

**Return of Final Meeting in a
Creditors' Voluntary Winding Up****Pursuant to Section 106 of the
Insolvency Act 1986**

To the Registrar of Companies

S.106

Company Number

05783940

Name of Company

Simon Johns Fishmonger Limited

I / We

Colin Nicholls, 1 Castle Street, Worcester, WR1 3AA

Andrew Shackleton, 1 Castle Street, Worcester, WR1 3AA

Note The copy account must be
authenticated by the written
signature(s) of the Liquidator(s)

1 give notice that a general meeting of the company was duly held on/summoned for 30/09/2016 pursuant to section 106 of the Insolvency Act 1986, for the purpose of having an account (of which a copy is attached) laid before it showing how the winding up of the company has been conducted, and the property of the company has been disposed of, and that the same was done accordingly / no quorum was present at the meeting,

2 give notice that a meeting of the creditors of the company was duly held on/summoned for 30/09/2016 pursuant to Section 106 of the Insolvency Act 1986, for the purpose of having the said account laid before it showing how the winding up the company has been conducted and the property of the company has been disposed of and that the same was done accordingly/no quorum was present at the meeting


The meeting was held at

The winding up covers the period from 26 May 2015 (opening of winding up) to the final meeting (close of winding up)

The outcome of any meeting (including any resolutions passed) was as follows

The Chairman having waited 30 minutes and no creditor or proxy holder having attended**the meeting was declared inquorate and closed****The Liquidator therefore obtained his release**

Signed


Colin Nicholls

Date 30 September 2016

Smart Insolvency Solutions Ltd
1 Castle Street
Worcester
WR1 3AA

Ref 00085/CN/AWS/ELP

MONDAY

COMPANIES HOUSE



A10

03/10/2016

#199

Simon Johns Fishmonger Limited
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments
From 26 May 2015 To 30 September 2016

S of A £		£	£
	ASSET REALISATIONS		
18,000 00	Director's Loan Account	18,000 00	
	Bank Interest Gross	2 37	
			18,002 37
	COST OF REALISATIONS		
	Specific Bond	70 00	
	Preparation of S of A	6,500 00	
	Pre-Appointment Accountant's Fees	1,500 00	
	Office Holders Fees	9,167 37	
	Professional Accountancy Fees	500 00	
	Statutory Advertising	265 00	
			(18,002 37)
	UNSECURED CREDITORS		
(12,673 89)	Trade & Expense Creditors	NIL	
(60 00)	HMRC - PAYE	NIL	
(23,446 90)	HMRC - VAT	NIL	
			NIL
	DISTRIBUTIONS		
(100 00)	Ordinary Shareholders	NIL	
			NIL
(18,280.79)			(0 00)
	REPRESENTED BY		
			NIL

Colin Nicholls
Joint Liquidator

Simon Johns Fishmonger Limited

Registered Number 05783940

Report presented to final meeting of creditors held on 30 September 2016

Smart Insolvency Solutions Ltd

1 Castle Street, Worcester WR1 3AA • t 01905 888 737 • f 01905 888 738
www.smartinsolvencysolutions.co.uk

Directors and staff acting as Administrator(s) or Administrative Receiver(s) act as agents of the company over which they are appointed and contract without personal liability
Colin Nicholls and Andrew Shackleton are Licensed to act as Insolvency Practitioners by the Association of Chartered Certified Accountants

Directors Colin Nicholls • Jon Lewis • Andrew Shackleton

Registered in England and Wales Company Reg No 08056270



ACCA

SIMON JOHNS FISHMONGER LIMITED (“the Company”)

**Joint Liquidators’ Final Report
to the Final General Meetings of Members and Creditors**

Issued on: 24 May 2016

Simon Johns Fishmonger Limited ("the Company") – In Liquidation

JOINT LIQUIDATORS' FINAL REPORT AS AT 24 MAY 2016

Colin Nicholls and Andrew Shackleton are the Joint Liquidators of the Company and this is their final report to the creditors and members of the Company, showing how the liquidation has been conducted. The report covers the whole period of the liquidation from commencement to the date of the final meeting.

