



Members' Voluntary Liquidation

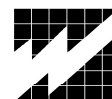
Appointment Package

This package contains the necessary instructions and basic documentation to assist in the convening of a Members' Meeting to enable a company to be placed into Members' Voluntary Liquidation.

Documents contained in package

- *Draft Minutes of Directors' Meeting*
- *Form 520 - Declaration of Solvency*
- *Notice of Members' Meeting*
- *Consent to Short Notice for Members' Meeting*
- *Appointment of Proxy for Members' Meeting*
- *Voting Slip for Members' Meeting*
- *Draft Minutes of Members' Meeting*

A copy of this package, a Fact Sheet and other useful information can be obtained from our Web Site located at www.worrells.net.au.



Steps to Complete

This package sets out the necessary steps to appoint a liquidator to a Members' Voluntary Winding Up. These steps are:

- **Step 1 - Calling the Directors' Meeting**
- **Step 2 - Return Documents to Worrells**
- **Step 3 - Calling the Members' Meeting**
- **Step 4 - Commencement of Liquidation**

The details of the procedures involved for each step and the documents required are provided in the relevant parts of this package.

A Fact Sheet and further information on these processes can be obtained from www.worrells.net.au.

What can you do in preparation for the appointment?

To expedite the process of winding up the company's affairs and reducing the costs involved, you may wish to complete the following tasks prior to the appointment:

1. Completion of up-to-date financials statement with details of all equity, reserve and franking accounts;
2. Lodgement of the company's final tax return(s); and
3. Payment of all external creditors and employees of the company.

These tasks are not required to be completed prior to the appointment, but will assist with the winding-up of the company's affairs.

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PART 1 – Calling the Directors’ Meeting

Prepare the Declaration of Solvency

The first step in the process is the preparation and lodgement of a **Declaration of Solvency (Form 520)** with the ASIC (Australian Securities & Investments Commission). This declaration contains the estimated realisable values of the company’s assets, its outstanding liabilities and details of the expected surplus to be distributed amongst members.

It is essential that the directors establish that the company is in fact solvent prior to executing this declaration, as a Members’ Voluntary Winding Up can only commence if the company is solvent, and able to pay all of its creditors within 12 months of the appointment of the liquidator.

Please note that section 494(4) of the Corporations Act prescribes a penalty of up to \$5,000.00 or imprisonment for one year, or both, for a director who signs a Declaration of Solvency without having reasonable grounds to actually form the opinion that the company is solvent.

Directors should endeavour to have the Declaration of Solvency prepared as at the date of the Directors’ Meeting, approved by the meeting and executed by the directors at that time.

The Meeting of Directors

Once the Declaration of Solvency is prepared, a Directors’ Meeting has to be held, in order to resolve the following points:

- That the company is solvent and able to pay all its debts within a period of (12) twelve months;
- That the Declaration of Solvency be approved and executed at the meeting; and
- That a Members’ Meeting be called to resolve that the company be wound up.

The following documents should be executed at this meeting.

- The **Minutes of the Directors’ Meeting**; and
- The **Declaration of Solvency**.

NOTE

The Australian Securities and Investments Commission and the Insolvency Practitioners Association of Australia have jointly released several fact sheets that may be of assistance to directors, shareholders, creditors and employees of companies in voluntary administration, liquidation or receivership. These fact sheets are: These can be found on our website on the Fact Sheets page.

- Liquidation: Guide to Creditors
- Liquidation: Guide to Employees
- Guide to Shareholders
- Guide to Directors
- Glossary of Terms

Minutes of Directors' Meeting

MINUTES OF A DIRECTORS' MEETING

Name of company ("the company")	
A.C.N.	

Held at
meeting) (location of
ON (day) (Month) (Year) at (Time)

PRESENT:

Name – (Print Name) **Position**

VOLUNTARY WINDING UP:

As all previous operations of the company have now been discontinued and no further activities are to be undertaken, it was resolved that the company should be voluntarily wound up AND THAT this course of action be recommended to an Extraordinary Meeting of Members.

DECLARATION OF SOLVENCY:

Having considered the financial position of the company and formed the opinion that the company could pay its debts in full within a period of twelve (12) months from the commencement of winding up it was resolved that Messrs

Name of Director(s) – (Print Name)

would sign the Declaration of Solvency. A Declaration of Solvency, which had been prepared in accordance with the requirements of the Corporations Act was then tabled and signed by the named directors.

MEETING OF MEMBERS:

The Secretary was instructed to send out Notices of an Extraordinary General Meeting of Members following the lodgement of the Declaration of Solvency in the office of the Australian Securities & Investments Commission.

CHAIRMAN OF MEETING OF MEMBERS:

It was resolved that one of the nominated Liquidators, or someone authorised by the nominated Liquidators, be elected to chair the meeting of members.

CONFIRMATION:

These Minutes were then read to the meeting and it was resolved that they be confirmed.

