

GOVERNMENT OF ZAMBIA

ACT

No. 24 of 2011

Date of Assent: 14th July, 2011

An Act to amend the Companies Act.

[15th July, 2011]

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Companies (Amendment) Act, 2011, and shall be read as one with the Companies Act, in this Act referred to as the principal Act.

Short title
Cap. 388

2. Section *two* of the principal Act is amended by the insertion, in the appropriate place, of the following new definitions:

Amendment
of section 2

“register of receivers” means the register of receivers referred to in subsection (3) of section *one hundred and eleven*; and

“register of liquidators” means the register of liquidators referred to in subsection (4) of section *one hundred and thirty-two*;

3. The principal Act is amended by the repeal of section *six* and the substitution therefor of the following:

Repeal and
replacement
of section 6

6. (1) Subject to this Act, two or more persons associated for any purpose may incorporate a company by subscribing their names to an application for incorporation in the prescribed manner and form upon payment of the prescribed fee.

Application
for
incorporation

(2) Subject to subsection (3), an individual shall not subscribe to an application for incorporation if the person—

- (a) is under eighteen years of age;
- (b) is an undischarged bankrupt under the laws of Zambia;
- (c) subject to an order by the court, is an undischarged bankrupt under the laws of another country;
- (d) is of unsound mind and has been declared to be so by the court or a court of competent jurisdiction of another country; or
- (e) has, in the last five years prior to the application, been convicted of an offence involving fraud or dishonesty in Zambia or elsewhere.

(3) The incorporation of a company shall not be invalid by reason only that an individual or individuals subscribed to the application for incorporation in contravention of subsection (2).

Amendment
of section 37

4. Section *thirty-seven* of the principal Act is amended by—
- (a) the deletion of subsection (3); and
 - (b) the re-numbering of subsections (4) and (5) as subsections (3) and (4), respectively.

Repeal and
replacement
of section 41

5. The principal Act is amended by the repeal of section *forty-one* and the substitution therefor of the following:

Power of
Registrar in
relation to
name

41. (1) The Registrar may refuse to register a proposed name of a company where it appears to the Registrar that—

- (a) the name, if registered, is likely to cause confusion with a well known name or the name of an existing company;
- (b) the registration is sought to prevent another person who is legitimately entitled to use the name from using the name; or
- (c) the registration of the name is otherwise undesirable or not in the public interest;

and the Registrar may direct the Company to change its name in accordance with this Division.

(2) The Registrar shall, where the Registrar refuses to register a proposed name of a company, notify the applicant of the reasons for the refusal within seven days of the decision.

(3) The Registrar may, where a company does not change its name after receiving a direction under subsection (1), within fifty days or such longer period as the Registrar may allow, in writing, register the designating number of the company, together with the word “Limited” or “PLC” if required by section *thirty-seven*, as the name of the company, and shall issue a new certificate of incorporation for the company worded to meet the circumstances of the case.

(4) A change of name under subsection (1) shall not affect any rights or obligations of the company nor render defective any legal proceedings that could have been continued or commenced against it by its former name, and any such legal proceedings may be continued or commenced against it by its new name.

(5) Where the Registrar directs a company to change its name, compensation shall not be payable in respect of the name ordered to be changed.

(6) In this section, “well known name” means a name associated generally with a company, whether within or outside the Republic, and in respect of which confusion is likely to arise if registered by another company, other than the company generally known by that name.

6. Section *fifty-seven* of the principal Act is amended by the insertion, immediately after subsection (3), of the following new subsection:

Amendment
of section 57

(4) Subject to sections *sixty-four* and *sixty-six* a person who transfers shares in a private company under this section shall notify the Registrar in the prescribed manner and form.

7. Section *one hundred and eight* of the principal Act is amended by the insertion, immediately after subsection (3), of the following new subsection:

Amendment
of section
108

(4) An individual shall not be appointed as a receiver unless the individual is eligible for appointment under section *one hundred and eleven*.

