation.

Sections 14 & 442

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 6** – Application for reservation of a company name.

Section 23(1)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 7** – Application to change name of company.

Section 24(1)(a)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 8** – Certificate of incorporation on change of name.

Sections 24(3)(b) & 25(3)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 9** – Notice of adoption, alteration or revocation of constitution.

Section 33(3)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 10** – Notice of issue of shares.

Section 44(1)



PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 11** – Notice of redemption or acquisition of shares by company.

Section 56(4)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 12** – Notice of failure to redeem shares on fixed date.

Section 62(3)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 13** – Notice of change of shareholder (share transfer).

Section 65(6)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 14** – Notice of location or change in location of share register of listed  
company divided into two or more registers.

Section 68(4)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 15** – Consent and certificate of director (existing company).

Section 130(1)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 16** – Notice of change of directors and particulars of directors.

Section 137(1)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 17** – Notice of change of registered office.

Section 162(2)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 18** – Notice of location of records not kept at registered office.

Section 164(4)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 19** – Notice of change of address for service.

Section 168(2)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 20** – Consent of secretary (existing company).

Section 170(2)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 21** – Notice of appointment or change of secretaries or particulars of  
secretaries.

Section 170(3)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 22** – Annual return.

Section 215(1)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 23** – Notice of shareholding in company.

Section 215(4)(d)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 24** – Notice for registration of charge.

Section 222(1) & (6)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 25** – Certificate of compliance with Stamp Duties Act.

Section 225(5)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 26** – Notice of issue of further debentures in a series.

Section 222(7)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 27** – Notice of property acquired by company or overseas company while  
property subject to a charge.

Section 223(1)(a) & (c)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 28** – Notice in respect to charge created before registration as an overseas  
company.

Section 223(1)(b)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 29** – Notice of assignment or variation of charge.

Section 224(1)(a), (2)

PAPUA NEW GUINEA.

[Companies Act 1997.](#)

**Form 30** – Certificate of registration of charge.

Section 225(3)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 31** – Notice of partial or total satisfaction of registered charge.

Section 227(1)(c)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 32** – Notice of release or disposal of charged property.

Section 227(1)(d)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 33** – Application for registration of amalgamation proposal.

Section 236

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 34** – Certificate of amalgamation.

Section 237

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 35** – Notice of result of creditors' vote.

Section 244(4)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 36** – Notice of appointment of receiver.

Section 259(1)(c)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 37** – Notice of resignation or disqualification of receiver.

Section 261(4)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 38** – Notice of end of receivership.

Section 278(1)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 39** – Notice of appointment of liquidator.

Section 305(2)(b)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 40** – Notice to creditors and shareholders.

Section 305(2)(c)(iii)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 41** – Notice of resignation or disqualification of liquidator.

Section 331(2)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 42** – Creditor's statutory demand for payment of debt.



Section 337(2)(b)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 43** – Form of claim by unsecured creditor.

Section 352(1)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 44** – Valuation and claim by secured creditor.

Section 353(4)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 45** – Request to remove company from register.

Section 366(1)(d)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 46** – Application for registration of overseas company.

Section 386(1)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 47** – Certificate of registration of overseas company.

Section 387(1)(b) & (2)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 48** – Notice of change of name of overseas company.

Section 388(2)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 49** – Notice of change in constitution of overseas company.

Section 389(1)(a)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 50** – Notice of change in directors or resident agent of overseas company.

Section 389(1)(b) & (d)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 51** – Notice of change in address of principal place of business in Papua  
New Guinea of overseas company.

Section 389(1)(c)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 52** – Annual return of overseas company.

Section 391(1)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 53** – Notice of cessation of business or deregistration or appointment of  
liquidator to overseas company.

Section 392(1) & (2)(a) & (b)

PAPUA NEW GUINEA.

[Companies Act 1997](#).

**Form 54** – Application for preregistration by existing company.

Section 442(6)

**SCHEDULE 2 – TABLE OF FEES PAYABLE TO THE REGISTRAR OF COMPANIES.**

Section 5.

1.	For an application to register a company in accordance with Section 13 of the Act.	K450.00
2.	For an application to reserve the name of a company under Section 23 of the Act.	K50.00
3.	For registration of a notice of adoption, alteration or revocation of a constitution under Section 33 or 389 of the Act.	K75.00
4.	For registration of an annual return under Section 215 of the Act.	K50.00
5.	For an application under Section 101 of the Act to extend the period in which to hold an annual meeting.	K100.00
6.	For registration of documents to effect an amalgamation under Section 236 of the Act.	K450.00
7.	For an application for the Registrar to exercise the powers conferred by Section 372 or 373 of the Act.	K500.00
8.	For an application for the restoration of a company to the register under Section 378 of the Act.	K750.00

9.	For an application to register an overseas company under Section 386 of the Act.	K500.00
10.	For registration of an annual return by an overseas company under Section 391 of the Act.	K100.00
11.	For each search in relation to a particular company or overseas company.	K10.00
12.	For a document issued or displayed by the Registrar that contains information relating to one company or overseas company–	
	the document contains only current information; or	K10.00
	the document contains both current and non-current information.	K15.00
13.	For the inspection, production or certification of a document under Section 398(3) of the Act.  And, in addition, if the Registrar so requires, such other expenses as, in the opinion of the Registrar, will be reasonably incurred in the inspection, production or certification of the document.	K50.00
14.	For a certified copy of, or extract from any document.	K15.00
15.	For a copy of, or extract from any document, in addition to any fee for certifying the same, for each A4 sheet.	K2.00
16.	For a certificate issued by the Registrar, for which a fee is not elsewhere prescribed.	K25.00
17.	For the submission of any document after the time specified in the	

	Act in respect of that document (whether or not any other fee is payable and in addition to any other fee so payable)–	
	submitted not later than one month after the expiration of the time prescribed;	K25.00
	submitted later than one month after the expiration of the time prescribed.	K100.00
18.	For the submission of any document for which a fee is not otherwise prescribed.	K25.00
19.	For an act done by the Registrar that he is required or authorized to do under the Act or the Regulation, and for which a fee is not elsewhere prescribed.	K50.00
20.	For any application or request for which a fee is not elsewhere prescribed.	K50.00

Office of Legislative Counsel, PNG