In the absence of circumstances necessitating amendment, this report will be considered final and presented to the meetings of members and creditors.

1. Statutory Information

Statutory information relating to the Company is attached at **Appendix I**.

2. Joint Liquidators' Receipts and Payment Account

A summary of the Joint Liquidators' receipts and payments account relating to the Company from commencement of the liquidation, to the date of the final meeting, 30 September 2016 is attached at **Appendix II**. I also enclose a draft final receipts and payments account showing the anticipated transactions prior to the final meeting. Funds currently held will be used to defray the following costs and expenses of the liquidation and VAT charged thereon reclaimed:-

- Office Holder Fees £167.37 + VAT
- Statutory Advertising £67 + VAT

The funds currently in hand are held in a non-interest bearing bank account.

In the event that transactions vary, creditors will be issued with a further report upon closure.

All costs and expenses in this matter have been settled, as far as funds have allowed.

3. Action taken by the Joint Liquidators since Appointment

The Company was wound up on 26 May 2015 and Colin Nicholls and Andrew Shackleton were appointed Joint Liquidators at meetings of members and creditors held on 26 May 2015.

Assets

The only known asset was an overdrawn disputed director's loan account. It was shown in the books and records at £20,575. It had been estimated to realise £18,000. In this regard, £18,000 was paid into the estate.

Bank interest of some £2.37 has also been realised.

Investigations

There are no outstanding lines of enquiry.

Liquidators have a duty to submit a confidential report or return to the government's Disqualification Unit on the conduct of those persons who acted as directors of the Company in the three year period before the liquidation. These have been completed.

4. Liabilities and Dividends

Secured Creditors

There are no secured creditors

Preferential Creditors

There are no preferential creditors

Ordinary Unsecured Creditors

Claims totalling £3,488 36 were received from three creditors

Notice of no dividend was given on 24 May 2016

No dividend has been paid to unsecured creditors because there were insufficient realisations to meet the Joint Liquidators' fees and other administrative costs of the estate

5. Joint Liquidators' Remuneration, Disbursements and Expenses

Basis of Remuneration and Disbursements

The basis of remuneration was fixed at a meeting of creditors held on 26 May 2015 where the following resolutions were passed

- 1 *The amount due to Smart Insolvency Solutions Ltd, for convening this meeting and assisting the directors in preparing the Statement of Affairs is £6,500 plus VAT Haines Watts to be paid £1,500 plus VAT in respect of assisting in preparing the Statement of Affairs*
- 2 *That the Joint Liquidators be remunerated by reference of a fixed fee of £10,000 plus VAT and disbursements in dealing with matters in the liquidation and that their disbursements be drawn in accordance with the tariff outlined*

Disbursements Incurred and Drawn

The Joint Liquidators' disbursements incurred and reimbursed are summarised below Details are in the attached **Appendix III**.

No category 2 disbursements have been charged nor will be recovered in this matter

	Incurred	Paid
Category 1 disbursements since appointment on 26 May 2015	£335.00	£268 00
Total	£335.00	£268.00

Pre-Appointment Costs

At the initial meeting of creditors held on 26 May 2015 it was resolved that the fees of Smart Insolvency Solutions Limited for assisting the directors in convening the statutory meeting to place the company into liquidation, and for assistance in preparing the Statement of Affairs, would be a set fee of £6,500 to be paid out of the assets of the company

Fees totalling £6,500 plus VAT have been drawn to date

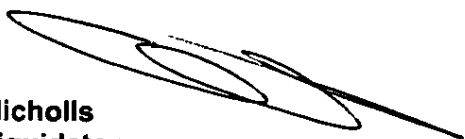
In addition, the Joint Liquidators have drawn remuneration in respect of post appointment fees in the sum of £9,167 37

Creditors' Guide to Fees and Statement of Creditors' Rights

Creditors have a right to request further information from the Joint Liquidator and additionally have a right to challenge the Joint Liquidators' remuneration and expenses time limits apply Details can be found in the document 'Remuneration Guidelines Liquidation (post 1 November 2011)' which you can access and download at www.smartinsolvency.co.uk/creditorsguide. Alternatively a copy is available free of charge upon request from the address above

