

The Insolvency Act 1986  
Liquidator's Progress  
Report  
Pursuant to Section 192 of  
the Insolvency Act 1986

# S.192

For Official Use

To the Registrar of Companies

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Company Number

03275924

Name of Company

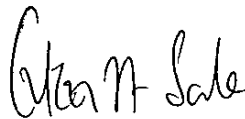
METALTEC ENGINEERING LIMITED

I/We

Mrs Eileen T F Sale FIPA  
Sale Smith & Co Limited,  
Carmella House  
3 & 4 Grove Terrace  
Walsall, West Midlands WS1 2NE

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

Signed



Date 23rd August 2011

Sale Smith & Co Limited  
Licensed Insolvency Practitioners  
Carmella House  
3 & 4 Grove Terrace  
Walsall  
West Midlands  
WS1 2NE

For Official Use

Liquidation Section

Post Room

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COMPANIES HOUSE

# STATEMENT OF RECEIPTS and PAYMENTS under Section 192 of the Insolvency Act 1986

Name of Company	Metaltec Engineering Limited
Company Registered Number	03275924
State whether members' or creditors' voluntary winding up	Creditors
Date of commencement of winding up	21st July 2010
Date to which this statement is brought down	22nd July 2011
Name and Address of Liquidator -	

**EILEEN T F SALE FIPA**  
**Sale Smith and Co. Limited**  
**Insolvency Practitioners**  
**Carmella House**  
**3 & 4 Grove Terrace**  
**Walsall**  
**West Midlands, WS1 2NE**

## NOTES

You should read these notes carefully before completing the form. The notes do not form part of the return to be sent to the Registrar of Companies.

## FORM AND CONTENTS OF STATEMENT

(1) Every statement must contain a detailed account of all the Liquidator's realisations and disbursements in respect of the company. The statement of realisations should contain a record of all receipts derived from assets existing at the date of the winding up resolution and subsequently realised, including balance at bank, book debts and calls collected, property sold etc., and the account of disbursements should contain all payments for costs, charges and expenses, or to creditors or contributories. Receipts derived from deposit account and money market deposits are to be included in the 'balance at bank'. Only actual investments are to be included in the 'amounts invested' section in the analysis of balance on Page 5 of the form. Where property has been realised, the gross proceeds of sale must be entered under realisations and the necessary payments incidental to sales must be entered as disbursements. A payment into the Insolvency Services Account is not a disbursement and should not be shown as such, nor are payments into a bank, building society or any other financial institution. However, the interest received on any investment should be shown in the realisations. Each receipt and payment must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet and the totals carried forward from one account to another without any intermediate balance, so that the gross totals represent the total amounts received and paid by the Liquidator respectively.

## TRADING ACCOUNT

(2) When the Liquidator carries on a business, a trading account must be forwarded as a distinct account, and the total of receipts and payments on the trading account must alone be set out in this statement.

## DIVIDENDS

(3) When dividends, instalments of composition, etc. are paid to creditors or a return of surplus assets is made to contributories, the total amount of each dividend, etc. actually paid, must be entered in the statement of disbursements as one sum, and the Liquidator must forward separate accounts showing in lists the amount of the claim of each creditor, and the amount of dividend, etc. payable to each creditor, or contributory.

(4) When unclaimed dividends, etc. are paid into the Insolvency Services Account, the total amount so paid in should be entered in the statement of disbursements as one sum. The items to be paid in relation to unclaimed dividends should first be included in the realisations of the account.

(5) Credit should not be taken in the statement of disbursements for any amount in respect of Liquidator's remuneration unless it has been duly allowed by resolutions of the Liquidation Committee or of the creditors or of the company in general meeting, or by order of court as the case may require, or is otherwise allowable under the provisions of the Insolvency Rules.

(6) This statement of receipts and payments is required in duplicate.