8. The principal Act is amended by the insertion, immediately after section *one hundred and nine*, of the following new sections:

Insertion of
new sections
109A and
109B

Statement of
company's
affairs

109A. (1) Unless the court directs otherwise, the directors of a company shall, within three months of the appointment of a receiver, prepare and submit to the receiver a statement as to the affairs of the company as at the date of the appointment of the receiver, showing—

- (a) the particulars of its assets and liabilities;
- (b) the names and addresses of its creditors;
- (c) the securities held by each of the creditors;
- (d) the dates when the securities were respectively given;
and
- (e) such further information as may be prescribed or as the receiver may require.

(2) The statement referred to in subsection (1) shall be verified by the statutory declaration of at least one director or the secretary of the company at the date of the appointment of the receiver.

(3) Where the directors of a company fail or neglect to prepare the statement referred to in subsection (1), the receiver shall, not more than three months after the expiry of the period referred to in subsection (1), prepare and submit a statement of the affairs of the company, from the best available information.

(4) A receiver may, subject to the direction of the court, by notice in writing, require a person

(a) who is, or was, within two years before the date of the appointment of the receiver, an officer of the company; or

(b) who took part in the formation of the company, if the company was formed less than two years before the date of the appointment of the receiver;

to verify, by statutory declaration, such part of the statement as that person is in a position to verify.

(5) A receiver may serve a notice on a person referred to in subsection (4) in the prescribed manner and form.

(6) A person required to verify a statement under subsection (4) shall, within fourteen days after receiving the notice referred to in that subsection or within such extended

period as the receiver or the court may specify, submit a statutory declaration verifying those matters in the statement which that person is in a position to verify.

(7) A receiver shall, within seven days after receiving the statement under subsection (1) or a statutory declaration under subsection (3), cause copies to be—

- (a) filed with the court, if the receiver is appointed by the court;
- (b) lodged with the Registrar;
- (c) delivered to the official receiver, if the official receiver is not the receiver; and
- (d) lodged with the holder of the charge by virtue of which the receiver was appointed.

(8) A person required under this section to verify a statement shall be paid out of the assets of the company such costs and expenses, subject to an application to the court, as the receiver considers reasonable, incurred in, and relating to, verifying the information.

(9) The Registrar may, where a receiver—

- (a) does not submit a report under subsection (1), issue a reminder to the receiver to submit the statement within fourteen days;
- (b) does not comply with the notice issued by the Registrar under paragraph (a), cause the receiver to be disqualified from acting as a receiver under this Act.

(10) A statement made under this section may be used as evidence in any proceedings against any person making it.

109B. Where a person, company or an officer in default contravenes section *one hundred and nine A*, the person, company or officer in default commits an offence and is liable, upon conviction —

- (a) to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both; and
- (b) in the case of a continuing failure, to a fine not exceeding fifty thousand penalty units for each day that the failure continues.

9. The principal Act is amended by the repeal of section *one hundred and eleven* and the substitution therefor of the following:

Offences
relating to
reports

Repeal and
replacement
of section
111

Eligibility
for
appointment
as receiver

111. (1) An individual who wishes to perform the function of a receiver shall apply for accreditation with the Registrar in the prescribed manner and form.

(2) The Minister shall prescribe —

- (a) the qualifications for persons to be accredited under subsection (1); and
- (b) the form of, and procedure, for issuance of accreditation certificates.

