HELPSHEETS - REMUNERATION
Developed by R3 STC and approved by ICAS

SEQUESTRATION

Basis

		Reference
Basis	Remuneration shall be fixed – By reference to the value of the assets which are realised, but there shall be in any event taken into account: (a) The work which, having regard to the value, was reasonably undertaken, and (a) The extent of the responsibilities in administering the estate.	S53(4)
	In fixing the amount the Commissioners or the Accountant in Bankruptcy may take into account any adjustment which they may wish to make to any remuneration fixed in respect of earlier periods.	S53(5)

Priority

Priority of payment	Remuneration is paid in the following order of priority: (a) The outlays and remuneration of the interim trustee (b) The outlays and remuneration of the trustee	 S26(2) S51(1)

When is remuneration fixed?

Accounting periods	The first accounting period in a sequestration is 12 months from the date of the award. Subsequent accounting periods are 12 months.	S52(2)
Procedure at end of accounting period	Within 2 weeks of the end of the accounting period the trustee shall provide his accounts and his claim for remuneration and outlays available to the Commissioners or the Accountant in Bankruptcy.	S53(1)
Timescale for approval by Commissioners or Accountant in Bankruptcy	The Commissioners or the Accountant in Bankruptcy must audit the accounts and issue a determination on the remuneration sought within 6 weeks of the end of the accounting period.	S53(3)

How is remuneration fixed?

Determination by Commissioners or Accountant in Bankruptcy	It is for the Commissioners or, as the case may be, the Accountant in Bankruptcy to determine the level of the trustee's remuneration. Where an interim trustee does not become trustee, the Accountant in Bankruptcy shall determine the level of the interim trustee's remuneration.	S53(3) S26(3)
Realisations for secured creditors	Where the trustee realises assets on behalf of a secured creditor, he is entitled to such remuneration as may be agreed with the secured creditor concerned.	

		Reference
Information to be provided		
Provision of information to those approving remuneration	The trustee must provide those responsible for approving his remuneration with the information required under Statement of Insolvency Practice 9	SIP 9
Disbursements		
Disbursements requiring approval	Category 2 disbursements, as defined by Statement of Insolvency Practice 9, must be approved in the same manner as remuneration.	SIP 9
Disbursements not requiring approval	Category 1 disbursements, as defined by Statement of Insolvency Practice 9, do not require approval.	SIP 9
If a creditor is dissatisfied		
Where the fees have been fixed by the Commissioners	If a creditor believes that the remuneration fixed is too high and it has been fixed by the Commissioners, then he must appeal to the Accountant in Bankruptcy. The trustee must receive a simultaneous note of the appeal. The determination of the Accountant in Bankruptcy following an appeal shall be appealable to the sheriff, and the decision of the sheriff on such an appeal shall be final.	S53(6) S53(6)
Where the fees have been fixed by the Accountant in Bankruptcy	If a creditor believes that the remuneration fixed is too high and it has been fixed by the Accountant in Bankruptcy, then he must appeal to the Sheriff. The trustee must receive a simultaneous note of the intention to appeal.	S53(6)
The timescales for such appeals	The timescales for such appeals are not later than 8 weeks after the end of the accounting period to which the remuneration has been fixed. Where the timescales have not been met, an application may be made under s63 to cure this defect. However common practice is to allow the debtor and creditors 14 days in which to appeal from the date advising them of the determination.	S53(6) S63 Practice
In respect of the interim trustee's remuneration	If a creditor believes that the remuneration fixed is too high he may appeal it within 14 days of the issue of the determination to the Sheriff.	S26(4)

		Reference
If the trustee is dissatisfied		
Where the fees have been fixed by the Commissioners	The process is identical to that above with the exception of the simultaneous appeal process.	S53(6)
Where the fees have been fixed by the Accountant in Bankruptcy	The process is identical to that above with the exception of the simultaneous appeal process.	S53(6)
If the debtor is dissatisfied		
Where the fees have been fixed by either the Commissioners or the Accountant in Bankruptcy	The debtor may appeal the level of remuneration fixed only if he satisfies either the Accountant in Bankruptcy or the Sheriff that he has, or is likely to have, a pecuniary interest in the outcome of the appeal.	S53(6A)
Notification	In addition to the debtor appealing to the Accountant in Bankruptcy or the Sheriff he must also give notice to the trustee.	S53(6B)
Other matters relating to remuneration		
Where creditors have made funds available	Creditors may in certain circumstances make available funds to pay for a trustee to carry out investigations into the bankrupt's affairs or fund litigation. Arrangements of this kind are for agreement between the trustee and the creditors concerned and are not subject to the statutory rules relating to remuneration.	