



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS SURVIVING IN TERMS OF

Companies Act 28 of 2004
section 450

Rules: Winding-up of Companies

SA Government Notice 2270 of 1926

[\(SA GG 1594\)](#)

came into force on date of publication: 10 December 1926

These regulations were originally made under section 220 of the SA Companies Act 46 of 1926 ([SA GG 1562](#)). Section 450 of the current Companies Act 28 of 2004 states:

Regulations made under the repealed Act [*RSA Companies Act 61 of 1973*] relating to the winding-up and judicial management of companies, including former rules not repealed by regulation 26 of the Regulations in terms of section 15 of the repealed Act [*RSA Companies Act 61 of 1973*], for the Winding-up and Judicial Management of Companies, promulgated by GN No R. 2490 of 28 December 1973 and which have in terms of section 16(1) of the repealed Act [*RSA Companies Act 61 of 1973*] been deemed to have been made under section 15 of that Act, as they exist immediately prior to the coming into operation of this section, must notwithstanding section 451 remain in force and are deemed to be regulations made under section 13 of this Act.

Section 442 (read with Schedule 5) of the repealed RSA Companies Act 61 of 1973 ([RSA GG 3972](#)) repealed the SA Companies Act 46 of 1926 ([SA GG 1562](#)). However, section 16 of the RSA Companies Act 61 of 1973 states:

- (1) Any regulations or rules made under section 220 of the repealed Act [*SA Companies Act 46 of 1926*] shall be deemed to have been made under section 15 of this Act and shall remain in force until repealed by regulation.
- (2) The Third and the Fourth Schedules to the repealed Act [*SA Companies Act 46 of 1926*] shall, notwithstanding the repeal of that Act, remain in force and shall be deemed to be regulations made under section 15 of this Act until repealed by regulation.
- (3) Any proclamation issued under any law repealed by this Act and in force at the commencement of this Act shall remain in force until repealed by regulation.

as amended by

SA Government Notice 1250 of 1939 ([SA GG 2668](#))

made in terms of section 220 of the SA Companies Act 46 of 1926;

came into force on 1 January 1950 (SA GN 1250/1939);

amended several rules and repealed rule 50

RSA Companies Act 61 of 1973 ([RSA GG 3972](#))

came into force on 1 January 1974 (section 445 of Act);

REGULATIONS
Companies Act 28 of 2004

Rules: Winding-up of Companies

section 16 of Act 61 of 1973 provides that the Third and Fourth Schedules to the repealed SA *Companies Act 46 of 1926*, remain in force notwithstanding the repeal of that Act, and are deemed to be regulations made under section 15 of that Act until repealed by regulation.

Regulations for the Winding-up and Judicial Management of Companies, 1973, RSA Government Notice R.1249 of 1973 ([RSA GG 4128](#))

made in terms of section 15 of the *RSA Companies Act 61 of 1973*;
came into force on 1 January 1974 (RSA GN R.1249/1939);

regulation 26 repeals (a) rules 1 to 15 and rules 24 to 49, (b) the Fourth and Fifth tables to the Third Schedule of the *SA Companies Act 46 of 1926* which was deemed by section 16 of the *RSA Companies Act 61 of 1973* to be a regulation, and (c) Forms N to Q of the Fourth Schedule to the *SA Companies Act 46 of 1926*, which was deemed by section 16 of the *RSA Companies Act 61 of 1973* to be a regulation

Companies Administrative Regulations, 1973, RSA Government Notice R.1948 of 1973 ([RSA GG 4055](#))

made in terms of section 15 of the *RSA Companies Act 61 of 1973*;
came into force on 1 January 1974 (regulation 38);

regulation 37 read together with Schedule 3 repeals (a) the First, Second and Third tables to the Third Schedule of the *SA Companies Act 46 of 1926* which was deemed by section 16 of the *RSA Companies Act 61 of 1973* to be a regulation, and (b) Forms A to M and Form R of the Fourth Schedule to the *SA Companies Act 46 of 1926* which was deemed by section 16 of the *RSA Companies Act 61 of 1973* to be a regulation;

repealed by the Companies Administrative Regulations, 2010 contained in GN 173/2010 ([GG 4536](#))

Companies Administrative Regulations, 2010, Government Notice 173 of 2010 ([GG 4536](#))

made in terms of section 13 of the Companies Act 28 of 2004;
came into force on 1 November 2010 (regulation 65);

regulation 37 read together with Schedule 3 repeals (a) the First, Second and Third tables of the Third Schedule of the *SA Companies Act 46 of 1926* which was deemed by section 16 of the *RSA Companies Act 61 of 1973* to be a regulation, and (b) Forms A to M and Form R of the Fourth Schedule of the *SA Companies Act 46 of 1926* which was deemed by section 16 of the *RSA Companies Act 61 of 1973* to be a regulation

The net effect of these various enactments is that only regulations (“rules”) 16-23 survive. No parts of the Third and Fourth Schedules to the repealed *SA Companies Act 46 of 1926*, which were deemed to be regulations by section 16 of the *RSA Companies Act 61 of 1973* and survived pursuant to section 450 of the current Companies Act 28 of 2004, remain in force. Previous amendments to the rules and Schedules that have been repealed have not been recorded here.

ARRANGEMENT OF REGULATIONS

LIST OF CONTRIBUTORIES: CALLS

[The individual surviving regulations (“rules”) 16-23 have no headings.]