(3) A person shall not be appointed, act or continue to act as a receiver of the property or undertaking of a company if the person is—

- (a) under the age of eighteen years;
- (b) under any legal disability;
- (c) prohibited or disqualified from so acting by an order of a court of competent jurisdiction;
- (d) a body corporate;
- (e) not resident in Zambia;
- (f) a mortgagee or chargee of the company or an employee or officer of a mortgagee or chargee;
- (g) an undischarged bankrupt;
- (h) a person who is, or has been within the previous two years, a director or officer of the company or any related body corporate, except with the leave of court;
- (i) a trustee under a trust deed for the benefit of debenture holders of the company, except with the leave of court;
- (j) a person who has been convicted, within the previous five years, of an offence involving fraud or dishonesty;
- (k) a person who has been removed, within the previous five years, from an office of trust by order of a court of competent jurisdiction;
- (l) a person who has contravened a provision of this Act in a manner which has or may materially affect creditors or contributors or persons dealing in good faith with the company;
- (m) no longer in good standing with that person's recognised professional body, if any, as a result of

professional misconduct by that person;

(n) not qualified to perform the functions of a receiver under subsection (1);

(o) a person who has, within the period of two years immediately preceding the commencement of the receivership, had an interest, direct or indirect, in a share issued by the charger; or

(p) disqualified from acting as a receiver by the instrument that confers the power to appoint a receiver.

(4) The Registrar shall —

(a) cause to be kept a register of receivers in the prescribed manner and form; and

(b) notify a professional body of any misconduct of a receiver or any removal of a receiver from the register of receivers.

(5) A person who, in contravention of this section, acts or continues to act as a receiver commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

10. The principal Act is amended by the insertion, immediately after section *one hundred and eleven*, of the following new section:

Insertion of
new section
111A

111A. (1) A receiver shall be entitled to the payment of a fee which shall be a percentage of the gross proceeds of the realisation of the receivership of the company.

Remuneration
of
receiver

(2) Notwithstanding the generality of subsection (1), the rates payable to a receiver shall not exceed such amount as may be prescribed by statutory instrument.

(3) A receiver who collects a fee in excess of the prescribed fees shall be personally liable to reimburse the amount of the excess fees so collected.

11. Section *one hundred and thirteen* of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following:

Amendment
of section 113

(3) Subject to section *one hundred and eleven A*, the court may, on the application of a company or a liquidator of a company, by order, fix the amount to be paid by way of

remuneration to any receiver and may, on application made by the company or liquidator or by the receiver, vary or amend the order.

Repeal and replacement of section 117

12. The principal Act is amended by the repeal of section *one hundred and seventeen* and the substitution therefor of the following:

Accounts of receivers

117. (1) Except where section *one hundred and sixteen* applies, a receiver of any property of a company shall—

- (a) within one month, or such longer period as the Registrar may allow, after the end of the period of six months from the date of the receiver's appointment and of every subsequent period of three months until the receiver ceases to act, lodge with the Registrar an abstract showing the receiver's receipts and payments during that period of three months; and
- (b) within one month, or such longer period as the Registrar may allow, after the receiver ceases to act as receiver, lodge with the Registrar an abstract showing the receiver's receipts and payments during the period from the end of the twelve months to which the last abstract, if any, related, and the total of those receipts and payments during the whole period of the receiver's appointment.

(2) The Registrar may require a receiver to produce any document or information concerning the affairs of the company.

(3) A receiver who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding one thousand penalty units for each day that the failure continues.

Insertion of new section 118A

13. The principal Act is amended by the insertion, immediately after section *one hundred and eighteen*, of the following new section:

Vacation of office of receiver

118A. (1) The office of a receiver shall become vacant where the receiver—

- (a) dies;
- (b) becomes disqualified under this Act;
- (c) is removed by order of court; or

(d) is removed from the register of receivers by the Registrar pursuant to subsection (3) of section *one hundred and eleven*.

(2) A receiver may resign from office by giving one month's notice, in writing, of the receiver's intention to resign to the appointing authority or the court, as the case may require.

(3) A receiver may be removed by the court, on application to the court by the holder of a charge by virtue of which the receiver was appointed or by revocation of the deed of appointment under which the receiver was appointed.

