NOTES REGARDING EMPLOYEES CLAIMS

A : Arrear Salary

An employee is entitled to claim the **arrear** salary due to him/her. A statutory preference is given to employees, excluding a Director of a Company or a Member of a Close Corporation, in respect of arrear salary for a period of three months prior to the Liquidation of the Company. This preference is restricted to an amount of R12 000,00. Should your claim exceed R12 000,00 or three months, the balance of your claim for arrear salary will be concurrent and will have to be claimed for in a Claim Affidavit, eg :

1. Claim for 1 to 3 month's salary for a total of R12 000,00 (or less): the full amount is preferent (Employee's Claim form to be completed).

2. Claim for 1 to 3 month's salary for a total of R12 000,01 (or more): R12 000,00 is preferent (to be claimed on an Employees claim form) and the amount exceeding R12 000,00 is concurrent (to be claimed on a Claim Affidavit).

3. Claim for 4 (or more) month's salary: The rules above apply ie three month's will be preferent, provided the amount does not exceed R12 000,00 (Employees claim form). The balance will be concurrent (Claim Affidavit).

B : Leave Pay

An employee is entitled to claim the leave pay due to him/her. A statutory preference is given to employees, excluding a Director of a Company or a Member of a Close Corporation, in respect of leave due to them during the year of the insolvency or the year preceding the insolvency. This preference is restricted to an amount of R4 000,00. Should your claim exceed R4 000,00 or include leave over and above the leave due to you for the year of the insolvency or the year preceding the insolvency, the balance of your claim for leave pay will be concurrent and will have to be claimed for in a Claim Affidavit, eg :

1. Claim for current leave – one year preceding insolvency : leave for a total of R4 000,00 (or less): the full amount is preferent (Employee's Claim form to be completed).

2. Claim for current leave – one year preceding insolvency : leave for a total of R4 000,01 (or more): R4 000,00 is preferent (to be claimed on an Employees claim form) and the amount exceeding R4 000,00 is concurrent (to be claimed on a Claim Affidavit).

3. Claim for more than one year preceding insolvency: The rules above apply ie current leave – one year preceding insolvency will be preferent, provided the amount does not exceed R4 000,00 (Employees claim form). The balance will be concurrent (Claim Affidavit).

(Leave pay calculation : Rmonthly salary ÷ 21.67 days x number of leave days due = R……)
(Leave pay calculation : Rweekly wage ÷ work week days x number of leave days due = R……)

C : Severance / Retrenchment Pay

Your claim for severance / retrenchment pay will be preferent up to an amount of R12 000.00. (Employee's Claim form to be completed). A Claim Affidavit will have to be completed in respect of any amount claimed above R12 000.00.

A certified copy of your Retrenchment Letter / Notice is to be attached to your Claim for Severance / Retrenchment Pay.

(Severance pay calculation : Rmonthly salary x 12 months ÷ 52 weeks x number of <u>completed</u> years employed = R……)
(Severance pay calculation : Rweekly wage x number of <u>completed</u> years employed = R……)

D : Notice Pay

This is concurrent and is to be claimed on a Claim Affidavit.

E : Claim Affidavit

The Claim Affidavit should only be completed if your preferent claim is in excess of the statutory limits set out above. This portion is a concurrent claim and you will share in any free residue, if any, equally with all other concurrent creditors. Should you therefore have a preferent and concurrent claim you need to send us both claims in order to qualify for all your dividends.

In order for your concurrent claim to be proved, the following is of utmost importance when preparing your claim affidavit. Should your claim not be completed in compliance with these notes, your claim will be rejected. Kindly take not that you may email a copy of your claim, however the Master will only accept an original and, as such your claim needs to reach our offices timeously.

Please complete items 1 – 6 of the claim affidavit. Items 4 and 5 must only state the balance of your claim i.e. the total claim less your total preferent portion.

Item 6 must state that it is for remuneration.

You need not complete Items 9 and 10 as these items refer to creditors that are not employees.

The claim affidavit should be fully completed and must be signed before a Commissioner of Oaths. The Commissioner of Oaths must not have a direct or indirect interest in the claim and hence cannot be an employee of the Creditor proving the claim against the Estate.

