

**FEDERAL COURT OF AUSTRALIA  
WINDING UP CHECKLIST**

In the matter of:

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	Corporations Act	Corporations Rules
<b>PRESUMPTION OF INSOLVENCY</b>	459C	
<input type="checkbox"/> <b>FAILURE TO COMPLY WITH STATUTORY DEMAND</b>	459Q	
<input type="checkbox"/> Correct form	459E(2)(e) Form 509H (Regs)	
<input type="checkbox"/> Debt/s \$2,000 or more	9; 459E(1)	
<input type="checkbox"/> Requires debt to be paid, or secured within 21 days after demand served	459E(2)(c)	
<input type="checkbox"/> Signed by or on behalf of creditor	459E(2)(f)	
<input type="checkbox"/> <b>Affidavit of service of demand</b> (only if not served by person making affidavit in support of application for winding up)	109X; 459E	
<input type="checkbox"/> <b>Affidavit verifying demand (where the debt, or each of the debts, is not a judgment debt)</b>	459E(2)(f)	
<input type="checkbox"/> Verifies that debt, or total of the amounts of the debts, is due and payable by the company; and	459E(3)(a)	
<input type="checkbox"/> Complies with Form 7	459E (3)	5.2(a)
<input type="checkbox"/> Deponent authorised to swear	459E (3)	5.2(b)
<input type="checkbox"/> No reference to Court or proceeding number	459E (3)	5.2(c)
<input type="checkbox"/> <b>OTHER PRESUMPTION OF INSOLVENCY</b>	459C	
<input type="checkbox"/> <b>WINDING UP FOR FAILURE TO COMPLY WITH STATUTORY DEMAND</b>		
<input type="checkbox"/> Date of presumption of insolvency in issue: Yes/No If yes, relevant dates are:	459C(2)	
<input type="checkbox"/> Title in accordance with Form 1		2.1
<input type="checkbox"/> Originating process in accordance with Form 2		2.2(3)
<input type="checkbox"/> Sets out particulars of service of the demand on the company and failure to comply with the demand	459Q(a)	Form 2, Part C
<input type="checkbox"/> Attaches copy of demand and any order made under 459H(4)	459Q(b)	
<input type="checkbox"/> Capacity of applicant:	459P(1); 462; 464	
<input type="checkbox"/> Leave required?	459P(2)	5.3
<input type="checkbox"/> <b>OTHER GROUNDS FOR WINDING UP</b>	461, 464	
<input type="checkbox"/> <b>AFFIDAVIT IN SUPPORT</b>		
<input type="checkbox"/> Deponent authorised to swear		5.4(1); 2.5
<input type="checkbox"/> Made within 7 days before the originating process was filed.		5.4(4)
<input type="checkbox"/> Annexes result of ASIC search carried out no earlier than 7 days before the originating process was filed.		2.4(2)
<input type="checkbox"/> Verifies the facts in support of application for winding up		2.4(1)

(a) If the application is made in reliance on a failure by the company to comply with a statutory demand: <input type="checkbox"/> Verifies service of demand on company; and <input type="checkbox"/> Verifies failure of company to comply with demand; and <input type="checkbox"/> Verifies that the debt, or the total of the amounts of the debts, is due and payable by the company <b>OR</b>	459Q	5.4(2)
(b) If the application is made under para. 461(1)(a) of the Corporations Act: <input type="checkbox"/> states whether the company is able to pay all its debts as and when they become due and payable; and <input type="checkbox"/> refers to the company's most recent balance sheet and profit and loss statement as an annexure or exhibit to the affidavit, or explain their absence		5.4(3)
<input type="checkbox"/> <b>LIQUIDATOR'S CONSENT</b>		Form 8
<input type="checkbox"/> Liquidator's consent served at least 1 day before hearing		5.5(3)(b)
<input type="checkbox"/> Includes hourly rates		Form 8
<input type="checkbox"/> <b>AFFIDAVIT OF SERVICE OF ORIGINATING PROCESS</b>		
<input type="checkbox"/> Annexes copy of originating process		
<input type="checkbox"/> Originating process served within 14 days of filing	465A	
<input type="checkbox"/> Originating process served more than 5 days before hearing		2.7(1)
<input type="checkbox"/> Affidavits in support served more than 5 days before hearing		2.7(1)
<input type="checkbox"/> Manner of service permitted by s109X	109X	
<input type="checkbox"/> <b>AFFIDAVIT OF LODGMENT OF NOTICE AT ASIC</b>		
<input type="checkbox"/> Annexes copy of notice as lodged	465A(a)	
<input type="checkbox"/> Notice lodged no later than 10.30am next business day after filing application	470(1)(a)	
<input type="checkbox"/> <b>AFFIDAVIT/MEMORANDUM OF PUBLICATION OF NOTICE OF APPLICATION</b>		
<input type="checkbox"/> Made by the person or the person's legal practitioner		2.12(2)(a)
<input type="checkbox"/> States date of publication		2.12(2)(a)
<input type="checkbox"/> Copy of notice annexed		2.12(2)(a)
<input type="checkbox"/> Notice complies with Form 9		5.6(2)(a)
<input type="checkbox"/> Notice published more than 3 days after service of originating process and more than 7 days prior to hearing	465A	5.6(2)(b)
<input type="checkbox"/> Newspaper circulates generally in principal or last known place of business	465A	2.11
<input type="checkbox"/> <b>PERSON INTENDING TO OPPOSE APPLICATION OR PETITION</b>		
<input type="checkbox"/> Notice of Appearance (Form 4)		2.9(1)(a)(i)
<input type="checkbox"/> Notice of the grounds on which the person opposes the application	465C(a)	2.9(2)
<input type="checkbox"/> Affidavit verifying matters stated in the notice.	465C(b)	
<input type="checkbox"/> Notice and affidavit served not later than 3 days before the date fixed for hearing		2.9(1)(b)(i); 2.9(3)
<input type="checkbox"/> <b>ORDER MADE WITHIN 6 MONTHS OF FILING</b> (or within time as extended)	459R	