

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

# S.106

For official use

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To the Registrar of Companies

Company Number

5464646
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Name of Company

(a) Insert full name of company

(a)	AAA ASPHALT LIMITED
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(b) Insert full name(s) and address(es)

We (b) RICHARD FRANK SIMMS & CAROLYNN JEAN CLARK  
  
 Insol House, 39 Station Road, Lutterworth  
 Leicestershire LE17 4AP

give notice

(c) Delete as applicable  
 (d) Insert date  
 (e) The copy account must be authenticated by the written signature(s) of the liquidator(s)

1 that a general meeting of the company was duly (c) held on 19 September 2011 (d) pursuant to Section 106 of the Insolvency Act 1986, for the purpose of having an account (of which a copy is attached) (e) laid before it showing how the winding up of the company has been disposed of and (c) ~~[that the same was done accordingly]~~ [no quorum was present at the meeting],

2 that a meeting of the creditors of the company was duly (c) held on 19 September 2011 (d) 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 of the company has been conducted and the property of the company has been disposed of and (c) ~~[that the same was done accordingly]~~ [no quorum was present at the meeting].

Signed



R F Simms & C J Clark

Date

19 September 2011

Presenter's name address and reference (if any)

F A SIMMS & PARTNERS LTD  
 INSOL HOUSE  
 39 STATION ROAD  
 LUTTERWORTH, LEICS  
 LE17 4AP

For Official Use

Liquidation Section

Post Room

FRIDAY



A46

23/09/2011

171

COMPANIES HOUSE

# Liquidator's statement of account: creditors' voluntary winding-up

Statement showing how winding up has been conducted and the property of the company has been disposed of

Name of Company AAA ASPHALT LIMITED

From 25 August 2010 (commencement of winding up) to 19 September 2011  
(close of winding up)

	Statement of assets and liabilities	Receipts		Payments		
<b>Receipts</b>						
Cash at Bank	3,500 00	3,500 00	Costs of Solicitor to Liquidator	704 50		
Cash in Hand			Other Law Costs			
Marketable Securities			Liquidator's remuneration		£	
Sundry Debtors			Where (% on £ realised)			
Stock in Trade			applicable (% on £ distributed)			
Work in Progress			By whom fixed		_____	
Freehold Property			Auctioneer's and Valuer's charges			
Leasehold Property			Costs of possession and maintenance of estate			3,243 35
Plant and Machinery			Costs of notices in Gazette and newspaper			226 80
Furniture, Fittings, Utensils etc			Incidental outlay			
Patents, Trademarks etc			Total Costs and Charges			£
Investments other than marketable securities			(i) Debenture holders		£	
Surplus from securities			Payments of £ per			
Unpaid calls at commencement of winding up			£ debenture			
Amount received from calls on contributories made in the winding up			Payment of £ per			
Receipts per trading account			£ debenture			
Other property viz			Payment of £ per			
Bank Interest	£ debenture					
Refund of Insurance	0 41					
VAT Refund	30 00					
	644 24					
			£			
<b>Less:</b>	£ 3,500 00		(ii) Creditors			
Payments to redeem securities	£		*Preferential			
Costs of Execution			*Unsecured			
Payments per Trading Account			Dividends of p in £ on £			
			(The estimate expected to rank for dividend was £ )			
			(iii) Returns to Contributories	£		
			per £			
			↑ share			
			per £			
			↑ share			
			per £			
			↑ share			
Net realisations	£	4,174 65				
			BALANCE	£		
				4,174 65		

**Section 106**

**Form 4.72 cont'd**

(1) Assets, including \_\_\_\_\_ shown in the statement of assets and liabilities estimated to be of the value of  
£ . \_\_\_\_\_ have proved to be unrealisable

(2) State amount paid into the Insolvency Services Account in respect of

- (a) unclaimed dividends payable to creditors in the winding up £
- (b) other unclaimed dividends in the winding up £
- (c) 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 £

(3) Add here any special remarks the Liquidator thinks desirable -

Dated 19 September 2011

Signed (by the liquidator) \_\_\_\_\_

Name and address of liquidator (IN BLOCK LETTERS) R F SIMMS & C J CLARK

Insol House, 39 Station Road, Lutterworth, Leicestershire LE17 4AP

**Notes**

\* State number Preferential creditors need not be separately shown if all creditors have been paid in full