(4) Where a receiver vacates office—

(a) the receiver's remuneration and any expenses properly incurred by the receiver; and

(b) any indemnity to which the receiver is entitled out of the property of the company;

shall be paid out of the property of the company which is subject to a charge and shall have priority in accordance with the provisions of this Act as a preferential creditor.

(5) Where a receiver ceases to act as a receiver or is removed by the court, the holder of the charge by virtue of which the receiver was appointed shall, within fourteen days of the cessation or removal, as the case may be, provide the Registrar notice, in writing, of the cessation or removal and the Registrar shall enter the notice in the register of receivers.

(6) If, by the expiry of a period of one month following the removal of a receiver or the receiver's cessation of office, and no other receiver is appointed, the charge by virtue of which the receiver was appointed shall cease to attach to the property subject to the charge.

(7) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

14. The principal Act is amended by the insertion, immediately after section *one hundred and eighty-eight*, of the following new sections:

Insertion of
new section
188A and
188B

188A. (1) Where the status of a company required to file a return under this division has not changed, the company shall file a "no change" return indicating the financial year in

Filing of "no
change"
return

which the return is filed and containing a general statement that there has been no change in any given particulars in the return from the filing of the previous return.

(2) A “no change” return referred to in subsection (1) shall be in the prescribed form and accompanied by the prescribed fee.

(3) Notwithstanding the filing of a “no change” return, the Registrar may cause to be inspected any records of the company which the Registrar considers necessary for the better carrying out of this Act.

Filing of returns by company in liquidation

188B. Where a company has been placed in receivership or is in the process of being wound up under Part XIII, a receiver or liquidator of the company shall cause an annual return to be filed until the completion of the winding up.

Repeal and replacement of section 189

15. The principal Act is amended by the deletion of section *one hundred and eighty-nine* and the substitution therefor of the following:

Offence relating to annual return

189. Where a company fails to lodge an annual return and any other documents in accordance with this Division or lodges documents which do not comply with this Division, the company and each officer in default commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units.

Insertion of new section 189A

16. The principal Act is amended by the insertion, immediately after section *one hundred and eighty-nine*, of the following new section:

Power to strike out name of company from register

189A. (1) Where a company or officer fails to comply with this Division, the Registrar may, without prejudice to any other provisions of this Act —

(a) strike out the name of the company from the register of companies; or

(b) disqualify an officer of the company from forming or becoming a director of another company for a period of five years.

(2) Where the Registrar has reasonable cause to believe that a company or an officer has failed to comply with this Division, the Registrar may send to the company a letter to that effect and also stating that, if an answer showing cause to the contrary is not received within one month from the date of the letter, a notice will be published in the *Gazette* with a view to striking out the name of the company from the

Register of companies or disqualifying an officer of the company from forming or becoming a director of another company for a period of five years.

(3) If the Registrar, at the expiration of the period of one month after the sending of the letter, is not satisfied that the company is in compliance with this Division, the Registrar may at any time thereafter cause to be published in the *Gazette* and send to the company a notice that at the expiration of three months from the date of that notice, unless cause is shown to the contrary, the name of the company will be struck off the Register of companies or an officer of the company will be disqualified from forming or becoming a director of another company for a period of five years.

(4) The Registrar shall, after the expiration of three months from the publication in the *Gazette* of a notice under this section, unless cause to the contrary is shown, strike the name of the company off the register or disqualify an officer of the company from forming or becoming a director of another company for a period of five years and shall cause notice thereof to be published in the *Gazette*.

(5) A company shall be dissolved on the publication in the *Gazette* of the notice referred to in subsection (4), but—

- (a) the liability, if any, of every officer and member of the company shall continue and may be enforced as if the company had not been dissolved; and
- (b) nothing in this subsection shall affect the power of the court to wind-up a company which has been dissolved under section *three hundred and sixty-one*.

(6) A notice to be sent under this section to a liquidator may be addressed to the liquidator at the liquidator's last known place of business.

