

creditors meetings. A creditor can vote either personally or through a duly authorized agent.

When are claims lodged?

Claims must be lodged 24 hours before the meeting of creditors. Any claim brought less than 24 hours is disqualified from being considered at the meeting,

Who must attend the creditors meeting?

Anyone with an interest in the liquidation or a claim against the company may attend the meeting. Interest or claim unless proved does not entitle a person in attendance to vote.

Does it mean my claim is completely left out?

If the claim misses the first meeting you can still lodge it so that it can be considered in the second creditors meeting. You however cannot vote in the first creditors meeting e.g for the appointment of a Liquidator. If it misses the second meeting you can request for a special meeting to be convened at your expense where you can prove the claim .

What happens after the second creditors meeting?

The liquidator must soon after the second creditors meeting prepare a liquidation and distribution account. This account must show how the estate is going to be distributed to the creditors. The account must lie open for inspection in the following places;

- (a) in the office of the master
- (b) in the office of the magistrate of the district in which the registered office of the company is situated.

During this time any interested person may approach the Master's office and inspect the account. Objections to the account may be raised and dealt with at this point.

The liquidator will give notice in the gazette of the places where such accounts will lie open for inspection and will state in that notice the period during which the account will lie open for inspection.

The liquidator must at the same time transmit by post or deliver a similar notice to every creditor who has proved a claim against the company.

Distribution of the account

The account is distributed after it has been confirmed by the Master. The distribution is made in accordance with the liquidation and distribution account. The confirmation of the account is given in the gazette. Once the estate has been distributed the company is dissolved.

For further details contact

REGISTRAR & MASTER

Private Bag 00220 Gaborone

Tel : 3718000 Fax: 3915119

website: www.justice.gov.bw

TOLL FREE NUMBERS

0800 600 922

0800 600 947

0800 601 027



Administration of Justice

LIQUIDATION OF COMPANIES

Generally a company is liquidated for the benefit of all creditors and members of that company. Liquidation is the termination of existence of that company.

After a company has been placed under liquidation the Master must as soon as possible appoint a provisional liquidator and summon a meeting of creditors. Such meetings can be held in the Masters office or in the Magistrates Courts before a Magistrate. Two such meetings, described as first and second meetings are held at different times. When any of the Creditors wants another meeting to be convened such a meeting will be held at their expense.

All claims that Creditors may have against the Company must be proved at these meetings.

The agenda of the first meeting deals with the following:

- (a) Consideration of the statement of affairs of the Company
- (b) Proof of claims against the company
- (c) Nomination of a person or persons to be appointed as liquidator or liquidators

The second creditors meeting which must be appointed soon after the first creditors meeting would deal with;

- (a) Report of the liquidator
- (b) Proof of the liquidator
- (c) Directions to the liquidators relating to the liquidation of the company

A special meeting may be called to afford creditors who failed to prove their claims another opportunity to do so if they tender payment of all expenses associated with the meeting.

Who is the liquidator?

A liquidator is an official appointed by the Master after

nomination by the creditors at a meeting of creditors. Once the liquidation has been appointed the property of the Company vests, in that officer who should ensure its safety.

CLAIMS

Who can lodge a claim?

Anyone owed by the company under liquidation is entitled to lodge a claim. These could be companies which were doing business with the company under liquidation, the Government for services rendered, parastatals and employees of the company .

Where to lodge a claim

Claims are lodged with the liquidator. The liquidator examines the claims and determines whether they can be accepted and, the creditors meetings where claims are to be proved. the presiding officer will examine the claims to determine whether they are admitted.

How do I know I have to lodge a claim?

As soon as the company has been under liquidation an advertisement will be placed in newspapers notifying the public about the liquidation of the company and also inviting creditors to lodge their claims.

The advert will give details of where the claims must be lodged and information on who the liquidator and request for forms for lodging claims. All notices about the company will be published in the Government Gazette. The notice will also inform you when the creditor's meeting is going to be held. If you are not sure about what you are required to do, approach the office of the Liquidator or the Master for further information.

Lodging of claims

Creditors are expected to prove their claims in the creditors meetings. The claims must be carefully prepared in compliance with the laid down procedures contained in the Companies Act [Cap 42:01] and the Insolvency Act [Cap 42:02]. The claim is proved by an

affidavit in the prescribed form which must set out the value of the claim and any security held. The affidavit must be duly signed by people authorized to do so.

Such people could be the creditors themselves, a Company representative duly authorized through a Company resolution or an agent e.g an attorney authorized through a power of attorney. The claims are claims are required to be supported by vouchers. The affidavit together with supporting documents must be lodged with the liquidator and Presiding Officer and be open for inspection for 24 hours before the commencement of the meeting of creditors.

A claim not signed by the authorized person or supported by the vouchers or lodged within the prescribed period will be rejected as defective.

For further information please read companies **Act, [Cap 42:01]**.

Employee's claim arising out of his employment

An employee's claim arising out of his employment are paid out of the assets of the insolvent employer before non secured creditors are paid shares. This protection covers the following claims

- (a) The employee's claim of wages up to three months prior to the insolvency or the termination of employment
- (b) The employee's claim for payment as a result of work performed during holidays within a period of twenty-four months prior to the insolvency or termination of employment;
- (c) The employment's claim for any amount due to him in respect of other types paid absence for a period not less than three months prior to the insolvency or to the termination of employment;
- (d) Such severance benefits or other terminal benefit as the employee is entitled to .

Who can vote at the meeting?

Note that only creditors who have proved their claims against the company have the right to vote in the