6 Conclusion of the Liquidation

The final general meetings of members and creditors have been convened at which it is intended that this report will be presented Formal notice is enclosed The Joint Liquidators will seek approval to be released as Liquidator in this matter This meeting is purely a formality and there is no requirement for you to attend however if you wish to do so it should be helpful if you would advise the above office in advance



Colin Nicholls
Joint Liquidator

Appendix I – Statutory Information

Statutory Information

Appendix I

Company Information

Company Name	Simon Johns Fishmonger Limited
Previous Name	None
Company Number	05783940
Date of Incorporation	18 April 2006
Trading Address	57 Falkland Road, Evesham, Worcestershire WR11 1XS
Current Registered Office	1 Castle Street, Worcester WR1 3AA
Former Registered Office:	Vale Business Centre, 9 abbey Lane Court, Evesham, Worcestershire WR11 4BY
Principal Trading Activity	Fishmonger

Appointment details

Joint Liquidators' name and address	Colin Nicholls of Smart Insolvency Solutions Limited, 1 Castle Street, Worcester WR1 3AA and Andrew Shackleton of Smart Insolvency Solutions Limited, 1 Castle Street, Worcester WR1 3AA
Commencement of liquidation	26 May 2015
Date of appointment.	26 May 2015
Appointment made by	Members and Creditors
The Joint Liquidators act jointly and severally	

Simon Johns Fishmonger Limited
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments
To 24/05/2016

S of A £		£	£
	ASSET REALISATIONS		
18,000 00	Director's Loan Account	18,000 00	
	Bank Interest Gross	2 37	
			18,002 37
	COST OF REALISATIONS		
	Specific Bond	70 00	
	Preparation of S of A	6,500 00	
	Pre-Appointment Accountant's Fees	1,500 00	
	Office Holders Fees	9,000 00	
	Professional Accountancy Fees	500 00	
	Statutory Advertising	198 00	
			(17,768 00)
	UNSECURED CREDITORS		
(12,673 89)	Trade & Expense Creditors	NIL	
(60 00)	HMRC - PAYE	NIL	
(23,446 90)	HMRC - VAT	NIL	
			NIL
	DISTRIBUTIONS		
(100 00)	Ordinary Shareholders	NIL	
			NIL
(18,280.79)			234 37
	REPRESENTED BY		
	Vat Receivable		(1,846 87)
	Bank 1 Current		107 97
	Vat Control Account		1,973 27
			234 37

Simon Johns Fishmonger Limited
(In Liquidation)
Joint Liquidators' Draft Final Receipts & Payments
To 30/09/2016

S of A £		£	£
	ASSET REALISATIONS		
18,000 00	Director's Loan Account	18,000 00	
	Bank Interest Gross	2 37	
			18,002 37
	COST OF REALISATIONS		
	Specific Bond	70.00	
	Preparation of S of A	6,500 00	
	Pre-Appointment Accountant's Fees	1,500 00	
	Office Holders Fees	9,167 37	
	Professional Accountancy Fees	500 00	
	Statutory Advertising	265 00	
			(18,002 37)
	UNSECURED CREDITORS		
(12,673 89)	Trade & Expense Creditors	NIL	
(60 00)	HMRC - PAYE	NIL	
(23,446 90)	HMRC - VAT	NIL	
			NIL
	DISTRIBUTIONS		
(100 00)	Ordinary Shareholders	NIL	
			NIL
(18,280.79)			NIL
	REPRESENTED BY		
	Bank 1 Current		0 00
			NIL

Appendix III

Information relating to the Liquidator's Fees and Expenses

Appendix III – Information relating to the Joint Liquidators' Fees and Expenses

Appendix III

Simon Johns Fishmonger Limited

Information relating to the Joint Liquidators' Fees and Expenses

1. Explanation of Liquidators' charging and disbursement recovery policies

1.1. Time recording

Work undertaken on cases is recorded in 6 minute units in an electronic time recording system. Time properly incurred on cases is charged at the hourly rate of the grade of staff undertaking the work that applies at the time the work is done. The current hourly charge-out rates are

STAFF GRADE	CHARGE OUT RATE FROM £ PER HOUR	TO £ PER HOUR
Director	200	350
Associate Director	150	250
Manager	125	225
Case Administrator	100	200
Cashiering / Clerical	75	150

1.2. Disbursement recovery

Disbursements are categorised as either Category 1 or Category 2

Category 1 disbursements

External supplies of incidental services specifically identifiable to the case. Where these have initially been paid by Smart Insolvency Solutions Ltd and then recharged to the estate, approval from creditors is not required.