CLOSURE:

There being no other business, the Chairman declared the meeting closed.

Confirmed:

CHAIRMAN

Declaration of Solvency (Form 520).

ASC registered agent number: 505
lodging party or agent name: WORRELLS
address:

telephone:
facsimile:
DX number

suburb/city

Australian Securities Commission

form **520**

Declaration of
solvency

Corporations Act
494(1) & (2)

Company name
A.C.N.

Declaration

We declare

- (a) *that we constitute a majority of the directors of the company, and that we have enquired in to the affairs of the company.*
- (b) *that at a meeting of directors, we have formed the opinion that the company will be able to pay its debts in full within 12 months of the commencement of winding up.*
- (c) *that a correct statement of the company's assets and liabilities as at the latest practicable date (specified on the statement) before the making up of this declaration is*
 - set out on page 2 of this form*
 - set out in the annexure marked () of () pages.*

Signatures

This form must be signed by as many of the directors as constitute a majority and in any event not less than 2 directors.

Director - print name

1. sign here

date

Director - print name

2. sign here

date

Director - print name

3. sign here

date

Director - print name

4. sign here

date

Director - print name

5. sign here

date

Director - print name

6. sign here

date

(if insufficient space) Further details are enclosed in the annexure marked () of () pages.
Annexures must conform to the requirements shown at the end of this form.

Statement of assets and liabilities

(show amounts to the nearest \$)

date of statement (d/m/y) / /

assets	estimated realisable values
cash at bank	
cash on hand	
marketable securities	
bills receivable	
trade debtors	
loans and advances	
unpaid calls	
stock in trade	
work in progress, as detailed in inventory	
freehold property	
leasehold property	
plant and machinery	
furniture, fittings, utensils, etc	
patents, trade marks, etc	
investments other than marketable securities	
other property, as detailed in inventory	
estimated realisable value of assets	
liabilities	rank for payment
secured on specific assets	
secured by floating charge(s)	
estimated expenses of winding up	
other estimated expenses (including interest accruing until payment of debts in full)	
unsecured creditors (amounts estimated to rank for payment)	
trade accounts	
bills payable	
accrued expenses	
other liabilities	
contingent liabilities	
total of liabilities	
estimated surplus after paying debts in full	

STEP 2 - Return Documents to Worrells

Once the Directors' Meeting has been held, the following documents need to be returned to Worrells:

- **Copy** - Minutes of Directors' Meeting
- **Original** - Declaration of Solvency

The original of the Minutes of Directors' Meeting should be kept in the Corporate Register.

Once the above documents are received by Worrells, we will:

- Lodge the **Declaration of Solvency** with the Australian Securities & Investments Commission; and
- Advise you that the Members' Meeting can be called and held.

The Members' Meeting cannot be held until the **Declaration of Solvency** is filed with the Australian Securities & Investments Commission, but must be held **within 5 weeks** after the execution of the Declaration of Solvency.

STEP 3 – Calling the Members' Meeting

Calling the Members' Meeting

Once we have advised you that the Declaration of Solvency has been filed with the Australian Securities & Investments Commission, the time, date and place of the Members' Meeting can be set. The following documents need to be completed to convene that meeting:

- Notice of the Members' Meeting;
- Consent to Short Notice for the Members' Meeting (to be signed by 95% of the members, if required);
- Appointment of Proxy for the Members' Meeting (if required); and
- Voting Slip for the Members' Meeting (if required).

Once these documents have been completed, they can be mailed or delivered to all members of the company.

NOTE: The Proxy & Voting Slip are documents to be completed by those shareholders who do not want to personally attend the Members' Meeting.

The Meeting of Members

The Members' Meeting is held to resolve the following points:

- That the company be wound up voluntarily and that members of Worrells be appointed Liquidators for the purpose of such winding-up;
- That the Liquidators be authorized to distribute in specie such assets of the company as they may determine; and
- That the remuneration of the Liquidators' be approved at a time basis applying the simplified Solvency Management Rates published from time to time by Worrells (refer to the Worrells web-site).

Attached to this package is a **draft set of minutes** for this meeting and the agenda items to be addressed at the meeting. These minutes should be executed by the chairperson following the completion of the meeting,

Documents Attached

- *Notice of the Members' Meeting*
- *Consent to Short Notice for Members' Meeting*
- *Appointment of Proxy form and Voting Slip*
- *Draft Minutes of Members' Meeting*

Notice of the Members' Meeting

NOTICE OF AN EXTRAORDINARY MEETING OF MEMBERS

Name of company ("the company")	
A.C.N.	

Held at _____ (location of meeting)
on _____ (day) _____ (Month) _____ (Year) at _____ (Time)

AGENDA

To consider and if thought fit to pass the following resolutions as "SPECIAL RESOLUTIONS":

"THAT the company be wound up voluntarily and appoint and
..... of Worrells, Solvency & Forensic Accountants as
Liquidators for the purpose of such winding-up."

