R3 HELPSHEETS

PROGRESS REPORTS

CREDITOR'S VOLUNTARY LIQUIDATIONS

Legal and Best Practice Requirements

Period to be covered

Generally	The report must cover the period of 1 year from the date on which the liquidator is appointed and every subsequent period of 1 year, or the period until the date of the liquidator's ceasing to act.	S104A(1)(a) R4.49C(2) and (3)
Where liquidator ceases to act	The period to be covered by a progress report ends on the date when a liquidator ceases to act, and the period to be covered by each subsequent progress report is each successive period of 1 year beginning immediately after that date (and subject to that new liquidator ceasing to act).	R4.49C(3)
Liquidator's resignation	The report must cover the period commencing with the later of the liquidator's appointment or the date immediately following the end of the period of the last progress report, and ending with the date of the meeting to receive the liquidator's resignation.	R4.49C(3) R4.108(3)
Joint appointees	Where there are joint liquidators and one leaves office, the progress report drafted will be completed in the name of all appointees at that date; and future progress reports will be twelve months after that for all new and/or continuing office holders. There should not be two timelines in place for new and continuing appointees.	Dear IP 48, ch 25, para 7
	Where a voluntary liquidator leaves office within the first twelve months of the liquidation, a progress report is not required even though the departing liquidator is ceasing to act. The activity of the departing liquidator will be rolled up into the first progress report by the new and/or continuing liquidators.	S104A R4.49C
Where final meeting convened	A progress report is not required for any period which ends after the liquidator has sent a draft final report to creditors under Rule 4.49D (final report to creditors) – see below.	R4.49C(4)

When report to be sent

Generally	The report must be sent within 2 months of the end of the	S104A(1)(b)

period which it covers. R4.49C(7)

Liquidator's resignation

A report must be sent with the notice summoning the meeting to receive the liquidator's resignation giving at least 28 days' notice.

R4.49C(3)
R4.108(1A) and (3)

Final report to creditors

A draft of the report (prepared in accordance with Rule 4.126), which the liquidator intends to lay before the final meeting of creditors, must be sent out at least 8 weeks before holding a final meeting is held in accordance with section 106.

S106
R4.49D(1)
R4.126

The liquidator may not send a draft final report before giving notice in accordance with Rule 4.186 that under Part 11 of the Rules:

R4.49D(3)
R4.186

- of his intention to declare a final dividend (Rule 11.2), or
- that no dividend or further dividend will be declared (Rule 11.7).

The final meeting may not be held if any creditor has applied to court, under R4.131, claiming that the liquidator's remuneration is excessive in all the circumstances and the application has yet to be heard.

R4.49D(4)

Those to whom report to be sent

Generally

A copy of the progress report must be sent to creditors, members and the Registrar.

S104A(1)
R4.49C(6)

Final report

The final report must be sent to each known creditor and the members and the Registrar.

R4.49D(1)
S106(1)(3)

Matters to be included

Generally

The progress report must include:

R4.49C
R4.49B(1)(b) – (j), (2), (3)

- full details of the company's name, address of registered office and registered number;
- full details of the liquidator's name and address and date of appointment, including any changes in office-holder;
- details of the basis set for the remuneration of the liquidator under Rule 4.127 (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 of remuneration has been fixed, and irrespective of whether or not it has been paid during the period, a statement of
  - the remuneration charged by the liquidator during the period of the report (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) and

- if it is the first report, after the basis of remuneration has been fixed, the remuneration charged by the liquidator during the periods covered by the previous reports (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), together with a description of the things done by the liquidator during those periods in respect of which the remuneration was charged;

- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether they were paid or not during that period;
- details of progress of the during the period of the report, including a receipts and payments account (see below);
- details of any assets that remain to be realised;
- a statement of the creditors' right to request information under Rule 4.49E and their right to challenge the liquidator's remuneration and expenses under Rule 4.131;
- Where there has been a division of unsold assets among creditors, a distribution in specie to members, or an arrangement under section 110, the relevant receipts and payments account must state the estimated value of the property distributed or transferred, and provide details of the basis of the valuation as a note to the account (see below) — R4.49F, S110, R4.183

Draft final report — R4.49D(1)

A draft of the report which the liquidator intends to lay before the final meeting of creditors must include: — R4.49D(2)

- All such matters required in a progress report (see above), as if the report were to be laid before a meeting as soon as reasonably practicable after the draft had been sent to creditors; and
- be accompanied by a statement of the creditors' right to request information under R4.49E and their right to challenge the liquidator's remuneration and expenses under R4.131 (see below)

Final report — R4.49D(1), S106(1), R4.126(1E) and (4)

The final meeting must not be held until the draft of the report, that the liquidator intends to lay before the final meeting of creditors, has been sent to creditors. The liquidator's report laid before the final meeting of creditors must contain:

- an account of the winding up showing how it has been conducted and the company's property has been disposed of (see below);
- a summary of the liquidator's receipts and payments details of the basis set for the liquidator's remuneration and by whom it was set;
- a statement by the liquidator that the account included in the report has been reconciled with that which is held by the Secretary of State in respect of the winding up;
- any other statement which the liquidator thinks it desirable to make;
- a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A (prescribed part);
- Where the liquidator has sent a progress report to creditors in accordance with s104A, the report at the final meeting must also: R4.126(5)
  - contain a receipts and payments account and include:
  - details of the remuneration charged and expenses incurred by the liquidator during that period, and
  - a description of the things done by the liquidator during that period in respect of which that remuneration was charged and those expenses incurred;
  - Where the basis of remuneration has been fixed as a set amount only, it is sufficient to state the amount which has been set out and to supply details of the expenses charged within the period in questions R4.126(7)
- In any case where the basis of the liquidator's remuneration had not been fixed by the date to which the last progress report was made up, the receipts and payments account must also include details of the remuneration charged in the period of any preceding progress report in which details of remuneration were not included; R4.126(6)

Receipts and payments accounts

- A receipts and payments account must be in the form of an abstract showing receipts and payments during the period of the report; R4.49C(5) R4.49B(2)
- Details of arrangements under section 110 (acceptance of shares, etc, as consideration for sale of company property), including the estimated R4.49F(1) S106 R4.49B

	value of - the property transferred to the transferee; - the property received from the transferee; and - the property distributed to members pursuant to s110(2) or (4); As a note to the account or summary of receipts and payments, provide details of the basis of the valuation;	R4.49D R4.108 R4.126
	• The estimated value of any distributions in specie to creditors and, as a note, provide details of the basis of valuation;	R4.183(2), (3)
	• Where the liquidator has ceased to act, the receipts and payments account must also include a statement as to the amount of the prescribed part of net assets paid to unsecured creditors under section 176A;	S176A
	• When preparing receipts and payments accounts regard should be had to Statement of Insolvency Practice 7 (Preparation of Insolvency Office Holders' Receipts and Payments Accounts)	SIP 7
Receipts and payments account – final report	The receipts and payments account accompanying the report to creditors at the final meeting, must include at least the following items separately specified (except where the amount for an item is zero); • receipts from trading carried on by the liquidator' • payments made in the course of trading carried on by the liquidator; • the source of all other receipts; • payments to redeem securities; • costs of execution; and net realisations; • the cost of employing a solicitor; • other legal costs; • the liquidator's remuneration; • the cost of employing an auctioneer; • the cost of employing a valuer; • the costs of taking possession of and maintaining the company's property; • the cost of advertising in the Gazette and other newspapers; • incidental outlays; • a statement of the total of costs and charges incurred; • the amount paid to holders of debentures of each	R4.126(1E)(a)

class of debenture, setting out the amount paid per debenture, the nominal value of each debenture in each class and the total amount paid in respect of each class;

- the aggregate numbers of preferential and unsecured creditors and the aggregate amounts paid out to them, the aggregates for preferential and unsecured creditors set out separately unless all creditors have been paid in full;
- statements of the aggregate dividend paid on each pound of preferential and of unsecured debt and of the estimate of the value of the company's net property which had been made under Rule 4.49(2)(a)(ii);
- the amount of interest paid under section 189;
- the amount paid to contributories in respect of each class of share, setting out the amount per share and the nominal value of each share in each class;
- a statement of the total amount paid to holders of debentures, preferential and unsecured creditors and contributories;
- a statement of assets which have proved to be unrealisable, including the value of those assets which had been made for the purpose of Rule 4.49(2)(a)(ii);
- the amounts paid into the Insolvency Services Account, set out separately, in respect of -
    - unclaimed dividends payable to creditors in the winding up;
    - other unclaimed dividends in the winding up;
    - moneys held by the company in trust in respect of dividends or other sums due before the commencement of the winding up to any person as a member of the company

Request for further information

After receipt of a progress report: R4.49E(1)

- a secured creditor;
- an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question) or
- with the permission of the court, any unsecured creditor

may request, in writing, that the liquidator provide further information about the remuneration or expenses set out in the report.

The request must be made –

- within 7 business days of receipt of the progress report where it is sent with notice of a meeting to receive the liquidator's resignation, and R4.49E(2)(a) and (b) R4.108
- within 21 days of receipt of the report or draft report in any other case. R4.49E(2)(b)

The liquidator must provide the requested information within 14 days of receipt of the request, unless he considers that: R4.49E(1), (3)

- 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 liquidator is subject to an obligation of confidentiality in relation to the information requested,

and except to the extent that the request is in respect of matter in a draft final report or a progress report to receive the liquidator's resignation which (in either case) was previously included in a progress report other than that required at the creditors' meeting to receive the liquidator's resignation. R4.49E(1)

In which case the liquidator 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. R4.49E(4)