Examples of category 1 disbursements include postage, case advertising, specific bond insurance, company search fees, external room hire, storage, case management software system, invoiced travel and properly reimbursed expenses incurred by personnel in connection with the case (including business mileage up to HMRC approved rate for cases commenced before 1 November 2011).

Category 2 disbursements

Category 2 disbursements include elements of shared or allocated costs incurred by Smart Insolvency Solutions Ltd and recharged to the estate, they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full, subject to the basis of the disbursement charge being approved by creditors in advance. Examples of Category 2 disbursements are photocopying, all business mileage (for cases commencing on or after 1 November 2011), internal room hire and internal storage.

It is proposed that the following Category 2 disbursements are recovered by Smart Insolvency Solutions Ltd

Room Hire	£100
Postage	At Cost
Envelope (each)	10p
Paper (photocopies per sheet)	15p
Business mileage @ 45p per mile plus an additional 5p per mile for each additional passenger	

The costs recharged are based upon the actual cost of the materials used or the costs which would have been incurred if that service had been sourced externally.

2 Description of work carried out

The Liquidators' fees are on a fixed fee basis. The following is a summary of the activities undertaken.

2.1. Administration and planning

The following activities have been undertaken:

- > Statutory duties associated with the appointment,
- > Notification of the appointment to creditors, employees and other interested parties,
- > Setting up case files,
- > Reviewing available information to determine appropriate strategy,
- > Setting up and maintaining bank accounts,
- > Progress reviews of the case.

Staff of different levels were involved in the above activities depending upon the experience required.

2.2. Investigations

The time spent includes

- > Corresponding with the former directors and management,
- > Review of questionnaires and comments provided by interested parties,
- > Review of company documentation,
- > Liaising with the liquidation committee on such matters
- > Completion of statutory returns to the Insolvency Service

Due to the complex nature and importance of the investigations, the staff utilised to conduct such work are usually experienced members of staff

2.3. Realisation of assets

Please refer to the main body of the report but in summary the time spent includes

- > Liaising with agents and solicitors,
- > Correspondence and meetings with interested parties,
- > Monitoring and chasing of deposits,
- > Identifying, securing and insuring of assets
- > Debt collection
- > Agreement of contracts

2 4 Trading

The business continued to trade for a [short] period of time [provide details of reasons]

Trading activities included

- > Planning appropriate trading strategy,
- > Liaising with employees;
- > Dealing with suppliers,
- > Contact and negotiation with customers,
- > Authorisation of commitments,
- > Review of trading position,
- > Paying suppliers,

2.5. Creditors and distributions

The time spent includes the following matters

- > Recording and maintaining the list of creditors,
- > Dealing with employee related matters,
- > Dealing with retention of title claims,
- > Paying dividend/s
- > Recording creditor claims
- > Reporting to creditors,
- > Meetings of creditors,
- > Dealing with creditor queries;
- > Reviewing and evaluating creditor claims,

2.6. Provide details of any other case specific matters.

3 Disbursements

Disbursements incurred from appointment on 26 May 2015 are detailed below

Disbursements	Incurred £	Paid £
Category 1		
Statutory advertising	265 00	198 00
Bond premium	70.00	70 00
Total	335.00	265.00

The above costs exclude VAT

No category 2 disbursements have been charged to this matter

Notice to Contributories of Meeting of Contributories

Simon Johns Fishmonger Limited – In Liquidation

A final meeting of the contributories of the above-named company has been summoned by the Liquidator

