



**ASIC**

Australian Securities & Investments Commission

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## **Fact sheet for members of the professional accounting bodies**

### **Lodging notices for publication on the insolvency notices website with a focus on 'members' voluntary liquidations**

#### **What is required?**

##### Notices

From **1 July 2012**, liquidators must lodge most insolvency notices with ASIC for publication on our insolvency notices website<sup>1</sup>. This replaces the requirement to publish the notices in the print media and the Business Gazette.

The types of notices that you will commonly lodge with ASIC for a members' voluntary liquidation are:

1. notices relating to appointments; and
2. notices of meetings of members.

Other types of notices that will also be lodged on the website are

1. winding up applications;
2. notices of intention to disclaim property;
3. notices calling for proofs of debt and intention to declare dividends; and
4. company deregistration.

Amendments to the publication requirements in the Federal and Supreme Court Rules have not yet been made. Until those rules are amended, the only notice which registered liquidators must continue to publish in the print media is the notice of the winding up order and appointment, when a court appoints a liquidator.

When you lodge the notice, you will need to pay the fee by credit card. We describe this in more detail below.

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<sup>1</sup> See the Corporations Amendment (Phoenixing and Other Measures) Act 2012 and the Corporations Legislation Amendment Regulation 2012 (No 1)

## Who is affected?

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Registered liquidators	Will need to lodge most notices for publication on the website maintained by ASIC rather than in newspapers and Business Gazette.
Solicitors	Website publication is required for notices of winding up applications. See "What doesn't change" below where we note that the Court rules will still require certain print media advertising. .
Members' voluntary liquidators	Will need to lodge notices for publication on the website relating to the passing of a resolution to voluntarily wind up, notices of meetings and dividend notices.
All creditors and other stakeholders	Anybody with an interest in corporate insolvency can easily search for relevant notices on the website.

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## Members' Voluntary Liquidation

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Appointment	Paragraph 491(2)(b) of the Corporations Act 2001 requires notice of the special resolution to wind up a company voluntarily to be published in the prescribed manner from 1 July 2012. The Corporations Regulations prescribe ASIC's website for this purpose (see regulation 5.6.75).
Meetings	<p>A meeting may be convened by a liquidator in a members' voluntary winding up under the Corporations Act 2001 as follows:</p> <p>Subsection 479(2) – Notice of meeting of contributories.</p> <p>Section 496 – Notice of meeting of creditors.</p> <p>Paragraph 508(1)(a) – Annual meeting of members.</p> <p>Subsection.509(2) –Final meeting of members.</p> <p>From 1 July 2012, all of these notices are required to be published on ASIC's insolvency notices website rather than in the print media.</p>
Proofs of Debt	From 1 July 2012, Corporations Regulations 5.6.39 and 5.6.48 require that a notice calling for proofs of debt or claims against a company to be published on ASIC's insolvency notices website.
Dividends	From 1 July 2012, Corporations Regulations 5.6.65 and 5.6.69 require that a notice of intention to declare a dividend for a company be published on the insolvency notices website.

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## What can I search?

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### Free searching

There will be a basic free search function allowing you to search for a particular notice based on the following parameters.

1. company name.
2. A.C.N.
3. trading name.
4. appointment type (eg court liquidation, voluntary administration etc)
5. notice purpose ( eg meeting of creditors, appointment, declaration of dividend, disclaimer etc).
6. publication date.

We expect to introduce more advanced search functionality with additional search parameters post 1 July 2012.

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### Date

Only notices published after 1 July 2012 will appear on the website.

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## What doesn't change?

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### Sending notices

You will still need to send a hard copy of all relevant notices to creditors.

### ASIC's liquidator portal

You will still need to lodge relevant forms (eg Forms 505, 507, 529 and minutes of meetings) and documents with ASIC via ASIC's liquidator portal tab on ASIC's main website, [www.asic.gov.au](http://www.asic.gov.au).

### Forms (paper) lodged with ASIC

If you are not registered for the liquidator portal and lodge paper forms, you will still need to lodge these paper forms with ASIC.

### Publishing a Notice of Appointment of Liquidator

The Federal and Supreme Court Rules still contain print media advertising requirements. We understand those rules will be changed, but until then you will need to continue to publish in the print media a notice of winding up and appointment when you are appointed by the Court.

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## What can I do now?

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### Prepare for change

Checklists and precedents. You can prepare for this change by reviewing your checklists and precedents and identifying changes.

Paying by credit card. You might also consider setting up credit card facilities (VISA or MasterCard only) so you can pay for notices you lodge. You cannot use account facilities with ASIC to publish notices on the website.

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### Check your website Browser

The website supports the following applications:

- Internet Explorer 7 and higher;
  - Firefox 2.0.0.2 and higher;
  - Safari 3.1.2 and higher;
  - Google Chrome 1.0 and higher.
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### Communicate

Ensure staff awareness of the changes.

Let your clients and professional network know about the changes

Importantly, consider changes to creditor and member communications (circulars, reports and your website) that inform creditors and members about the new website and directs them to it to find notices published by you on the new website.

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## How will I register to use the ASIC website?

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### Registration

Go to [insolvencynotices.gov.au](http://insolvencynotices.gov.au) after July 1, 2012 and sign up. To do this, click on the Sign up button on the top right of the screen.

[Log in](#) [Sign up](#)



Complete your details. An email with all the details of signing up will be sent to you.

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### Payment

To lodge a notice for publication, you will pay by either Visa or MasterCard (only). You should consider now how this affects your practice.

You **cannot** lodge a notice for publication without payment.

ASIC **will not** provide accounts to any user. ASIC may upgrade the website at a later date to provide for accounts.

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### Cost of notices

The Corporations (Fees) Regulations set out the prescribed fees for publication on the new website – see Items 42A and 42B of Schedule 1 of the Fees Regulations.

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## How do I lodge a notice for publication?

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### Creating

After you confirm the details of your registration, you can login and go to your "My notices" page and click on, "create a notice".

The website will prompt you to select, in order:

1. Appointment type
2. Notice type
3. A specific type of notice to lodge

The website will ask you to enter company details and notice specific details. The website will then automatically create a draft notice for you to review.

Note: For the time being, the insolvency notices website will operate independently of ASIC's main companies database (it is not integrated like the liquidator portal). Therefore, you will need to enter company details (name, ACN etc). Lodging notices on the new website will not impact or update ASIC's companies database.

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### Lodging

Once you are satisfied the notice is correct, you can add it to your shopping cart and then pay for it.

The website will direct you to a secure website for payment.

Once payment is processed, the notice will be taken to be lodged with ASIC for publication on the website.

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*\*Current at 29June 2012*