↑ State normal value and class of share

Our Ref 6385  
Reply to. Miss M Navratilova  
Email [mnavratilova@fasimms.com](mailto:mnavratilova@fasimms.com)

19 September 2011 2011



**F A Simms & Partners Limited**  
**Business Rescue & Insolvency**

Head Office  
Insol House, 39 Station Road,  
Lutterworth, Leicestershire LE17 4AP

Offices in  
London • Birmingham • Bristol  
Leeds • Manchester • Norwich

**To All Members And Creditors**

Dear Sirs

**AAA ASPHALT LIMITED - In Creditors' Voluntary Liquidation**

**Formerly Trading From: 9 Evergreen Drive, Colchester, Essex CO4 0HU**

Pursuant to Section 106 of the Insolvency Act 1986, we are now in a position to close the administration of the above Company's affairs. The final meetings of members and creditors have been convened on 19 September 2011.

The Company's main activity whilst trading was construction, it had ceased trading prior to Liquidation. The purpose of the Liquidation was to realise the debtors, work in progress and tangible assets, to get in the cash at bank, investigate matters surrounding the failure of the Company and then to distribute realisations in the priorities laid down in the Insolvency Act 1986.

A copy of the receipts and payments account is attached at Appendix A.

**Asset Realisations**

**Cash In Hand**

The Director's Statement of Affairs indicated that cash in hand would realise £3,500.00. The full same amount was received prior to our appointment and was subsequently transferred to the estate in Liquidation upon the appointment.

**Refund of Insurance**

The sum of £30.00 was received from AUA Insolvency Risk Services Ltd as a refund of insurance.

**Bank Interest**

Since the date of appointment, all funds have been held in interest bearing accounts and interest totalling £0.41 has been received.

Telephone 01455 555 444 Fax 01455 552 572 Email [info@fasimms.com](mailto:info@fasimms.com) Web [www.fasimms.com](http://www.fasimms.com)

Member of the Insolvency Practitioners Association

Chairman: Frank A Simms FABRP FIPA FICM FNARA Managing Director: Richard F Simms FCA  
Directors: Patricia A Simms MlCM Martin R Buttriss MIPA Steven P Ford LL.B FCCA MIPA Carolyn J Clark ACCA BSc (Hons) MIPA  
F A Simms R F Simms, M R Buttriss S P Ford & C J Clark are licensed to act as Insolvency Practitioners by the Insolvency Practitioners Association  
Registered in England Number 6003034

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### **Secured Creditors**

The Company had no secured creditors when ceased to trade

### **Preferential Creditors**

The Company had no preferential creditors when ceased to trade

### **Unsecured Creditors**

The Statement of Affairs showed 6 creditors with claims totalling £52,751 00 We have agreed 2 claims totalling £19,910 10

No dividend was paid to unsecured creditors

### **Investigation Work**

Investigations have been completed into the failure of the Company as required by Statement of Insolvency Practice 2

The Company Directors Disqualification Act 1986 requires the Liquidators to submit a return to the Insolvency Service in respect of Company's Directors conduct in all cases Such a return has now been submitted

No matters were raised at either the S98 meeting, or subsequently by creditors

### **Liquidators' Remuneration**

The original creditors' meeting passed a resolution agreeing a fee of £2,091 00 and disbursements of £193 92 to be paid to the Joint Liquidators for summoning that meeting An amount of £2,091 00 has been drawn of fee and £155 65 on account of these costs

The original creditors' meeting also passed a resolution that the Joint Liquidators' remuneration be fixed on the basis of the time costs properly incurred by the office holders and staff in attending to matters arising in the insolvency

Since appointment, the Joint Liquidators and staff have spent 23 40 hours on this case having a total charge out value of £1,901.00 and an average hourly rate of £81 24 An amount of £704 50 has been drawn on account of these time costs Appendix B gives details of the time costs incurred to date by work category These figures include an increase in charge out rates effective from 1 July 2011 Details of charge out rates and disbursement recovery rates are also included in Appendix B.