(a) Delete as
applicable

for the purpose of -

(b) Insert relevant
section

- receiving an account of how the winding-up has been conducted and the company's property disposed of,
- hearing any explanations that may be given by the Liquidator,
- determining the release of the Liquidator

The meeting will be held as follows -

Date 30 September 2016

Time 9 30am

Place Smart Insolvency Solutions Limited, 1 Castle Street, Worcester WR1 3AA

(c) Insert date and
time by which proxy
is to be lodged
(12 00 hours on the
business day before
the date fixed for the
meeting)

A proxy form is enclosed which must be lodged with me not later than

Time 12 Noon

On 29 September 2016

At Smart Insolvency Solutions Limited, 1 Castle Street, Worcester WR1 3AA

to entitle you to vote at the meeting

Dated 24 May 2016

Signed


COLIN NICHOLLS
JOINT LIQUIDATOR

NOTE: Insert any further details which by the nature of the meeting need to be stated

Notice to Creditors of Meeting of Creditors

Simon Johns Fishmonger Limited – In Liquidation

A final meeting of creditors of the above-named company has been summoned by the Liquidator

(b) Insert relevant
section

(a) [at the request of a creditor, under section (b) of the Insolvency Act 1986 for the purpose of -

- receiving an account of how the winding-up has been conducted and the company's property disposed of,
- hearing any explanations that may be given by the Liquidator,
- determining the release of the Liquidator

The meeting will be held as follows -

Date 30 September 2016

Time 10.00am

Place Smart Insolvency Solutions Limited, 1 Castle Street, Worcester WR1 3AA

(c) Insert date and
time by which proof
& proxy is to be
lodged (12 00 hours
on the business day
before the date fixed
for the meeting)

A proxy form is enclosed which must be lodged with me not later than

Time 12 Noon

On 29 September 2016

At Smart Insolvency Solutions Limited, 1 Castle Street, Worcester WR1 3AA

to entitle you to vote by proxy at the meeting (a) [together with a completed proof of debt form if you have not already lodged one]

Dated 24 May 2016

Signed


COLIN NICHOLLS
JOINT LIQUIDATOR

NOTE: Insert any further details which by the nature of the meeting need to be stated

Proxy (Members' or Creditors' Voluntary Winding Up)**Simon Johns Fishmonger Limited – In Liquidation**

Name of Creditor/Member _____

Address _____

Please insert name of person (who must be 18 or over) or the chairman of the meeting (see note below) if you wish to provide for alternative proxy holders in the circumstances that your first choice is unable to attend please state the name(s) of the alternatives as well

Please delete words in brackets if the proxy holder is only to vote as directed i.e. he has no discretion

Name of Proxy Holder

1 _____

2 _____

3 _____

I appoint the above person to be my/the creditor's/member's proxy holder at the meeting of creditors/members to be held on 30 September 2016 or at any adjournment of that meeting. The proxy holder is to propose or vote as instructed below (and in respect of any resolution for which no specific instruction is given, may vote or abstain at his/her discretion)

Voting Instructions for resolutions

1 For the release of the Liquidator

FOR / AGAINST

Any other resolutions which the proxy-holder is to propose or vote in favour of or against should be set out in numbered paragraphs in this space provided. If more room is required please use the other side of this form

This form must be signed

Signature _____ Date _____

Name in CAPITAL LETTERS _____

Only to be completed if the creditor/member has not signed in person

Position with creditor/member or relationship to creditor/member or other authority for signature

Please note that if you nominate the chairman of the meeting to be your proxy-holder he will be the current liquidator.

