

The Insolvency Act 1986**Liquidator's Progress Report****S. 192****Pursuant to Section 92A, 104A and 192 of the
Insolvency Act 1986**

To the Registrar of Companies

For Official Use

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Company Number

00137369

Name of Company

(a) Insert full Name
of Company

(a) Elliott's Estates Limited

(b) Insert full name(s)
and address(es)

I/We (b)
Antony Denham
DLP House
46 Prescott Street
Halifax
HX1 2QW

Sarah Long
DLP House
46 Prescott Street
Halifax
HX1 2QW

the liquidator(s) of the company attach a copy of my/our Progress Report under
section 192 of the Insolvency Act 1986

The Progress Report covers the period from 31 October 2014 to 30 October 2015

Signed



Date 23/11/2015

DL Partnership (UK) Limited
DLP House
46 Prescott Street
Halifax
HX1 2QW

Ref AD/SL/Elliotts

For Official Use

Insolvency Sect

Post Room

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COMPANIES HOUSE

**Elliott's Estates Limited – In Liquidation ("the Company")
Joint Liquidators' Second Annual Progress Report to Members
In Accordance with Section 92A of the Insolvency Act 1986**

1 Introduction

- 1.1 At a meeting of members held on 31 October 2013, a resolution was passed that the Company be wound-up and that we Sarah Long and Antony Denham of DL Partnership LLP, 90 New North Road, Huddersfield, HD1 5NE be appointed as Joint Liquidators
- 1.2 With effect from 1 June 2014 the business and assets of DL Partnership LLP (DLP") were transferred to DL Partnership (UK) Limited ("DLP") of DLP House, 46 Prescott Street, Halifax, HX1 2QW. There have been no changes in the office holders.
- 1.3 The Company carried on business in the letting and operating of own or leased real estate from premises situated at 25 Fenay Bridge Road, Lepton, Huddersfield, HD8 0AY
- 1.4 The Company is registered at Companies House under the number 00137369 and its current registered office is c/o DLP House, 46 Prescott Street, Halifax, HX1 2QW.
- 1.5 This is our second annual progress report to members on the conduct of the Liquidation in accordance with Section 92A of the Insolvency Act 1986.

2 Receipts and Payments

- 2.1 Please find enclosed at Appendix A, a copy of the receipts and payments account for the period 31 October 2014 to 30 October 2015

3 Asset Realisations

- 3.1 As detailed in our last annual report to members, the Company's assets comprised of intangible assets, land and buildings, plant and machinery, investment properties, debtors and cash at bank. The total value of these assets at the time of Liquidation was £4,706,178.
- 3.2 Prior to our appointment the final balance sheet of the Company was split in order that the assets and liabilities could be transferred to two new companies, namely B Elliott Farming Limited ("BE Farm") and B Elliott Property Limited ("BE Property"). Immediately following our appointment as Liquidators the respective assets and liabilities were transferred to the new companies in accordance with the S110 agreement. In consideration of the transfers, both BE Farm and BE Property issued new shares to the existing shareholders in the Company. Further details of the distributions can be found at Section 7 of this report.
- 3.3 As part of the S110 agreement both BE Farm and BE Property agreed to assume and discharge all of the respective liabilities of the split business as and when they fell due for payment. Therefore, two novation agreements were put in place in relation to the inter company loans (Elliott Farming Limited, Crossgates Quarries Limited and Calder Coal Co Limited) and shareholder loans such that BE Farm assumed the inter company loans and BE Property assumed the shareholder loans.

- 3.4 Furthermore, a deed of assignment of trust was also signed between Brian Elliott, Alice Margaret Elliott, the Company and BE Property in respect of a property in Portugal. This deed enabled the Company to assign its interest in this property to BE Property as part of the reconstruction of the Company.
- 3.5 All land and property titles owned by the Company were duly transferred to either BE Farm or BE Property by completion of the relevant Land Registry TR5 forms.
- 3.6 A deed of indemnity was also entered into by the Joint Liquidators, the Company, BE Farm and BE Property.
- 3.7 All assets were realised during the previous reporting period and as such, the only income received during the period 31 October 2014 to 30 October 2015 has been gross bank interest of £4 making totalling gross bank interest received to date of £11 plus £65 of interest received on the pre appointment corporation tax. At all material times funds have been held on an interest bearing designated estate account.
- 3.8 Unfortunately, we have been unable to conclude the Liquidation as there is a final transfer of land situated at Whitley Willows to be completed which we had not previously been made aware of. The former shareholder of the Company, Mrs Elizabeth Elliott is continuing to pursue the solicitors on a regular basis. However in her most recent update to us, Mrs Elliott had been informed that the land transfer cannot be completed until all other plots situated at Whitley Willows have been sold. Therefore, Mrs Elliott is currently evaluating the position and whether or not we have any alternative options in which to deal with this final land transfer.

