Form 2 Originating process

(rules 2.2 and 15A.3)

[*Title*]

**A. DETAILS OF APPLICATION**

This application is made under \*section/\*regulation [*number*] of the \*Corporations Act/\*ASIC Act/\*Cross-Border Insolvency Act/\*Corporations Regulations.

[*State briefly the nature of the proceeding, eg application for winding‑up on ground of insolvency; or complaint about a receiver.*]

On the facts stated in the supporting affidavit(s), the plaintiff claims:

1

2

etc

AND

Date:

. . . . . . . . . . . . . . . . . . . . .

*Signature of plaintiff or
plaintiff’s legal practitioner*

This application will be heard by . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . at [*address of Court*] at . . . . . . . . \*am/\*pm on . . . . . . . ..

**B. NOTICE TO DEFENDANT(S) (IF ANY)**

TO: [*name and address of each defendant (if any).*

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

 (a) the application may be heard and final relief given;

 (b) directions may be given for the future conduct of the proceeding;

 (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

*Note*   Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

**C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY**

[***Complete this section if this originating process is seeking an order that a company be wound up in insolvency on the ground that the company has failed to comply with a statutory demand (see section 459Q of the Corporations Act***]

[*Set out particulars of service of the statutory demand on the company and of the failure to comply with the demand*]

[***Attach to this originating process a copy of the statutory demand and, if the demand has been varied by an order made under subsection 459H (4) of the Corporations Act because of a dispute or offsetting claim, a copy of the order made under that subsection.***]

[***The affidavit in support of this originating process must:***

***(a) verify service of the demand on the company; and***

***(b) verify the failure of the company to comply with the demand; and***

***(c) state whether and, if so, to what extent the debt, or each of the debts, to which the demand relates is still due and payable at the date when the affidavit is made.***]

*Note 1*   In an application for winding up in insolvency on the ground that the company has failed to comply with a statutory demand, the applicant should consider completing Part C of Form 2 as shown in Schedule 3 (Notes to these Rules).

*Note 2*   An example of the affidavit in support of an application for winding up in insolvency for failure to comply with a statutory demand is shown in Schedule 3 (Notes to these Rules).

**D. FILING**

Date of filing: [*date of filing to be entered by Registrar*]

. . . . . . . . . . . . . . . . . . . . .

*Registrar*

This originating process is filed by [*name*] for the plaintiff.

**E. SERVICE**

The plaintiff’s address for service is [*address of plaintiff’s legal practitioner or of plaintiff*].

\*It is not intended to serve a copy of this originating process on any person.

*OR*

\*It is intended to serve a copy of this originating process on each defendant and on any person listed below:

[*name of defendant and any other person on whom a copy of the originating process is to be served*]

[***Complete the following section if the time for service has been abridged***]

The time by which a copy of this originating process is to be served has been abridged by order made by [*name of Judge or other Court officer*] on [*date*] to [*time and date*].

\*   *Omit if not applicable*