Remember there may be resolutions on the other side of this form

Appendix V – Proof of debt form

PROOF OF DEBT - GENERAL FORM

Simon Johns Fishmonger Limited	
Date of Resolution for voluntary winding up 26 May 2015	
1	Name of Creditor (If a company please also give company registration number)
2	Address of Creditor for correspondence
3	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date the company went into liquidation (see note)
4	Details of any documents by reference to which the debt can be substantiated [Note there is no need to attach them now but the liquidator may call for any document or evidence to substantiate the claim at his discretion as may the chairman or convenor of any meeting]
5	If amount in 3 above includes outstanding uncapitalised interest please state amount £
6	Particulars of how and when debt incurred (If you need more space append a continuation sheet to this form)
7	Particulars of any security held, the value of the security, and the date it was given
8	Particulars of any reservation of title claimed in respect of goods supplied to which the claim relates
9	Signature of creditor or person authorised to act on his behalf
	Name in BLOCK LETTERS
	DATE
	Position with or in relation to creditor
	Address of person signing (if different from 2 above)
Admitted to vote for	Admitted for dividend for
£	£
Date	Date
Liquidator	Liquidator

Appendix VI - CVL and Compulsory Liquidation Remuneration

Insolvency (Amendment) Rules 2010

CVL and Compulsory Liquidation Remuneration

The changes below are applicable in the following cases

- (1) They apply where a company goes into liquidation upon the passing on or after 6th April 2010 of a resolution to wind up
- (2) They apply where a company goes into voluntary liquidation under paragraph 83 of Schedule B1 to the Act, except where the preceding administration—
 - (a) commenced before 6th April 2010, or
 - (b) is an administration which commenced by virtue of an administration order under paragraph 10 of Schedule B1 to the Act on an application which was made before 6th April 2010
- (3) They apply where a company goes into liquidation on the making of a winding-up order on a petition presented on or after 6th April 2010, except where the liquidation is immediately preceded by—
 - (a) an administration under paragraph 10 of Schedule B1 to the Act where the administration order was made on an application made before 6th April 2010,
 - (b) an administration in respect of which the appointment of an administrator under paragraph 14 or 22 of Schedule B1 to the Act took effect before 6th April 2010, or
 - (c) a voluntary liquidation in respect of which the resolution to wind up was passed before 6th April 2010

Fixing of remuneration – Rule 4.127

- (1) The liquidator is entitled to receive remuneration for his services as such
- (2) The basis of remuneration shall be fixed—
 - (a) as a percentage of the value of the assets which are realised or distributed, or of the one value and the other in combination, or
 - (b) by reference to the time properly given by the insolvency practitioner (as liquidator) and his staff in attending to matters arising in the winding up, or
 - (c) as a set amount
- (3A) The basis of remuneration may be fixed as any one or more of the bases set out in paragraph (2), and different bases may be fixed in respect of different things done by the liquidator
- (3B) Where the basis of remuneration is fixed as set out in paragraph (2)(a), different percentages may be fixed in respect of different things done by the liquidator

- (3C) Where the liquidator is other than the official receiver, and subject to paragraph (5A), it is for the liquidation committee (if there is one) to determine—
- (a) which of the bases set out in paragraph (2) are to be fixed and (where appropriate) in what combination under paragraph (3A), and
 - (b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (3B) and the amount (if any) to be set under paragraph (2)(c)
- (4) In arriving at that determination, the committee shall have regard to the following matters—
- (a) the complexity (or otherwise) of the case,
 - (b) any respects in which, in connection with the winding up, there falls on the insolvency practitioner (as liquidator) any responsibility of an exceptional kind or degree,
 - (c) the effectiveness with which the insolvency practitioner appears to be carrying out, or to have carried out, his duties as liquidator, and
 - (d) the value and nature of the assets with which the liquidator has to deal
- (5) If there is no liquidation committee, or the committee does not make the requisite determination and subject to paragraph (5A), the basis of the liquidator's remuneration may be fixed (in accordance with paragraphs 2, (3A) and (3B)) by a resolution of a meeting of creditors, and paragraph (4) applies to them as it does to the liquidation committee

(5A) Where—

- (a) a company which is in administration moves into winding up under paragraph 83 of Schedule B1 of the Act and the administrator becomes the liquidator, or
 - (b) a winding-up order is made immediately upon the appointment of an administrator ceasing to have effect and the court under section 140(1) appoints as liquidator the person whose appointment as administrator has ceased to have effect,
- the basis of remuneration fixed under Rule 2.106 is treated as having been fixed under this Rule and paragraphs (4) and (5) do not apply
- (6) Where the liquidator is not the official receiver and the basis of his remuneration is not fixed as above, the liquidator shall be entitled to remuneration fixed in accordance with the provisions of Rule 4.127A (NO CVL APPLICATION)]1
- (7-CVL) If not fixed as above, the basis of the liquidator's remuneration shall, on application by the liquidator, be fixed by the court, and the provisions of paragraphs (2) to (4) apply as they do to the fixing of the basis of remuneration by the liquidation committee, but such an application may not be made by the liquidator unless the liquidator has first sought fixing of the basis in accordance with paragraph (3C) or (5), and in any event may not be made more than 18 months after the date of the liquidator's appointment