The Power of Attorney need only be completed should you wish to vote for the election of a Trustee/Liquidator or the adoption of resolutions at a Meeting of Creditors.

A copy of your latest salary slip or wage packet is to be annexed to your claim.

Stowell
295 Pietermaritz Street Pietermaritzburg 3201 Docex 20
Postal: P.O.Box 33 Pietermaritzburg 3200 South Africa
Telephone: (033) 845 0500
Fax: 342 2976 (Insolvency)
ESTATE ADMINISTRATION TRUST (Stowell Estate Administration Trust, IT No. 1574/96)

EMPLOYEE'S CLAIM FORM

* In the Insolvent Estate of / In the matter of *

_____

(In Liquidation)

EMPLOYEE'S FULL NAME _____

IDENTITY NUMBER _____

EMPLOYEE'S TEL NO _____ EMAIL _____

POSTAL ADDRESS _____

_____

_____

PHYSICAL ADDRESS _____

_____

_____

1. OCCUPATION _____ 2. EMPLOYEE / CLOCK No _____
3. EMPLOYMENT DATE _____ 4. YEARS' SERVICE _____
5. MONTHLY SALARY _____
6. WEEKLY WAGE _____ (Where paid weekly)
7. BANK DETAILS

NAME OF ACCOUNT HOLDER _____

BANK _____ ACCOUNT NUMBER _____

BRANCH _____ BRANCH CODE _____

SECTION 98A CLAIM AGAINST THE ESTATE

ARREAR SALARY / WAGES :

Period being claimed for : _____
Amount being claimed : R_____

LEAVE PAY :

Period being claimed for : _____
Amount being claimed : R_____

ABSENCE PAY :

Period being claimed for : _____
Amount being claimed : R_____

SEVERANCE / RETRENCHMENT PAY :

Amount being claimed : R_____

TOTAL CLAIM: R_____

Employee's Signature : _____ **Date :** _____

(PLEASE ATTACH A COPY OF YOUR SALARY SLIP AND ID)

Stowell

295 Pietermaritz Street Pietermaritzburg 3201
Postal: P.O.Box 33 Pietermaritzburg 3200 South Africa
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Docex 20
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ESTATE ADMINISTRATION TRUST (Stowell Estate Administration Trust, IT No. 1574/96)

AFFIDAVIT FOR THE PROOF OF ANY CLAIM OTHER THAN A CLAIM BASED ON A PROMISSORY NOTE OR OTHER BILL OF EXCHANGE

(Section 44(4) of the Insolvency Act 24 of 1936)

* In the Insolvent Estate of / In the matter of *

_____

(In Liquidation) hereinafter referred to as the "debtor"

I, _____

* do hereby make oath and say that / do solemnly and sincerely declare that : *

(1) # I depose to this affidavit * in my capacity as _____ of the creditor (duly authorised by Power of Attorney, a copy of which is annexed marked "A") / being fully cognizant of the claim in that I have full knowledge of the facts set out hereinafter from the Books and Records under my control pertaining to the claim *

(2) The name of the creditor to whom the claim hereinafter set forth relates, in full :

_____

hereinafter referred to as the "creditor"

(3) The address of the creditor in full is :

Physical Address : _____ Postal Address : _____

_____ _____

_____ _____

_____ _____

(4) The total amount of the claim (in numbers) is the sum of : R_____

(5) The debtor * whose estate has been sequestrated / liquidated* was at the date of * sequestration / liquidation *, and still is, indebted to the creditor in the sum of (amount of claim in words)

_____

(6) Nature of the debt : _____

(7) The said debt arose in the manner and at the time set forth in the Statement of Account annexed hereto, marked "B".

(8) No person besides the debtor is liable (other than as surety) for the said debt or any part thereof.

(9) That the creditor has not, nor has any other person to my knowledge on * my / its * behalf received any security for the said debt or any part thereof, save and except :

(a) Type of Security _____ (b) Amount of Security : _____

(c) when such security was issued _____ (d) by whom such security was issued _____

(e) on the terms and conditions which appear from a true copy of such security, annexed hereto, marked "C" * .

(10) I value the said security at the sum of R_____

We * do / do not * rely for the satisfaction of our claim solely on the proceeds of the realisation thereof.