The disbursements charged to the case comprised of external supplies of incidental services specifically identifiable to the case such as case advertising, invoiced travel, external printing and document storage Also chargeable were any properly reimbursed expenses, incurred by personnel in connection with the case The following external disbursements were charged on account of these costs

Statutory Advertising	£
	226 80

Storage Costs	39 20
<b>TOTAL</b>	<b><u>266.00</u></b>

Disbursements relating to internal supplies or services specifically identifiable to the case have also been incurred such as photocopying, postage, telephone and fax. These items are charged to the case on the recovery basis detailed in the attached guide to fees. £313 26 disbursements of this nature have been charged. Appendix B gives details £212 35 of internal disbursements which have been incurred. Also charged are the following internal disbursements, totalling £109 00, which will be incurred in the closure of the case.

	<u>£</u>
Statutory Advertising	76 50
Postage	11 00
Photocopying	16 50
Telephone and Fax	5 00
<b>TOTAL</b>	<b><u>109.00</u></b>

Any creditor has the right to request further information under Rule 4 49E of the Insolvency Rules 1986 and challenge the Joint Liquidators remuneration and expenses under Rule 4 131 of the Insolvency Rules 1986. Details of this are attached in the Creditors' Guide to Fees at Appendix B.

### **Resolutions**

The following resolutions will be put to the meeting of creditors

- 1 That the Joint Liquidators report and receipts and payments account be approved
- 2 That the joint liquidators be granted their release from office
- 3 That the joint liquidators be given authority to destroy the company's books and records pursuant to regulation 16 of the Insolvency Regulations 1990
- 4 That the joint liquidators be permitted to draw disbursements as requested and to draw disbursements in future in accordance with their procedure for charging disbursements to the insolvency
- 5 That the joint liquidators be given authority to abandon any outstanding book debts

Yours faithfully



R F Simms  
C J Clark  
Joint Liquidators  
For and on behalf of  
AAA Asphalt Ltd

Case Number 6193  
Manager MN

Company Number 5464646  
Date of Incorporation 26/05/2005

**AAA Asphalt Limited**  
Joint Liquidators Receipts and Payments Account  
Covering the period from  
25 August 2010 to 19 September 2011

<i>Receipts</i>	Estimated To Realise	Realisations
CASH IN HAND	3,500 00	3,500 00
	<u>3,500 00</u>	
BANK INTEREST		0 41
REFUND OF INSURANCE		30 00
V A T REFUND		644 24
TOTAL		<u>4,174 65</u>
 <i>Payments</i>		
LIQUIDATORS DISBURSEMENTS		313 26
LIQUIDATORS REMUNERATION		704 50
STATEMENT OF AFFAIRS DISBURSEMENTS		155 65
STATEMENT OF AFFAIRS FEE		2,091 00
STATUTORY ADVERTISING		226 80
STORAGE COSTS		39 20
V A T - INPUT		644 24
TOTAL		<u>4,174 65</u>
	<u>Receipts</u>	<u>4,174 65</u>
	<u>Payments</u>	<u>4,174 65</u>
	<b>Balance in Hand</b>	<b>0 00</b>

# Time and Charge Out Summary

AAA Asphalt Limited

From 26/08/2010

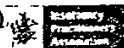
To 19/09/2011

Classification of Work Function	Director Hours	Manager Hours	Other Senior Professionals Hours	Assistants & Support Staff Hours	Total Hours	Time Cost £	Average Hourly Rate £
Administration and Planning	3 20	0 10	0 20	12 30	15 80	1,455 50	92 12
Creditors	0 20	0 10	0 20	0 60	1 10	90 50	82 27
Investigations	0 20			6 30	6 50	355 00	54 62
<b>Total Hours</b>	<b>3 60</b>	<b>0 20</b>	<b>0 40</b>	<b>19 20</b>	<b>23 40</b>		
<b>Total Cost (£)</b>	<b>755 00</b>	<b>9 00</b>	<b>32 00</b>	<b>1,105 00</b>		<b>1,901 00</b>	
<b>Average Hourly Rate (£)</b>	<b>209 72</b>	<b>45 00</b>	<b>80 00</b>	<b>57 55</b>			<b>81 24</b>