Liquidator's entitlement to remuneration where it is not fixed under Rule 4.127 (NO CVL APPLICATION) – Rule 4.127A

- (1) This Rule applies where the liquidator is not the official receiver and the basis of his remuneration is not fixed or treated as fixed in accordance with Rule 4.127
- (2) The liquidator shall be entitled by way of remuneration for his services as such, to such sum as is arrived at by–
 - (a) first applying the realisation scale set out in Schedule 6 to the monies received by him from the realisation of the assets of the company (including any Value Added Tax thereon but after deducting any sums paid to secured creditors in respect of their securities and any sums spent out of money received in carrying on the business of the company), and
 - (b) then by adding to the sum arrived at under sub-paragraph (a) such sum as is arrived at by applying the distribution scale set out in Schedule 6 to the value of assets distributed to creditors of the company (including payments made in respect of preferential debts) and to contributories.

Liquidator's remuneration where he realises assets on behalf of chargeholder - Rule 4.127B

- (1) This Rule applies where the liquidator is not the official receiver and realises assets on behalf of a secured creditor.
- (2) Where the assets realised for a secured creditor are subject to a charge which when created was a mortgage or a fixed charge, the liquidator shall be entitled to such sum by way of remuneration as is arrived at by applying the realisation scale set out in Schedule 6 to the monies received by him in respect of the assets realised (including any sums received in respect of Value Added Tax thereon but after deducting any sums spent out of money received in carrying on the business of the company)
- (3) Where the assets realised for a secured creditor are subject to a charge which when created was a floating charge, the liquidator shall be entitled to such sum by way of remuneration as is arrived at by–
 - (a) first applying the realisation scale set out in Schedule 6 to monies received by him from the realisation of those assets (including any Value Added Tax thereon but ignoring any sums received which are spent in carrying on the business of the company), and
 - (b) then by adding to the sum arrived at under sub-paragraph (a) such sum as is arrived at by applying the distribution scale set out in Schedule 6 to the value of the assets distributed to the holder of the charge [and payments made in respect of preferential debts]
- (4) The sum to which the liquidator is entitled under paragraph (2) or (3) shall be taken out of the proceeds of the realisation effected under that paragraph

Other matters affecting remuneration – Rule 4.128

- (1) [Revoked 2004]

- (2) Where there are joint liquidators, it is for them to agree between themselves as to how the remuneration payable should be apportioned. Any dispute arising between them may be referred—
 - (a) to the court, for settlement by order, or
 - (b) to the liquidation committee or a meeting of creditors, for settlement by resolution
- (3) If the liquidator is a solicitor and employs his own firm, or any partner in it, to act on behalf of the company, profit costs shall not be paid unless this is authorised by the liquidation committee, the creditors or the court

Recourse of liquidator to meeting of creditors – Rule 4.129A

If the basis of the liquidator's remuneration has been fixed by the liquidation committee, or by the creditors' committee under Rule 2.106(3C) in a case falling within Rule 4.127(5A) in which the administrator had not requested an increase under Rule 2.107, and the liquidator considers the rate or amount to be insufficient, or the basis to be inappropriate, the liquidator may request that the rate or amount be increased or the basis changed by resolution of the creditors.

