R3 HELPSHEETS

PROGRESS REPORTS

COMPULSORY WINDING UP

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.	R4.49B(4)
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).	R4.49B(5)
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.	R4.108(3)(b)
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 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.	R4.49B(4), (5)

When report to be sent

Generally	The report must be sent within 2 months of the end of the period which it covers.	R4.49B(7)
Court may extend period	On the application of the liquidator, the court may extend the period of 2 months.	R4.49B(8)

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.	R4.108(1A) and (3)
Draft final report to creditors	A draft of the report (prepared in accordance with Rule 4.125) 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.	S146 R4.49D(1) R4.125
	The liquidator may not send a draft final report before giving notice, in accordance with Rule 4.186 (Final Distribution), under Part 11 of the Rules: • of his intention to declare a final dividend (Rule 11.2), • or that no dividend or further dividend will be declared (Rule 11.7).	R4.49D(3) R4.186
	The final meeting may not be held if any creditor has applied to court claiming that the liquidator's remuneration, or other expenses, is excessive in all the circumstances and the application has not been dealt with.	R4.49D(4) R4.131
Court may amend duties	The court may, on application of the liquidator, relieve him of any duty imposed by R4.125 (Final meeting) or authorise him to carry out that duty in a way other than required by this Rule. In these circumstances the court shall have regard to the cost of the carrying out of the duty, the amount of assets available and the extent of the interests of the creditors or contributories.	R4.125A

Those to whom report to be sent

Generally	A copy of the report must be sent to creditors, members and the Registrar.	R4.49B(7)
Liquidator's resignation	If the liquidator resigns a copy of the notice of the creditors' meeting must be sent to the Official Receiver, and the notice must be accompanied by a report.	R4.108(2) and (3)
Draft final report	The draft final report must be sent to each known creditor.	R4.49D(1) s.146(1)(a)

Matters to be included

Generally	The progress report must include: • details of the court where the proceedings are together with the court reference number • 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	R4.49B(1)(b) – (k), (3) R4.127

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 during the period of the report, including a receipts and payments account (see below);
- details of any assets that remain to be realised; R4.49E R4.131
- a statement of the creditors' right to request information and their right to challenge the liquidator's remuneration and expenses;
- 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(1) S110 R4.183
- any other relevant information for the creditors.

Court order to change content	On the application of the liquidator, the court may make such order in respect of the content of the report as it thinks just.	R4.49B(8)
Draft final report	A draft of the report which the liquidator intends to lay before the final meeting of creditors must include such matters and be in such terms as if the report were to be	R4.49D(1) R4.49D(2)

laid before a meeting as soon as reasonably practicable after the draft had been sent to creditors, including: R4.125

- An account of the liquidator's administration of the winding up, including:
    - a summary of his receipts and payments (including details of remuneration charged and expenses incurred);
    - details of the basis fixed for the liquidator's remuneration, and
    - a statement that the liquidator has reconciled his account with that which is held by the Secretary of State;
- a statement as to the amount paid to unsecured creditors by virtue of the application of s176A;
- where the liquidator has sent a progress report, the final report must also contain a receipts and payments account with details of remuneration and expenses (see below);
- 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

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. R4.49D(1) R4.125(2)

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 and include, where relevant: R4.49B(2) R4.49F(1) R4.49B R4.49D R4.108 R4.142

- Details of arrangements under section 110 (acceptance of shares, etc, as consideration for sale of company property);
- 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

Receipts and payments account – final report

Where the liquidator has sent a progress report, the final report must also contain a receipts and payments account in the form of an abstract showing the receipts and payments during the period since the last progress report, including: R4.125(2)

- Details of the remuneration charged and expenses incurred during that period;
- A description of things done by the liquidator

during the period in respect of which that remuneration was charged and those expenses incurred;

- In any case, where the basis of remuneration had not been fixed by the date of the last report, 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;

- Where the basis of remuneration has been fixed as a set amount, it is sufficient to state the amount which has been set and to supply details of the expenses charged within the period;

- Details of arrangements under section 110 (acceptance of shares, etc, as consideration for sale of company property), including the estimated value of — R4.49F(1) R4.49B R4.49D R4.108 R4.142
    - 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;

- 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)

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

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 –	R4.49E(2)(a) and (b) R4.108

- within 7 business days of receipt of the progress report where it is sent with notice of a meeting to receive the trustee's resignation, and
- 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)