(7) The fees of the Registrar in respect of the striking off of a company or disqualification of an officer under this section and the costs incurred by the Registrar in publishing notices in the *Gazette* shall be payable by the company and recovered from it.

Repeal and
replacement
of section
208

17. The principal Act is amended by the deletion of section *two hundred and eight* and the substitution therefor of the following:

208. Where a company is registered in Zambia, at least half of the directors of a company, including—

(a) the managing director, if the company has a managing director; and

(b) at least one executive director, if the company has executive directors;

shall be resident in Zambia.

Residential
requirements
of directors

18. The principal Act is amended in section *two hundred and eighteen* —

(a) by the deletion of subsection (8) and the substitution therefor of the following subsection:

(8) Subject to this section and the Articles, where a contract or arrangement in which a director is interested is considered at a meeting —

(a) the director shall not be counted in the quorum required for that business;

(b) the director shall not vote in respect of that business;

(c) one director shall not approve the contract until it has been evaluated by an external auditor and verified to be a contract that is being concluded in a transparent manner and on equitable terms; and

(d) one director shall cause a report of the evaluation conducted under paragraph (c) to be included in the auditor's annual report.;

(b) by the insertion, immediately after subsection (9) of the following new subsection:

(10) Where a member or director or any interested party to a party related transaction is of the view that the transaction is not in the interest of the company, the member, director or interested party may petition the court in accordance with section *two hundred and thirty-nine.*; and

(c) by the renumbering of subsection (10) as subsection (11).

Amendment
of section
218

19. The principal Act is amended by the insertion, immediately after section *two hundred and eighteen*, of the following new sections:

Insertion of new sections 218 A and 218 B

218A. (1) A third party may, where the third party intends to enter into a transaction with a company disclose —

Third party declarations

(a) any possible conflict of interest that may arise as a result of the person transacting with the company in the proposed manner;

(b) the nature of the conflict of interest and the director or directors to whom such a conflict of interest applies; and

(c) the extent to which the parties to the transaction stand to gain personally from the actions of the company.

(2) A disclosure of interest made by a third party shall be treated in the same manner that a disclosure made by a director would be treated.

218B. Where a company wishes to enter into a transaction that is subject to a declaration under sections *two hundred and eighteen* and *two hundred and eighteen A* for which the value exceeds the threshold prescribed by the Articles, the transaction shall only be entered into with the approval of a simple majority of the members.

Shareholder approval for certain transactions

20. The principal Act is amended by the deletion of section *two hundred and twenty-four* and the substitution therefor of the following:

Repeal and replacement of section 224

224. (1) A company shall keep a register of its directors and secretaries in the prescribed form.

Register of directors and secretaries

(2) The Register shall be available for inspection by any person.

(3) If a company fails to comply with this section, the company and each officer in default commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units for every day during which the default continues.

(4) A director or secretary of a company shall give notice, in writing, to the Registrar of such matters relating to the director or secretary as may be necessary for the purposes of this section, and a person who fails to do so commits an offence and is liable, upon conviction, to a fine not exceeding ten thousand penalty units for every day during which the default continues.

Repeal and
replacement
of section
248

21. The principal Act is amended by the deletion of section *two hundred and forty-eight* and the substitution therefor of the following:

Foreign
company to
appoint local
director

248. (1) A foreign company shall have at all times at least one individual, in this Act referred to as a “local director”, empowered and authorised to conduct and manage all the affairs, properties, business and other operations of the company in Zambia.

(2) A local director of the company shall be resident in Zambia, and if the company has more than one local director, at least one of them shall be a resident of Zambia.

(3) A contravention of subsection (2) which continues for more than two months shall constitute grounds for winding-up of the company by the court on the application of the Registrar.

(4) A company which intends to decrease the number of its local directors shall notify the Registrar in writing.

(5) A company shall designate the director referred to in subsection (1), as the local chairperson.