4 Payments

- 4.1 During the previous reporting period, pre appointment corporation tax and VAT of £26,202 and £686 respectively was paid to HM Revenue & Customs ("HMRC")
- 4.2 Corporation Tax of £1 has been paid to HMRC during the period 31 October 2014 to 30 October 2015 in respect of the tax incurred on the gross bank interest received during the previous reporting period
- 4.3 All VAT incurred during the Liquidation has been recoverable.

5 Basis of the Joint Liquidators' Remuneration

- 5.1 At the meeting of shareholders held on 31 October 2013 the following resolutions were passed by the members:
- *"The remuneration of the Liquidator be fixed by reference to the time properly spent by them and their staff in connection with the Liquidation capped at £5,000 plus disbursements and that they are authorised to draw fees on account."*
 - *"The Liquidators be at liberty to recharge disbursements as detailed in the circulated Creditors Guide to Liquidators' Fees."*
- 5.2 Our firm's time costs in relation to the administration of the Liquidation for the period 31 October 2014 to 30 October 2015 amount to £715 making total time costs incurred to date of £4,595. We can confirm that no remuneration has been drawn during this reporting period or any previous reporting period. Please find detailed overleaf a summary of time charged by each member of our staff.

Hours					Time Cost £	Average hourly rate £
Classification of work function	Partner	Associate	Cashier	Total Hours		
Administration and planning	12 00	3 80	1 00	16 80	3,130 00	186 31
Realisation of Assets	-	1 00	-	1 00	100 00	100 00
Creditors	1 00	3 40	-	4 40	650 00	147 73
Total Hours/ Fees claimed to 30 October 2014	13.00	8.20	1.00	22.20	3,880.00	174.77
Administration and planning	0 50	1 50	1 60	3 60	470 00	130 56
Creditors	0 50	0 80	-	1 30	245 00	188 46
Total Hours/ Fees claimed to 30 October 2015	14 00	10.50	2.60	27 10	4,595.00	169.56

5.3 To reduce the level of professional costs incurred, some of the work has been conducted by staff under our supervision. The hourly charge-out rates for each level of our staff applicable for the period of this report are detailed at Appendix B.

5.4 The work undertaken by this firm is briefly detailed below:

Case Administration and Planning – This includes dealing with all statutory matters required by legislation and professional guidelines including periodic returns and reports, all internal case review and case progression matters including planning, set-up and maintenance of records, together with cashiering and general secretarial work.

Realisation of Assets – This specifically relates to the issues dealt with at Section 3 of this report.

Creditors – This includes general communication with creditors and shareholders, the receipt and agreement of claims, the completion of pre-insolvency tax returns and the payment of distributions to shareholders.

5.5 A guide to Liquidators' fees is attached at Appendix C for your information together with a statement of members' rights in this regard at Appendix D.

6 Joint Liquidators' Disbursements

6.1 Disbursements of £14 representing postage of £4 and photocopying of £10 have been incurred during the period 31 October 2014 to 30 October 2015 making total disbursements incurred to date of £987. Disbursements of £987 have been recharged to the estate to date with the sum of £14 being billed during the period 31 October 2014 to 30 October 2015. A breakdown of disbursements is included overleaf:

Category 1 Disbursements:		£	Category 2 Disbursements:	£
Statutory Insurance Bond Statutory Advertising Postage		720.00	Photocopying	9.90
		253.80		
		3.66		
		977.46		9.90

- 6.2 Details of the rates at which these charges are made are shown at Appendix B. We would confirm that creditors approved our Category 2 disbursements at the meeting of shareholders held on 31 October 2013

7 Distributions to Shareholders

- 7.1 In accordance with the Section 110 agreement and the Insolvency Act 1986 the assets, business and liabilities of the Company were split and transferred to BE Farm and BE Property by the Joint Liquidators in consideration of a new share issue from both companies. Both companies issued 241,790 new ordinary shares of £0.10 each, having previously issued 10 ordinary subscriber shares of £0.10 issued at nil to Mark Elliott (as the initial subscriber).
- 7.2 The new share issues in BE Farm and BE Property were then immediately distributed to the members, thereby leaving the current shareholding in each company:

Shareholder	BE Farm (ord £0.10 shares) - number of shares	BE Property (ord £0.10 shares) - number of shares
Brian Elliott	61,905	61,905
Alice Margaret Elliott	24,180	24,180
Mark Elliott	107,355	107,355
Amanda Jane Elliott	24,180	24,180
Elizabeth Ann Elliott	24,180	24,180
Total shares	241,800	241,800

- 7.3 Full tax clearance has now been received from all departments of HMRC. However, in accordance with Section 3 above we are unable to conclude the Liquidation until the final land transfer has been completed. Upon the above being done, we will draw our agreed remuneration, deal with the small remaining balance on the account and convene a final meeting of shareholders.

8 General

- 8.1 If you require any further information, please do not hesitate to contact this office

Signed


Antony Denham (9613)
Joint Liquidator

Date. 23/11/2015

Elliott's Estates Limited - in Liquidation
APPENDIX A - Joint Liquidators' Receipts and Payments Account

<u>Estimated to Realise as per</u> <u>Declaration of Solvency</u>		<u>Period 31 10 2013</u> <u>to 30 10 2014</u>	<u>Period 31 10 2014</u> <u>to 30 10 2015</u>	<u>Cumulative</u> <u>Total</u>
		£	£	£
	Receipts			
75,616 00	Plant & Machinery	0 00	0 00	0 00
45,674 00	Debtors	0 00	0 00	0 00
84,641 00	Cash at Bank	36,226 72	0 00	36,226 72
	Gross Bank Interest	6 49	4 26	10 75
	Interest Received on Corporation Tax	65 33	0 00	65 33
29,866 00	Intangible Assets	0 00	0 00	0 00
1 817,716 00	Land and Buildings	0 00	0 00	0 00
2,652,665 00	Investment Property	0 00	0 00	0 00
	Asset Realisation (via S110 agreement)	4,669,951 00	0 00	4,669,951 00
4,706,178 00	Total	4,706,249 54	4 26	4,706,253 80
	Payments			
	Joint Liquidators' Disbursements	973 80	13 56	987 36
	VAT - Pre Appointment	686 22	0 00	686 22
	Corporation Tax - Pre Appointment	26,202 40	0 00	26,202 40
	Corporation Tax - Post Appointment	0 00	1 20	1 20
	Liabilities novated (via S110 agreement)	227,709 00	0 00	227,709 00
	Shareholder distribution (via S110 agreement)	4,442,242 00	0 00	4,442,242 00
	Total	4,697,813 42	14 76	4,697,828 18
	Balance	8,436 12	(10 50)	8,425 62
	Made Up as Follows			
	Output VAT			0 00
	Cash at Bank			8,422 91
	Input VAT			2 71
				8,425 62

APPENDIX B - DL PARTNERSHIP PUBLISHED TARIFF OF CHARGE-OUT RATES & DISBURSEMENTS

1. Basis of the Joint Liquidators' Remuneration

The hourly charge-out rates for each level of our staff applicable for the period 31 October 2013 to 31 March 2014 are detailed below

Grade	Rate per hour
	£
Partners	200
Associates	100

The hourly charge-out rates for each level of our staff applicable for the period from 1 April 2014 are detailed below:

Grade	Rate per hour
	£
Partners	250
Associates	150
Cashier	75

The level of staff has been selected based upon the nature and complexity of the assignment. All staff involved in the assignment have been charged directly to the case in units of six minutes in line with the time-cost resolution approved by creditors

2. Joint Liquidators' Disbursements

Category 1 disbursements relate to external services provided which are directly attributable to the case. Category 2 disbursements relate to shared or allocated costs which generally relate to internal charges made for items such as postage, faxes and internal room hire

Details of the rates at which these charges are made are shown below. In our opinion the charges are in line with the cost of external provision of these charges and (where applicable) in accordance with Rule 13 11(b) of the Insolvency Rules 1986

Disbursement	Charge
Photocopying (circulars only, per page)	15p
Faxes (incoming & outgoing, per page)	25p
Internal Room Hire (per hour, minimum charge £25)	£25.00
Mileage (per mile)	40p - 50p

In accordance with best practice guidelines as set out in Statement of Insolvency Practice 9, creditors' approval is required for Category 2 disbursements to be charged as an expense of the Liquidation.

APPENDIX C - A CREDITORS' GUIDE TO LIQUIDATORS' FEES ENGLAND AND WALES

1 Introduction

1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

2 Liquidation procedure

2.1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.

