

- (b) a petition shall not be presented by any person except a contributory or the Minister if the ground of the petition is default in lodging the statutory declaration under subsection 190(3);
- (c) the Court shall not hear the petition if presented by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and a *prima facie* case for winding up has been established to the satisfaction of the Court; and
- (d) the Court shall not, where a company is being wound up voluntarily, make a winding up order unless the Court is satisfied that the voluntary winding up cannot be continued with due regard to the interests of the creditors or contributories.

Circumstances in which company may be wound up by Court

465. (1) The Court may order the winding up if—

- (a) the company has by special resolution resolved that the company is to be wound up by the Court;
- (b) the company defaults in lodging the statutory declaration under subsection 190(3);
- (c) the company does not commence business within a year from its incorporation or suspends its business for a whole year;
- (d) the company has no member;
- (e) the company is unable to pay its debts;
- (f) the directors have acted in the affairs of the company in the directors' own interests rather than in the interests of the members as a whole or acted in any other manner which appears to be unfair or unjust to members;

- (g) when the period, if any, fixed for the duration of the company by the constitution expires or the event, if any, occurs on the occurrence of which the constitution provide that the company is to be dissolved;
- (h) the Court is of the opinion that it is just and equitable that the company be wound up;
- (i) the company has held a licence under the Financial Services Act 2013 or the Islamic Financial Services Act 2013, and that the licence has been revoked or surrendered;
- (j) the company has carried on a licensed business without being duly licensed or the company has accepted, received or taken deposits in Malaysia, in contravention of the Financial Services Act 2013 or the Islamic Financial Services Act 2013, as the case may be;
- (k) the company is being used for unlawful purposes or any purpose prejudicial to or incompatible with peace, welfare, security, public interest, public order, good order or morality in Malaysia; or
- (l) the Minister has made a declaration under section 590.

(2) For the purpose of winding up actions commenced by the Registrar under paragraph (1)(k), the finding of the Registrar that a company is being used for unlawful purposes or any purpose prejudicial to national security or public interest or incompatible with peace, welfare, public order, security, good order or morality in Malaysia shall in all Courts and by all persons having power to take evidence for the purposes of this Act, be received as *prima facie* evidence until proven otherwise.

Definition of “inability to pay debts”

466. (1) A company shall be deemed to be unable to pay its debts if—