(6) A company shall not appoint as a local director, a person who, under Part X, is not qualified to be a director of a company incorporated under this Act.

Amendment
of section
282

22. Section *two hundred and eight-two* of the principal Act is amended by the insertion, immediately after subsection (9), of the following new subsection:

(10) The Registrar shall, where a liquidator is appointed under subsection (1) or is released under section *two hundred and ninety-one*, cause the name, business address and details of appointment or release of the liquidator to be notified in the *Gazette* for public information.

Amendment
of section
284

23. Section *two hundred and eighty-four* of the principal Act is amended by the deletion of subsection (3) and the substitution therefor of the following:

(3) An official receiver may —

(a) direct an investigation to be made of the books and vouchers of a liquidator;

(b) recommend the prosecution of a liquidator, where the official receiver reasonably believes that the liquidator has committed an offence under this Act;
or

- (c) recommend the disqualification of a person from carrying out the functions of a liquidator.

24. Section *two hundred and eighty-five* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

Amendment
of section
285

(1) Subject to section *three hundred and forty-six A*, a liquidator, other than the official receiver, shall be entitled to receive such salary or remuneration by way of commission or otherwise as is determined—

- (a) by agreement between the liquidator and the committee of inspection, if any;
- (b) by an extraordinary resolution passed at a meeting of creditors convened by the liquidator by a notice to each creditor to which was attached a statement of all receipts and expenditure by the liquidator and the amount of remuneration sought by the liquidator, failing an agreement or where there is no committee of inspection; or
- (c) by the court, failing a determination under paragraph (a) or (b).

25. Section *two hundred and eighty-seven* of the principal Act is amended in subsection (1), by the insertion, immediately after the word “shall”, of a comma and the words “within three months of the appointment of a liquidator,”.

Amendment
of section
287

26. Section *two hundred and eighty-eight* of the principal Act is amended—

Amendment
of section
288

- (a) by the deletion of subsection (1), and the substitution therefor of the following:

(1) A liquidator shall, not later than six months or such longer period as the court may allow after receipt of the statement of company affairs, submit to the court, the Registrar, the official receiver, the holder of the charge by virtue of which the liquidator was appointed and to any trustees for secured creditors of the company and, so far as the liquidator is aware of their address, a report on the state of affairs with respect to the property in liquidation, including—

- (a) the amount of capital issued, subscribed and paid up and the estimated amount of assets and liabilities;
 - (b) the cause of the failure of the company, if it has failed;
 - (c) 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 its business;
 - (d) particulars of assets comprising the property in liquidation;
 - (e) particulars of the debts and liabilities to be satisfied from the property in liquidation;
 - (f) the names and addresses of the creditors with an interest in the property in liquidation;
 - (g) particulars of any encumbrance over the property in liquidation held by any creditor including the date on which it was created;
 - (h) particulars of any default by the grantor in making relevant information available;
 - (i) the events leading up to the liquidator's appointment, so far as the liquidator is aware of them;
 - (j) the disposal or proposed disposal, by the liquidator, of any property of the company and the carrying on or proposed carrying on, by the liquidator, of any business of the company;
 - (k) the amount of the principal and interest payable to preferential creditors;
 - (l) the amount, if any, likely to be available for the payment of other creditors; and
 - (m) such other information as may be prescribed; and
- (b) by the insertion, immediately after subsection (2), of the following new subsection:

- (3) The Registrar may, where a liquidator—
- (a) does not submit a report under subsection (1), issue a reminder to the liquidator to submit the report within fourteen days of the receipt of the reminder; or
 - (b) does not comply with the notice issued by the Registrar under paragraph (a), cause the liquidator to be disqualified from acting as a liquidator by removing the liquidator from the register of liquidators.

27. The principal Act is amended by the repeal of section *three hundred and thirty-two* and the substitution therefor of the following:

Repeal and replacement of section 332

332. (1) An individual who wishes to perform the function of a liquidator shall apply for accreditation with the Registrar in the prescribed manner and form.