**LIQUIDATOR'S STATEMENT OF ACCOUNT**  
under section 192 of the Insolvency Act 1986

<b>Realisations</b>			
Date	Of Whom Received	Nature of Assets Realised	Amount £
		Brought Forward	<b>NIL</b>
23 07 10	Ipswich Borough Council	Sundry Refund	527 75
30 07 10	Ashbury Construction Services	Book Debt	141 00
20 08 10	HSBC Bank Plc	Balance at Bank	6 31
20 08 10	UPM Limited	Book Debt	2,467 50
25 08 10	HSBC Bank Plc	Balance at Bank	28 73
08 10 10	HMRC	VAT Refund	70 00
09 05 11	Close Invoice Finance	Reassignment of Book Debts	3,383 88
26 05 11	RG Carter Ipswich Limited	Retention Monies	51 75
26 05 11	RG Carter Ipswich Limited	VAT on Above	9 06
23 06 11	Simons Medicing	Book Debt	5,625 67
30 06 11	HMRC	VAT Refund	441 47
Carried Forward			<b>£12,753.12</b>

**NOTE** No balance should be shown on this account but only the total realisations

**LIQUIDATOR'S STATEMENT OF ACCOUNT**  
under section 192 of the Insolvency Act 1986

<b>Disbursements</b>			
Date	To Whom Paid	Nature of Disbursements	Amount £
		Brought Forward	<b>NIL</b>
04 08 10	Close Invoice Finance	Factored Book Debt Return	141 00
12 08 10	Sale Smith & Co Limited	Liquidators Disbursements	423 99
12 08 10	Sale Smith & Co Limited	VAT on Above	46 01
20 08 10	Close Invoice Finance	Factored Book Debt Return	2,467 50
01 11 10	Sale Smith & Co Limited	Liquidators Disbursements	58 75
13 05 11	Strutt Parker	Advertising	104 38
13 05 11	Strutt Parker	VAT on Above	20 88
20 05 11	Sale Smith & Co Limited	Liquidators Disbursements	2,078 43
20 05 11	Sale Smith & Co Limited	VAT on Above	321 57
27 05 11	Sale Smith & Co Limited	Liquidators Disbursements	18 33
27 05 11	Sale Smith & Co Limited	VAT on Above	2 42
27 05 11	Sale Smith & Co Limited	Liquidators Remuneration	482 65
27 05 11	Sale Smith & Co Limited	VAT on Above	96 60
17 06 11	Sale Smith & Co Limited	Liquidators Disbursements	9 68
17 06 11	Sale Smith & Co Limited	VAT on Above	0 42
17 06 11	Sale Smith & Co Limited	Liquidators Remuneration	291 50
17 06 11	Sale Smith & Co Limited	VAT on Above	58 40
01 07 11	Sale Smith & Co Limited	Liquidators Remuneration	1,000 00
01 07 11	Sale Smith & Co Limited	VAT on Above	200 00
Carried Forward			<b>£7,822.51</b>

and disbursements which should be carried forward to the next account

**FORM 4.68 contd**

**Analysis of balance**

Total realisations	£	12,753 12
Total disbursements		7,822 51
	Balance £	4,930 61
The balance is made up as follows -		
1 Cash in hands of Liquidator		NIL
2 Balance at Bank		4,930 61
3 Amount in Insolvency Services Account		NIL
4 *Amounts invested by Liquidator	£	12,753 12
Less the cost of investments realised		7,822 51
		4,930 61
Balance		
Total balance as shown above	£	4,930 61

[NOTE - Full details of stocks purchased for investment and any realisation of them should be given in a separate statement]

\*The investment or deposit of money by the Liquidator does not withdraw it from the operation of the Insolvency Regulations 1986, and any such investments representing money held for six months or upwards must be realised and paid into the Insolvency Services Account, except in the case of investments in Government securities, the transfer of which to the control of the Secretary of State will be accepted as a sufficient compliance with the terms of the Regulations