Recourse to the court – Rule 4.130

- (1) If the liquidator considers that the basis of remuneration fixed by the liquidation committee, or by resolution of the creditors, or as under Rule 4.127(5A) or (6), is insufficient or inappropriate, the liquidator may apply to the court for an order changing it or increasing its amount or rate.
- (2) The liquidator shall give at least 14 days' notice of his application to the members of the liquidation committee, and the committee may nominate one or more members to appear or be represented, and to be heard, on the application
- (3) If there is no liquidation committee, the liquidator's notice of his application shall be sent to such one or more of the company's creditors as the court may direct, which creditors may nominate one or more of their number to appear or be represented
- (4) The court may, if it appears to be a proper case, order the costs of the liquidator's application, including the costs of any member of the liquidation committee appearing [or being represented] on it, or any creditor so appearing [or being represented], to be paid [as an expense of the liquidation]

Creditors' claim that remuneration is or other expenses are excessive – Rule 4.131

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

- (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")
- (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 an a 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
- (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) 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 of the 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
- (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]¹

Review of remuneration – new Rule 4.131A

- (1) Where, after the basis of the liquidator's remuneration has been fixed, there is a material and substantial change in the circumstances which were taken into account in fixing it, the liquidator may request that it be changed
- (2) The request must be made—
(a) where the liquidation committee fixed the basis, to the committee,
(b) where the creditors fixed the basis, to the creditors,
(c) where the court fixed the basis, by application to the court,
(d) where the remuneration was determined by application of the realisation scale under Rule 4.127A, to the liquidation committee if there is one or otherwise to the creditors,

and subject to paragraph (3), Rules 4.127 to 4.131 apply as appropriate.

- (3) Where Rule 4.129A is applied in accordance with paragraph (2) of this Rule, ignore the words "in which the administrator had not requested an increase under Rule 2.107".
- (4) Any change in the basis for remuneration applies from the date of the request under paragraph (2) and not for any earlier period
- (5) This Rule does not apply where the liquidator is the official receiver

Remuneration of new liquidator – new Rule 4.131B

- (1) If a new liquidator is appointed in place of another, any determination, resolution or court order in effect under the preceding provisions of this Section of this Chapter immediately before the former liquidator ceased to hold office continues to apply in respect of the remuneration of the new liquidator until a further determination, resolution or court order is made in accordance with those provisions.
- (2) This Rule does not apply where the new liquidator is the official receiver.

Apportionment of set fee remuneration – new Rule 4.131C

- (1) In a case in which the basis of the liquidator's remuneration is a set amount under Rule 4.127(2)(c) and the liquidator ("the former liquidator") ceases (for whatever reason) to hold office before the time has elapsed or the work has been completed in respect of which the amount was set, application may be made for determination of what portion of the amount should be paid to the former liquidator or the former liquidator's personal representative in respect of the time which has actually elapsed or the work which has actually been done
- (2) Application may be made—
 - (a) by the former liquidator or the former liquidator's personal representative within the period of 28 days beginning with the date upon which the former liquidator ceased to hold office, or
 - (b) by the liquidator for the time being in office if the former liquidator or the former liquidator's personal representative has not applied by the end of that period
- (3) Application must be made—
 - (a) where the liquidation committee fixed the basis, to the committee,
 - (b) where the creditors fixed the basis, to the creditors for a resolution determining the portion,
 - (c) where the court fixed the basis, to the court for an order determining the portion
- (4) The applicant must give a copy of the application to the liquidator for the time being in office or to the former liquidator or the former liquidator's personal representative, as the case may be ("the recipient")
- (5) The recipient may within 21 days of receipt of the copy of the application give notice of

intent to make representations to the liquidation committee or the creditors or to appear or be represented before the court, as the case may be

- (6) No determination may be made upon the application until expiry of the 21 days referred to in paragraph (5) or, if the recipient does give notice of intent in accordance with that paragraph, until the recipient has been afforded the opportunity to make representations or to appear or be represented, as the case may be
- (7) If the former liquidator or the former liquidator's personal representative (whether or not the original applicant) considers that the portion determined upon application to the liquidation committee or the creditors is insufficient, that person may apply—
 - (a) in the case of a determination by the liquidation committee, to the creditors for a resolution increasing the portion,
 - (b) in the case of a resolution of the creditors (whether under paragraph (1) or under subparagraph (a)), to the court for an order increasing the portion,and paragraphs (4) to (6) apply as appropriate