Eligibility for appointment as liquidator

(2) The Minister shall prescribe —

- (a) the qualifications for persons to be accredited under subsection (1); and
- (b) the form of and procedure for issuance of accreditation certificates.

(3) A person shall not be appointed to act or continue to act as a liquidator of the property or undertaking of a company if the person—

- (a) is under the age of eighteen years;
- (b) is under any legal disability;
- (c) is prohibited or disqualified from so acting by any order of a court of competent jurisdiction;
- (d) is a body corporate;
- (e) is a mortgagee or chargee of the company or an employee or officer of the mortgagee or chargee;
- (f) is an undischarged bankrupt;
- (g) is a person who is, or has been within the previous two years, a director or officer of the company or any related body corporate, except with the leave of court;
- (h) has been a receiver of the company during the preceding three years;
- (i) is removed from the register of liquidators kept by the Registrar in accordance with subsection (4); or

(j) is not eligible to be a liquidator or receiver under this Act.

(4) The Registrar shall —

- (a) cause to be kept a register of liquidators in the prescribed manner and form; and
- (b) notify a professional body of any misconduct of a liquidator or of any removal of a liquidator from the register of liquidators.

Amendment
of section
334

28. Section *three hundred and thirty-four* of the principal Act is amended by the insertion, immediately after subsection (6), of the following new subsections:

(7) Subject to the provisions of this Act, a liquidator shall act in good faith, not make a secret profit and avoid any conflict of interest.

(8) Except as otherwise directed by the court or by a resolution of creditors or members passed at a general meeting or by a committee of inspection, a liquidator shall—

- (a) dispose of company assets by public tender or the most transparent manner under the circumstances; and
- (b) not less than twenty-one days before such disposal, furnish the Registrar with a notice, in the prescribed manner and form, of the intention to dispose of the assets.

Insertion of
new section
346A

29. The principal Act is amended by the insertion, immediately after section *three hundred and forty-six*, of the following new section:

Remuneration
of liquidator

346A. (1) A liquidator shall be entitled to the payment of a fee which shall be a percentage of the gross proceeds of the realisation of the liquidation of the company.

(2) Notwithstanding the generality of subsection (1), the rates payable to a liquidator shall not exceed such amount as may be prescribed.

(3) A liquidator who collects a fee in excess of the prescribed fees shall be personally liable to reimburse the amount of the excess fees so collected.

Amendment
of section
361

30. Section *three hundred and sixty-one* of the principal Act is amended by the insertion, immediately after subsection (8), of the following new subsection:

(9) The Registrar may, not less than five years after striking a defunct company off the register, re-issue the name of the company where a person seeks to apply for the registration of a company with the name that was struck off the register, in accordance with this Act.

31. The principal Act is amended by the insertion, immediately after section *three hundred and seventy-two*, of the following new section:

Insertion of
new section
372A

372A. (1) The Registrar may issue such notices in connection with matters under this Act for which notice is required to be given in order to give effect to this Act.

Notice by
Registrar

(2) The Registrar shall take reasonable steps to ensure that a notice under subsection (1) is issued using a method that will ensure the widest possible circulation to the persons to which the notice is directed.

(3) Unless otherwise provided, a notice issued by the Registrar under subsection (1) may be effected by—

(a) serving the notice at the address of the person to be notified;

(b) publication in a daily newspaper of general circulation in Zambia;

(c) display in a prominent public place;

(d) publication on the website of the Agency or any other appropriate third party website; or

(e) publication in the *Gazette*.

32. (1) The provisions of this Act relating to liquidators and receivers shall not apply in relation to liquidators and receivers appointed before the commencement of this Act.

Transitional
provisions

(2) A liquidation or receivership which was commenced before the coming into operation of this Act shall be continued as if commenced under this Act.