The Liquidator should also state-

- (1) The amount of the estimated assets and liabilities at the date of the commencement of the winding up-
- |   |   |         |
|---|---|---------|
| Assets (after deducting amounts charged to secured creditors - including the holders of floating charges) | £ | 149,827 |
| Liabilities - Fixed charge creditors  |   | 426,895 |
| Floating charge holders   |   | 7,254   |
| Unsecured creditors   |   | 517,599 |
| Preferential creditors  |   | 19,237  |
- (2) The total amount of the capital paid up at the date of the commencement of the winding up-
- |   |     |
|---|-----|
| Paid up in cash                           | 400 |
| Issued as paid up otherwise than for cash | NIL |
- (3) The general description and estimated value of any outstanding assets (if there is nsufficient space here, attach a separate sheet)  
SALE OF ASSETS & COLLECTION OF OUTSTANDING BOOK DEBTS
- (4) Why the winding up cannot yet be concluded  
AS ABOVE & AGREEMENT OF CREDITORS' CLAIMS
- (5) The period within which the winding up is expected to be completed  
DEPENDENT UPON ABOVE

# Sale Smith & Co. Ltd.

Carmella House, 3&4 Grove Terrace, Walsall, West Midlands, WS1 2NE  
Tel 01922 624777 Fax 01922 720528 admin@salesmithdemon.co.uk

Business Recovery and Insolvency

**TO ALL MEMBERS AND CREDITORS**

**PRIVATE AND CONFIDENTIAL**

Our Ref SS1041 ETFS AB PMC LTRCRS 0811

19th August 2011

Dear Sirs,

**METALTEC ENGINEERING LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

I refer to my appointment as Liquidator of the above named company and enclose my annual progress report pursuant to Section 104A of the Insolvency Act 1986 (as amended) together with a copy of my Receipts and Payments Account

If there are any matters contained within the report upon which you require clarification, please do not hesitate to contact me

Yours faithfully,

For and on behalf of Metaltec Engineering Limited  
(In Creditors Voluntary Liquidation)



Eileen T F Sale FIPA  
Liquidator



**METALTEC ENGINEERING LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**SUMMARY OF THE LIQUIDATOR'S RECEIPTS AND PAYMENTS ACCOUNT**  
**FOR THE PERIOD 21ST JULY 2010 TO 20TH JULY 2011**

As per Statement of Affairs		See Note	£
£	<u>RECEIPTS</u>		
120,000	Land & Buildings	(2)	-
29,827	Book Debts	(3)	9,070 36
	Balance at Bank	(4)	35 04
	Sundry Rates Refund		527 75
	VAT Refund		511 47
			<hr/>
£149,827			£10,144 62
			<hr/>
	<u>PAYMENTS</u>		
	Statutory Advertising		437 76
	Company Search Fee		82 00
	Insolvency Bond		852 00
	Oath Fee		16 00
	Meeting Room Hire (External)		96 56
	Legal Fees & Charges		696.72
	Liquidator's Disbursements	(9)	512 52
	Liquidator's Remuneration	(10)	1,774 15
	Input VAT		746 30
			<hr/>
			5,214 01
	Balance In Hand		4,930 61
			<hr/>
			£10,144 62
			<hr/>

Eileen T F Sale FIPA  
Liqudator  
19th August 2011

**METALTEC ENGINEERING LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**NOTES TO BE READ IN CONJUNCTION WITH THE LIQUIDATOR'S**  
**RECEIPTS AND PAYMENTS ACCOUNT FOR THE PERIOD**  
**21ST JULY 2010 TO 20TH JULY 2011**

- 1 Receipts & Payments Account I enclose my first annual progress report to creditors together with a summary of my Receipts & Payments Account in this matter for the period 21st July 2010 to 20th July 2011
- 2 Land & Buildings This represents the company's trading and office premises at 30 Knightsdale Road, Ipswich, which is subject to legal charges with Lloyds TSB Bank Plc. Agents Strutt & Parker in Ipswich, have been instructed with a view to market and sell the property and the matter is currently ongoing.
- 3 Book Debts The company's book debts were the subject of a factoring agreement with Close Invoice Finance Ltd, and the credit balance held by Close Invoice Finance Ltd in the sum of £3,383 88 was received when the balance of unpaid debts were re-assigned to the Liquidator Overall the collection of the company's book debts has been reasonably satisfactory despite the many disputes and counter-claims notified by debtors. However, the remaining debts continue to be vigorously pursued and it is hoped that further recoveries will result
- 4 Balance at Bank This represents the balance held in the company's bank account at cessation of trading
- 5 Preferential Creditors The following claims have been received to date -