## Disbursements

Description	Amount £
Book Storage	10 50
Post	7 70
Post	6 38
Fee	100 00
Insolvency Bond	60 00
Photocopying	19 90
Post	7 50
Telephone	0 37
	<hr/>
	<b>212 35</b>





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**A CREDITORS' GUIDE TO LIQUIDATORS' FEES**  
**ENGLAND AND WALES**

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**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, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

**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 an official belonging to The Insolvency Service. 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 Insolvency Service on behalf of the Secretary of State. 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 6 weeks 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 remuneration**

**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

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

Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator.

It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages 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 or 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 apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

**4 3** If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.

**4 4** Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

**5 Review of remuneration**

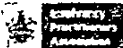
Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

**6 What information should be provided by the liquidator?**

**6 1 When seeking remuneration approval**

**6 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
- 6 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
- 6 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:

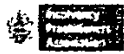
- Partner
- Manager
- Other senior professionals
- Assistants and support staff

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.

- 6 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.



**6.2 After remuneration 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 (see further paragraph 7.1 below). 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 principles set out in paragraph 6.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6.1.4 above regarding work which has been sub-contracted out.

**6.3 Disbursements and other expenses**

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them, as described below. 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.

**6.4 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 11.1 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.

**7 Progress reports and requests for further information**

**7.1** The liquidator is required to send annual progress reports to creditors. The reports must include

- details of the basis fixed for the remuneration of the liquidator (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 has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (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),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period,
- a statement of the creditors' rights to request further information, as explained in paragraph 7.2, and their right to challenge the liquidator's remuneration and expenses.

**7.2** Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

**7.3** The liquidator must provide the requested information within 14 days, unless he considers that



- the time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the liquidation or might 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,

in which case he 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

#### 8 Provision of information – additional requirements

The liquidator 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

#### 9 What if a creditor is dissatisfied?

9.1 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

9.2 If a creditor believes that the liquidator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court

9.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 above). 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

9.4 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company

#### 10. What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis



changed. 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.

**11 Other matters relating to remuneration**

- 11.1 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.
- 11.2 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.
- 11.3 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.
- 11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.
- 11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 11.6 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.

**12 Effective date**

This guide applies where a company –

- goes into liquidation on a winding-up resolution passed on or after 6 April 2010,
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010, except where the preceding administration began before that date,
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010, except where the liquidation was preceded by
  - an administration which began before that date,
  - a voluntary liquidation in which the winding-up resolution was passed before that date

**F A SIMMS & PARTNERS LIMITED  
CREDITORS' GUIDE TO FEES**

Charge-out rates (from 1 July 2011)

Grade	Charge-out rate (£ per hour)
Insolvency Practitioner	200-250
Senior Manager	120-150
Managers	75-100
Assistants & support staff	45 - 110

Time costs are calculated at 6 minute units

**Agent costs**

These are charged at cost based upon the charge(s) made by the Agent instructed. The term "Agent" includes

- Solicitors/legal fees
- Auctioneers/valuers
- Accountants
- Quantity Surveyors
- Estate agents
- Other specialist advisors

**Storage costs**

Charged at actual cost incurred for storage (and retrieval, when appropriate) of records

**Other disbursements (from 1 July 2011)**

Category	Basis of charge
Indemnity Bond	At cost of mandatory cover required in accordance with the Insolvency Act 1986 for each appointment
Insurance of assets	At cost in relation to asset coverage requirement
Company searches	At cost incurred
Travel	Motor vehicle at 45p per mile All other forms at actual cost
Room hire	Initial meeting of creditors - £100 All other meetings of creditors - £50 Any other venue - at actual cost
Photocopying	15p per sheet of A4 30p per sheet of A3
Postage	At actual cost incurred
Facsimiles/Telephone	Charged at the following rate during connection Local Calls – 5p per minute National Calls – 10p per minute International Calls – 30p per minute Landline to Mobile Calls (telephone only) 20p per minute
Confidential Waste	£10 50 per case
IT Charge	£100 00
Other	At actual cost charged