

## Companies (Second Amendment) Act, 2002

### Section 63 - Substitution of New Section for Section 448

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For section 448 of the principal Act, the following section shall be substituted, namely:--

'448. Appointment of Official Liquidator.-- (1) For the purposes of this Act, so far as it relates to the winding up of a company by the Tribunal, there shall be an Official Liquidator who--

(a) may be appointed from a panel of professional firms of chartered accountants, advocates, company secretaries, costs and works accountants or firms having a combination of these professions, which the Central Government shall constitute for the Tribunal; or

(b) may be a body corporate consisting of such professionals as may be approved by the Central Government from time to time; or

(c) may be a whole-time or a part-time officer appointed by the Central Government:

Provided that, before appointing the Official Liquidator, the Tribunal may give due regard to the views or opinion of the secured creditors and workmen.

(2) The terms and conditions for the appointment of the Official Liquidator and the remuneration payable to him shall be--

(a) approved by the Tribunal for those appointed under clauses (a) and (b) of sub-section (1), subject to a maximum remuneration of five per cent, of the value of debt recovered and realisation of sale of assets;

(b) approved by the Central Government for those appointed under clause (c) of sub-section (1) in accordance with the rules made by it in this behalf.

(3) Where the Official Liquidator is an officer appointed by the Central Government under clause (c) of sub-section (1), the Central Government may also appoint, if considered necessary, one or more Deputy Official Liquidators or Assistant Official Liquidators to assist the Official Liquidator in the discharge of his functions, and the terms and conditions for the appointment of such Official Liquidators and the remuneration payable to them shall also be in accordance with the rules made by the Central Government.

(4) All references to the "Official Liquidator" in this Act shall be construed as reference to the Official Liquidator specified in sub-section (1), or to the Deputy Official Liquidator or Assistant Official Liquidator referred to in sub-section (3), as the case may be.

(5) The amount of the remuneration payable shall--

(a) form part of the winding up order made by the Tribunal;

(b) be treated as first charge on the realisation of the assets and be paid to ; the Official Liquidator or to the Central Government, as the case may be.

(6) The Official Liquidator shall conduct proceedings in the winding up of a company and perform such duties in reference thereto as the Tribunal may specify in this behalf:

Provided that the Tribunal may--

(a) transfer the work assigned from one Official Liquidator to another Official Liquidator for the reasons to be recorded in writing;

(b) remove the Official Liquidator on sufficient cause being shown;

(c) proceed against the Official Liquidator for professional misconduct.'

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