<u>Creditor</u>	<u>Per Statement of Affairs</u> £	<u>Claim Received</u> £
Wages & Holiday Pay	19,237	16,939 72
	<u>£19,237</u>	<u>£16,939 72</u>

- 6 Non-Preferential Creditors The following claims have been received to date -

<u>Creditor</u>	<u>Per Statement of Affairs</u> £	<u>Claim Received</u> £
Trade and Expense	204,073	167,458 95
HM Revenue & Customs (PAYE/ NIC)	106,804	120,423 77
HM Revenue & Customs (VAT)	12,525	32,877 52
Director's Loan Accounts	10,000	-
Other Creditor	95,780	-
Wages, Redundancy & Payments in Lieu	88,417	64,298 43
Additional Claims	-	10,675 92
	<u>£517,599</u>	<u>£395,734 59</u>



- 7 Company Directors' Disqualification Act In accordance with my statutory duty, appropriate Conduct Reports have been forwarded to the Department of Trade and Industry in respect of the directors' handling of the affairs of the company.
8. Investigative Matters There were many areas of investigation requested by creditors in attendance at the creditors' meeting held on the 21st July 2010. These included analysis of the aged creditors, preference payments to former directors, the debt outstanding, disclosed as 'other debtors' and make a claim for repayment thereof, as may be considered appropriate. Various matters, which currently remain under consideration/investigation, are under review with the assistance of legal advice. I regret that until my enquires are completed and to avoid the possibility of prejudicing claims which have been raised in the winding up proceedings, I am unable to provide any further details at this stage.
- 9 Expenses and Disbursements Creditors' approval is not required for necessary external disbursements paid to independent third parties as disclosed. With effect from 1st January 2003, a Liquidator must obtain creditors' approval to draw her firm's internal disbursements costs and expenses in dealing with an estate, including, as appropriate, printing, photocopying, facsimile, document storage, registered office fee and telephone charges which amount to £512.52 during the period, as disclosed in the schedule attached.
- 10 Liquidator's Remuneration At the first meeting of creditors it was resolved that my remuneration as Liquidator should be based on my firm's time costs and be drawn on account as and when required. To date my firm has been paid sum of £1,774.15, in connection with the statutory administrative and investigative duties undertaken to date. These duties include, but are not limited to, statutory and investigative matters, dealing with debtors, creditors and customers queries, Crown Department enquiries and returns, research and reporting etc. Average time costs spent on the administration is detailed on the attached schedule.
- A copy of the R3 guidelines in respect of Insolvency Practitioners' fees relating to creditors' voluntary liquidations is enclosed together with a copy of the Creditors' Rights to Request information Pursuant to Rule 4.49E of the Insolvency Rules 1986 and The Rights to Challenge the Liquidator's Remuneration and Expenses pursuant to Rule 4.131, for your information.
- 11 Dividend Prospects: Without prejudice to the final outcome of the matters relating to my administration of the winding up proceedings and, based on information to date, I regret to advise that there is no likelihood of a distribution to any class of creditor in this matter.

Eileen T F Sale FIPA  
Liquidator  
19th August 2011

**METALTEC ENGINEERING LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

Summary of internal disbursements incurred for the period 21st July 2010 to 20th July 2011

Type and purpose	£
Travel Expenses	94 00
Postage, Stationery & Printing	418 52
<b>Total</b>	<b>£512 52</b>

Travelling by motor vehicle on business for the administration of the Insolvency will be charged to the estate per mile at the appropriate rate currently published by the "AA" for the type of vehicle and engine size used

All circulars will be sent out by second class post and the actual postage cost will be charged as an expense to the estate In respect of circulars, stationery is charged at 10p per copy paper or facsimile