"THAT the Liquidators be and are hereby authorised to distribute in specie such assets of the
company as he may determine."

"To fix the remuneration of the Liquidators"

Dated this / /

By Order of the Board

SECRETARY

Consent to Short Notice for Members' Meeting

Corporations Act

Section 253(4)

CONSENT TO SHORT NOTICE

Name of company ("the company")	
A.C.N.	

I/We the undersigned member(s) being a majority in number of all shareholders and being the holder(s) of not less than 95% of the issued capital at nominal value of that company, and having the right to attend and vote at a general meeting of the company TO BE HELD AT:

_____ (Location of meeting)
on _____ (day) _____ (Month) _____ (Year) at _____ (Time), or at any adjournment thereof, at which it is intended to propose the resolution "*That the company be wound up voluntarily*" as a special resolution, do hereby agree to the general meeting being called and the proposing and passing of the special resolution at it, notwithstanding that less than twenty-one (21) days' notice of such meeting will be given.

DATE	NAME OF MEMBER	SIGNATURE

Appointment of Proxy form & Voting Slip

FORM 532
Corporations Act

A.C.N.

Regulation 5.6.29

APPOINTMENT OF PROXY

(1) *I (Name of member)

--

a member of

appoint (name of person to hold proxy)

--

or the Chairman if not present

as my proxy to vote at the meeting of members to be held on (day) (Month) (Year) or at any adjournment of that meeting.

Dated

--

Signature	Name
Phone	Email

WITNESS FOR BLIND MEMBER

I..... of..... hereby certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him before he attached his signature or mark to the instrument.

DATED this day of 20.....

Signature of Witness.....

Description.....

Place of Residence.....

* Strike out whichever is inapplicable.

(1) If a firm, strike out "I" and set out the full name of firm.

Voting Slip for Meeting of Members of

Name of company ("the company")	
A.C.N.	

held on (day) (Month) (Year) or any adjournment.

Member Name

Number of Shares

I hereby instruct my proxy holder to vote on the following resolutions in the manner indicated. Where I have not indicated I leave the manner of voting to the discretion of the proxy holder.

	For	Against	Abstain
Resolution 1 "THAT the company be wound up voluntarily and the nominated members of Messrs Worrells as noted in the Consent to act as Liquidator be appointed liquidators for the purposes of such winding up"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2 "THAT the Liquidators be and are hereby authorised to distribute in specie such assets of the company as he may determine."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3 "THAT the remuneration of the Liquidators' be calculated a time basis applying the simplified Solvency Management Rates published from time to time by Worrells"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signed

Dated

Draft Minutes of Members' Meeting

MINUTES OF AN EXTRAORDINARY MEETING SHAREHOLDERS

Name of company ("the company")	
A.C.N.	

Held at _____ (location of meeting)
on _____ (day) _____ (Month) _____ (Year) at _____ (Time)

PRESENT:

Name – (Print Name) _____ **Position** _____

PROXIES: The proxies handed to the Chairman were tabled.

NOTICE OF MEETING: The Chairman read the Notice of Meeting and indicating that the required majority of the shareholders had accepted the Short Notice given for the meeting.

SPECIAL RESOLUTIONS: The Chairman tabled the Consent to Act as Liquidator from and of Worrells. The Chairman reported that a Declaration of Solvency had been filed with the Australian Securities and Investment Commission in accordance with the provisions of the Corporations Act.

The following resolutions were then proposed and duly passed by special resolution:

- (a) *"THAT the company be wound up voluntarily and and of Messrs Worrells be appointed liquidators for the purposes of such winding up"*
- (b) *"THAT the liquidators be and are hereby authorised to distribute in specie such assets of the company as he may determine"*

ORDINARY RESOLUTION: It was resolved that the remuneration of the liquidators and his agents and staff be determined on a time basis applying the Simplified Solvency Management Rates published from time to time by Worrells.

CONFIRMATION OF MINUTES: These minutes were then read to the meeting and it was resolved that they be confirmed as correct.

CLOSURE OF MEETING: There being no other business, the meeting was declared closed.

Confirmed

CHAIRMAN

SECRETARY

STEP 4 - Commencement of Liquidation

Following the Meeting of Members, the following documents should be returned to the relevant Worrells office:

- **Original** - Minutes of Members' Meeting
- **Copy** - Notice of the Members' Meeting
- **Original** - Consent to Short Notice for Members' Meeting (if signed)
- **Original** - Appointments of Proxy form used for the meeting
- **Original** - Voting Slips used at the meeting

What Happens Next?

After the company is placed into liquidation, our tasks will be as follows:

1. To liquidate the remaining assets of the company (if any or as required);
2. To ensure that all external creditors and employees have been paid and that no further claims exist against the company;
3. To obtain Tax Clearance from the Australian Taxation Office, which may entail filing final Taxation Returns if they have not been filed already; and
4. Distribute the surplus funds (or asset *in specie* if warranted) to the shareholders of the company.