Third Schedule to the SA Companies Act 46 of 1926

[Section 16 of the *RSA Companies Act 61 of 1973* provides that the Third Schedule to the *SA Companies Act 46 of 1926*, notwithstanding the repeal of that Act, remains in force and is deemed to be regulations made under section 15 of the *RSA Companies Act 61 of 1973* until repealed by regulation. The Third Schedule seems to have been entirely repealed. Regulation 26 of the 1973 Regulations for the Winding-up and Judicial Management of Companies, issued under the *RSA Companies Act 61 of 1973* and contained in RSA GN R.1249 of 1973 ([RSA GG 4128](#)), repeals the Fourth and Fifth tables. Regulation 37 read together with Schedule 3 of the Companies Administrative Regulations, 2010, issued under the current Companies Act 28 of 2004 and contained in GN 173/2010 ([GG 4536](#)), repeals the First, Second and Third tables.]

Fourth Schedule to the SA Companies Act 46 of 1926

REGULATIONS
Companies Act 28 of 2004

Rules: Winding-up of Companies

[Section 16 of the RSA Companies Act 61 of 1973 provides that the Fourth Schedule to the SA Companies Act 46 of 1926, notwithstanding the repeal of that Act, remains in force and is deemed to be regulations made under section 15 of the RSA Companies Act 61 of 1973 until repealed by regulation. The Fourth Schedule seems to have been entirely repealed. Regulation 26 of the 1973 Regulations for the Winding-up and Judicial Management of Companies, issued under the RSA Companies Act 61 of 1973 and contained in RSA GN R.1249 of 1973 (RSA GG 4128), repeals Forms N to Q. Regulation 37 read together with Schedule 3 of the Companies Administrative Regulations, 2010, issued under the current Companies Act 28 of 2004 and contained in GN 173/2010 (GG 4536), repeals Forms A to M and Form R.]

LIST OF CONTRIBUTORIES: CALLS

16. The rules as to lists of contributories and calls as hereinafter set out shall apply only in a winding up by the Court.

17. The liquidator shall, with all convenient speed, prepare a list in alphabetical order of the contributories of the company, and shall set opposite the name of each contributory his address and the number of shares (with their distinctive numbers) for which he has placed him on the list, and, if a call is to be made, the name of each contributory to be included in the call, the amount of the call to be made upon him and the number of the shares (with their distinctive numbers) in respect of which it is proposed to make the call.

In the preparation of the list the liquidator shall observe the requirements of section *one hundred and forty-seven*, sub-section (2), of the Act as regards representative contributories.

He shall further distinguish between contributories who are past members and contributories who are present members of the company, including present members in a list to be styled the A list which shall be prepared forthwith, and past members in a list to be styled the B list, which shall be prepared when it is ascertained that there is unsatisfied debt or liability for which under the Act those past members are liable and that the present members are unable to satisfy the contributions required to be made by them in pursuance of the Act.

18. It shall not be necessary to include a holder of fully paid-up shares in the list of contributories mentioned in the last preceding rule unless there is or is likely to be a surplus for distribution among shareholders.

19. (1) The liquidator shall forthwith give notice to every person whom he has placed on the list of contributories stating -

- (a) (i) in what character, that is whether as a past or present member, and whether in his own right or as the representative of, or as being liable for the debts of, some other person; and
- (ii) for what number of shares (with their distinctive numbers) he has been placed on the list, and
- (b) if he is to be included in a call, the amount of the call to be made upon him, and the number of the shares (with their distinctive numbers) in respect of which it is proposed to make the call upon him;
- (c) the date upon which and the Court to which application will be made to settle the lists of contributories and calls; and

REGULATIONS
Companies Act 28 of 2004**Rules: Winding-up of Companies**

(d) the period during which the lists will be lying open for inspection with the Master and the time within which objections thereto may be lodged with the Master as in rule 21 provided.

(2) If the contributory has supplied to the company an address with the Union for the sending of notices to him (hereinafter referred to as a “registered address”) notice to that address shall be sufficient.

(3) Before giving the said notice or the notice mentioned in rule 20 the liquidator shall consult the Master in regard to the date of the application to settle the list.

20. The liquidator shall give notice by advertisement in the *Gazette* that the list will lie open in the office of the Master for inspection by alleged contributories for a period of twenty-one days from the date of the publication of the notice or for such longer period as the Master shall have directed; and that during the said period objections to the list may be lodged with the Master in writing, in triplicate, and that thereafter the list will be submitted for settlement upon the date and to the Court mentioned in the notice.

21. Every list of contributories and calls shall lie open in the office of the Master for inspection of alleged contributories for a period of twenty-one days or for such longer period as the Master shall direct not being less, if any alleged contributory is resident outside the Union, than eleven weeks; and during the advertised period objections may be lodged with the Master in writing. Thereafter upon a date approved by the Master the liquidator shall make application to the Court for settlement of the list, and the Court upon considering the same and, upon a report from the Master, the objections thereto, shall settle the list or direct the liquidators to proceed by way of summons or make such other order as to the Court shall seem just.

Objections lodged with the Master under this rule shall be lodged in triplicate.

22. A list of contributories so settled shall be the list of the contributories of the company, but without prejudice to any power possessed by the Court to resettle the list as justice may require.

23. The provisions of section *one hundred and fifty-two* of the Act shall apply to a list of calls settled as aforesaid as though a list so settled were an Order made by the Court on the contributories mentioned therein; and shall be enforceable at the option of the liquidator by writ of execution taken out in that Court or in the Court of the magistrate for the district in which the contributory resides, or partly in the one way and partly in the other.