**METALTEC ENGINEERING LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

Summary of time spent for period ending 20th July 2011

Classification Of work	Partner	Case Manager	Senior Admin	Support Staff	Total Hours	Time Cost £	Average Rate £/h £
Administration And planning	8 20	15 10	6 00	7 70	37 00	8,291 16	224 09
Investigations	7 60	50 00	4 50		62 10	16,292 02	262 35
Realisation Of Assets	2 80	3 00	15 30	0 40	21 50	3,909 50	181 84
Trading							
Creditors	11 00		10 80	31 10	52 90	8,002 96	151 28
Case specific matters	10 30	13 00	3 10	11 60	38 00	8,414 90	221 44
Total hours	31 70	66 00	33 70	43 10	174 50	36,619 38	209 85
Total fees claimed						£1,774 15	10 17

**Chargeout rates -**

Partner	£319 50 - £351 45
Case Manager	£235 75 - £260 00
Senior Administrators	£125 05 - £138 00
Support Staff/ Clerical	£12 15 - £85 10

**Classification of Duties**

Administration and planning

Investigations

Realisation of assets

Trading

Creditors

Case Specific

**Brief Summary**

Pre-appointment – initial advice on an informal basis,  
Interviews with directors/debtors in connection with  
instructions Assistance with the preparation of the  
Statement of Affairs, preparation for first creditors' meetings

Post-appointment – interviews with directors/debtors,  
disqualification and investigation matters  
Legal matters/meetings

Realisation of assets Instructions in connection with the  
disposal of tangible assets Book and other debt collection  
matters, debtors' correspondence and schedules Bank  
reconciliation/receipts and payments account

Operations Management, operating, employee issues

Creditors correspondence and schedules, ERA matters,  
Inland Revenue and HMCE correspondence/ enquires

Attendance at creditors/directors meetings, preparation of  
creditors' meeting reports, statutory reporting/ returns  
General case administration (filing, recording of records etc )  
Archiving

# 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 and explains the basis on which fees are fixed.

### 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 a member of The Insolvency Service, an executive agency within the Department of Trade and Industry. 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 Secretary of the State for Trade and Industry. 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 3 months 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 Fees

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 either

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

It is for the liquidation committee (if there is one) to determine on which of these basis the remuneration is to be fixed, and if it is to be fixed as a percentage, to fix the percentage 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 of 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 the committee would. A resolution specifying the terms on which the Liquidator is to be remunerated may be taken at the meeting which appoints the Liquidator. If the remuneration is not fixed in any of these ways, it will be in accordance with a scale set out in the Rules.

### 5. What Information should be provided By the Liquidator?

#### 5.1 When Seeking Fee Approval

5.1.1 When seeking agreement to his fees the Liquidator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought, and
- the size and complexity of the case.

5.1.2 Where, at any creditors' or committee meeting, the Liquidator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

5.1.3 Where the Liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the Liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the Liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the Liquidator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the Liquidator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

The following categories are suggested as a basis for analysis by grade of staff

- Partner
- Manager
- Other senior professional
- Assistants and support staff

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the Liquidator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain

- Any significant aspects of the case, particularly those that affect the amount of time spent
- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the Liquidator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement
- Any existing agreement about fees
  - Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases

5.1.4 Where the fee is charged on a percentage basis the Liquidator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by a Liquidator or his staff

## 5.2 After Fee Approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the Liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution. Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principals set out in paragraph 5.1.3. Where the fee is charged on a percentage basis the Liquidator should provide the details set out in paragraph 5.1.4 above regarding work which has been sub-contracted out

## 5.3 Expenses and Disbursements

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, professional guidance issued to Insolvency Practitioners requires that, where the Liquidator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the Liquidator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation

## 5.4 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 8.1 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

## 5.5 Reporting In Compulsory Liquidations

It should be borne in mind that in compulsory liquidations there is no statutory requirement for the Liquidator to report to creditors until the conclusion of the assignment. In most such cases, therefore, creditors will receive no information during the course of the liquidation unless they specifically request it