2.2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.

2.3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.

2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

3 The liquidation committee

3.1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.

3.2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the progress of the liquidation, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

4 Fixing the liquidator's remuneration

4.1 The basis for fixing the liquidator's remuneration is set out in Rules 4.127 – 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed

- as a percentage of the value of the assets which are realised or distributed or both,
- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, or
- as a set amount.

Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator. It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied. Rule 4.127 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case,
- any responsibility of an exceptional kind or degree which falls on the liquidator in connection with the insolvency,
- the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the assets which the liquidator has to deal with.

4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.3 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.

4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

5 Review of remuneration

Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

6 What information should be provided by the liquidator?

6.1 When fixing bases of remuneration

6.1.1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.

6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.

6.1.3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.1.4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.2 After the bases of remuneration have been fixed

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7.1, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.3 Disbursements and other expenses

6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories:

- Category 1 disbursements. These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.
- Category 2 disbursements. These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

6.3.2 The following are not permissible:

- a charge calculated as a percentage of remuneration,
- an administration fee or charge additional to the liquidator's remuneration,
- recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

6.4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

7. Progress reports and requests for further information

7.1 The liquidator is required to send annual progress reports to creditors. The reports must include:

- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period,
- a statement of the creditors' rights to request further information, as explained in paragraph 7.2, and their right to challenge the liquidator's remuneration and expenses.

7.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

7.3 The liquidator must provide the requested information within 14 days, unless he considers that:

- he time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
- the liquidator is subject to an obligation of confidentiality in relation to the information requested, in which case he must give the reasons for not providing the information.

Any creditor may apply to the court within 21 days of the liquidator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information.

8. Provision of information – additional requirements

The liquidator must provide certain information about the time spent on the case, free of charge, upon request by any creditor, director or shareholder of the company. The information which must be provided is –

- the total number of hours spent on the case by the liquidator or staff assigned to the case,
- for each grade of staff, the average hourly rate at which they are charged out,
- the number of hours spent by each grade of staff in the relevant period

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the liquidator's appointment, or where he has vacated office, the date that he vacated office. The information must be provided within 28 days of receipt of the request by the liquidator, and requests must be made within two years from vacation of office.

9 What if a creditor is dissatisfied?

9.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing.

9.2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court.

9.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing.

9.4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company.

10 What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

11 Other matters relating to remuneration

11.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.

11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.

11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.

11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.

11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.

11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

12. Effective date

This guide applies where a company goes into liquidation on or after 1 November 2011.

APPENDIX D – STATEMENT OF CREDITORS’ RIGHTS

1 Members’ Right to Request Further Information

- 1.1 twenty-one days of receipt of this progress report (or seven business days where the report has been prepared for the purposes of a meeting to receive the office holders’ resignation), a member may request that the Joint Liquidators provide further information about their remuneration and expenses as set out in this report.
- 1.2 A request must be in writing and may be made by a member of the company with at least five percent of the total voting rights of all the members having the right to vote at general meetings, or any member with the permission of the Court
- 1.3 The Joint Liquidators must provide the requested information within fourteen days unless they consider that
 - The time or cost involved in preparing the information would be excessive, or
 - Disclosure would be prejudicial to the conduct of the Liquidation or might reasonably be expected to lead to violence against any person, or
 - The Joint Liquidators are subject to an obligation of confidentiality in relation to the information requested.

In which case, the Joint Liquidators must give their reasons for not providing the information. Any member may apply to the Court within twenty-one days of the Joint Liquidators’ refusal to provide the requested information, or the expiry of the fourteen day time limit for the provision of the information and the Court may then make such order as it thinks just.

2 Members’ Right to Challenge the Joint Liquidators’ Remuneration and Expenses

- 2 1 If a member believes that the Joint Liquidators’ remuneration and/or expenses are, in all the circumstances excessive or the basis is inappropriate he may, provided certain conditions are met, apply to the Court to challenge the level of such remuneration and expenses.
- 2.2 An application may be made to the Court by members of the Company with at least ten percent of the total voting rights of all members having the right to vote at general meetings.
- 2 3 Any such application must be made within eight weeks of the member receiving the Joint Liquidators’ progress report in which the charging of the remuneration or the incurring of the expenses in question was first reported.
- 2 4 If the Court considers the application to be well founded, it may order that the remuneration be reduced, that the basis be fixed or changed, or that the expenses be disallowed or repaid Unless the Court orders otherwise, the costs of the application must be paid by the applicant member and not out of the assets of the Company