(11) * That insofar as may be necessary, as more fully appears from the Account annexed hereto, marked "B", the requirements of Section 44(6)of the Insolvency Act 24 of 1936 (as amended) have been complied with *. ##

(12) The claim * was / was not * acquired by cession after the institution of the * sequestration / liquidation* proceedings. A true copy of the cession is annexed hereto, marked "D".

Signature of * deponent / declarant _____

The deponent acknowledges that he / she knows and understands the contents of this Affidavit, which was signed and sworn to before me at _____ on this _____ day of _____ 20 _____, the Regulations contained in Government Notice R1258 of 21 July 1972 (as amended), having been complied with.

Commissioner of Oaths _____
Full Names _____
Address _____
Capacity _____

Notes : (To be read carefully)

* Delete (and initial each deletion) what is inappropriate to the facts of the case.

\# Section 44(4) of the Insolvency Act provides for two alternatives as regards attestation. Where the Deponent is not the creditor, he must be duly authorised by a Power of Attorney in proper form, which must be filed herewith. This Affidavit must otherwise be deposed to by a person with full knowledge of the facts, that is to say, not necessarily personal knowledge of each transaction on which the claim is based, but who is fully informed by the Books and Records under his control.

\## Ad paragraph 10, Section 44(8) of the Insolvency Act provides that "a claim against an Insolvent Estate for payment of the purchase price of goods sold and delivered to the Insolvent on an open account shall not be admitted to proof unless a Statement of Account is submitted in support of such claim showing the monthly total and a brief description of the purchases and payment for the full period of trading or for the period of twelve months immediately before the date of sequestration, whichever is the lesser".

General :

1. Each page of the Affidavit (and each page of each annexure) is to be initialled by the Deponent and the Commissioner of Oaths.
2. The Deponent must sign the Affidavit at the place provided after paragraph 12
3. The Deponent must ensure that the Commissioner of Oaths specifies his capacity AND his full names in the legible form.

(For our purposes only)

CLAIM :

In the Insolvent Estate of / In the matter of :

(In Liquidation)

In the event that you would like any dividend payment payable to you to be deposited directly into your Bank Account, kindly complete this form and return it to us together with your claim documents.

Name of Account Holder	
Bank	
Branch	
Branch Code	
Account Number	

Signature of Deponent to Affidavit

ANNEXURE A

POWER OF ATTORNEY

TO PROVE CLAIMS AND VOTE FOR TRUSTEES OR LIQUIDATORS, AND GENERALLY TO ACT IN THE MATTER OF

_____

(Insert Name of Insolvent / Company / Close Corporation)

I / We, the undersigned,

_____in my / our capacity as * _____ of ** _____ do hereby nominate, constitute and appoint _____ jointly and severally, with Power of Substitution to be my / our lawful Attorney/s and Agent/s, in my / our name, place and stead, to appear before the Master of the High Court or before any Magistrate, or before any Presiding Officer, at his or their office, likewise before any Commissioner, and to appear at all Meetings of Creditors to be held in the above matter and then and there as my / our agent in name and deed to prove and file my / our claim/s against the Estate or the Company In Liquidation, as the case may be; to vote for the election of a Trustee / Liquidator, as the case may be, to administer the Estate or the Company In Liquidation, as the case may be; to give the Trustee/s and Liquidator/s directions as to the management thereof; on my / our behalf to examine any person/s, and further to represent me / us in all matters or things relating to the Estate or Company In Liquidation, as the case may be, including the right to vote on an Offer of Compromise, Scheme of Arrangement or Composition, and generally for effecting the purposes aforesaid, to do or cause to be done, whatsoever shall be requisite, as fully and effectually to all intents and purposes as I / we might or could do if personally present and acting herein, hereby ratifying, allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever my / our said Attorney/s and Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

GIVEN under my / our hand at _____ on this _____ day of _____20____, in the presence of the undersigned witnesses.

_____

(Signature)

AS WITNESSES

1. _____ 2. _____

* Insert whether Director, Owner or Partner

** Insert Name of Firm or Company

NB A Manager or Secretary may only sign if his authority has been registered with the Master of the High Court, or if a certified copy of a Resolution of the Board of Directors of the Company authorising such Manager or Secretary to sign is lodged with the claim.