## 6 What If A Creditor Is Dissatisfied?

6.1 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

6.2 If a creditor believes that the Liquidator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the Court for an order that it be reduced. 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. Unless the court orders otherwise, the costs must be paid by the applicant and not out of the assets of the insolvent company

## 7 What If The Liquidator Is Dissatisfied?

If the Liquidator considers that the remuneration fixed by the committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors or in accordance with the statutory scale is insufficient, he may apply to the court for it to be increased. 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

## 8 Other Matters Relating To Fees

8.1 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

8.2 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

8.3 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

8.4 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

## 9 Provision of Information – Additional Requirements

In any case where the Liquidator is appointed on or after the 1 April 2005 he 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

## CREDITORS AND MEMBERS' REQUEST FOR FURTHER INFORMATION

### RULE 4 49E OF THE INSOLVENCY RULES 1986

#### 4 49E (1) If—

(a) within the period mentioned in paragraph (2) -

(i) a secured creditor, or

(ii) an unsecured creditor with concurrence of at least 5% in value of the unsecured creditors (including the creditors in question), or

(iii) members of the company in a members voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company, or

(b) with the permission of the court upon an application made within the period mentioned in paragraph (2) -

(i) any unsecured creditor, or

(ii) any member company in a members' voluntary winding up, makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4 49B(1)(e) or (f) (including by virtue of Rule 4 49C(5)) or in a draft report under Rule 4 49D, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 4 49D or a progress report required by Rule 4 108 which (in either case) was previously included in a progress report not required by Rule 4 108

4 49E (2) The period referred to in paragraph (1)(a) and (b) is -

(a) 7 business days of receipt (by the last of them in the case of an application by more than one member) of the progress report where it is required by Rule 4 108, and

(b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case

4 49E (3) The Liquidator complies with this paragraph by either -

(a) providing all of the information asked for, or

(b) so far as the liquidator considers that -

(i) the time or cost of preparation of the information would be excessive, or

(ii) disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or

(iii) the liquidator is subject to an obligation of confidentiality in respect of the information, giving reasons for not providing all of the information

4.49E (4) Any creditor, and any member of the company in a members' voluntary winding up, who need not be the same as the creditors or members who asked for the information, may apply to the court within 21 days of -

(a) the giving by the liquidator of reasons for not providing all of the information asked for, or

(b) the expiry of the 14 days provided for in paragraph (1), and the court may make such order as it thinks just

4 49E (5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 4 131(1B) or 4 148C(2) by such further period as the court thinks just

4 49E (6) This Rule does not apply where the liquidator is the official receiver

## CREDITORS CLAIM THAT REMUNERATION IS OR OTHER EXPENSES ARE EXCESSIVE

### RULE 4 131 OF THE INSOLVENCY RULES 1986

4 131(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the order in paragraph (4)

4 131(1A) Application may be made on the grounds that -

(a) the remuneration charged by the liquidator,

(b) the basis fixed for the liquidator's remuneration under Rule 4 127, or

(c) expenses incurred by the liquidator,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate

4 131(1B) The application must, subject to any order of the court under Rule 4 49E(5), be made no later than 8 weeks (or, in a case falling within Rule 4 108, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 4 49D, which first reports the charging of the remuneration or the incurring of the expenses in question ('the relevant report')

4 131(2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application, but it shall not do so unless the applicant has had an opportunity to attend the court for hearing, of which he has been given at least 5 business days' notice but which is without notice to any other party

If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly

4 131(3) The applicant shall, at least 14 days before the hearing, send to the liquidator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it

4 131(4) If the court considers the application to be well-founded, it must make one or more of the following orders -

(a) an order reducing the amount of remuneration which the liquidator was entitled to charge,

(b) an order fixing the basis of remuneration at a reduced rate or amount,

(c) an order changing the basis of remuneration,

(d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the liquidation,

(e) an order that the liquidator or the liquidator's personal representative pay to the company the amount in excess of remuneration or expenses or such part of the excess as the court may specify,

and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report

4 131(5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the liquidation