

INSOLVENCY SERVICE

Guidance to Insolvency Practitioners

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1. PREPARATION OF RECEIPTS & PAYMENTS ACCOUNTS

(a) Time limits for submission of accounts

Under Regulations 14(1) and 29(1) of the Insolvency Regulations (NI) 1996 ('the Regulations'), practitioners must, during the course of their administration, send an account to the Department of Enterprise Trade and Investment ('the Department') at any time that the Department so requires. The Department will require practitioners to submit an account 30 months after the making of the winding-up/bankruptcy order if the case has not already been completed by then and an annual account will be required thereafter until the practitioner has gained his/her release as liquidator/trustee.

Practitioners are reminded that they are responsible for the submission of returns within the times specified and should not await reminders. However the Insolvency Service does operate an accounts reminder system as follows:

- A formal request for the account will be issued by Central Accounting Unit (CAU) 2 weeks before the account falls due asking that it be submitted within 2 weeks of the due date.
- If the account has not been submitted within the 2-week period, a first and final reminder will be issued asking for the account to be submitted without further delay.
- If the account is not submitted within 2 weeks of the reminder being issued, the matter will be referred to Insolvency Practitioner Unit (IPU) for further action

When a practitioner receives a reminder letter for a 30-month/yearly account (interim account) but the case is very close to finalisation, the practitioner may, with our prior approval*, extend the account period by a maximum of 3 months in order to submit a final account. This will prevent the practitioner having to submit a final account covering a short period of time following the submission of the last interim account. If the extension period is exceeded the practitioner must submit an interim account.

*Practitioners should seek prior approval from the CAU (a phonecall will be sufficient).

(b) Correct Form

Practitioners should ensure that the Account is submitted on Form P89/L44 (see Appendix I) or on a form that is substantially similar to it. This form should also be used for final accounts.

(c) Dates of Account

The starting dates for all Accounts is the date of the bankruptcy/winding up order, **not** the date of appointment, eg

Date of Order - 1 January 1998
1 January 1998 - 30 June 2000 (30 month Account)
1 July 2000 - 30 June 2001 (Yearly Account)
1 July 2001 - Date of Final meeting (Final Account)

(d) Totals

Check that the brought forward totals entered on the Account agree with those carried forward from the previous Account. Also please check the totals entered for each column.

(e) Correct entries

Please ensure that all receipts and payments for the period covered are entered on the Account.

(f) Totals on back of Account

The totals on the back of Form P89/L44 should reflect the total of all receipts and payments in the Insolvency Account and not for example a “net balance brought forward adding on the receipts and deducting the payments for the period covered by the Account”.

(g) Transactions

Only transactions made to and from the Insolvency Account should be shown on the Form P89/L44, eg if net sums are lodged to the Account for assets realised **do not** show the **gross** amount. Similarly, if Agent’s commission, etc is deducted at source, do not show the payment.

(h) Comments

Comments on Part III (4-8) on the back of the Form P89/L44 should be as detailed as possible and should be updated each time an Account is submitted. IP’s are specifically asked to note that Part III requires an indication of the likelihood of payment of a dividend **and** the likely period within which it will be paid.

The Department also expects to see evidence of progress in case administration in the period between successive accounts. IPU or Audit Section will query with IP’s any account submitted with comments similar in nature to those on previous accounts and where there is little evidence of progress in bringing the case to closure stage.

IP's are reminded of the need to progress case administration to ensure that cases are closed at the earliest opportunity, particularly in circumstances where creditors can expect payment of a dividend.

(i) Form P34

This is the "Trustee's summary of all known assets" and should be forwarded with the first Account in all Bankruptcy cases. A similar form (L15) will be required with the first account in Company cases if no Statement of Affairs has been lodged. The form must be signed by the Trustee/Liquidator (see Appendix II).

(j) Final Meeting of Creditors

Rule 4.132/6.134 of the Insolvency Rules (NI) 1991('the Rules') requires that a Final Meeting of creditors be held. When the final meeting is held, the balance in the account should always be NIL except where the meeting is also to approve trustee's remuneration. IP's should note that it is not necessary to hold a separate meeting to fix remuneration. One meeting can be held, provided it is described as a Final Meeting, and remuneration can be fixed at the final meeting. When Form 4.23/6.38 (Notice to Creditors of Meeting of Creditors) is issued to creditors, the purposes of holding the meeting should be set out in the following order:

- (i) to approve Trustee's/Liquidator's remuneration,
- (ii) to accept Trustee's/Liquidator's report,
- (iii) to approve release of Trustee/Liquidator.

Paragraphs 2(a) and 2(b) of Rules 4.132/6.134 state that the Trustee's/Liquidator's report shall include a summary of the receipts and payments and a statement that the IP has reconciled his account with that which is held by the Department in respect of the bankruptcy/winding up.

In the situation where only one meeting is being held, the only monies remaining in the account should be the amount needed to cover the remuneration ie Departmental fees should have been charged before final meeting.

(k) Final Receipts and Payments Accounts

Regulations 14(3) and 29(3) require a final account to cover any periods not previously submitted to be sent to the Department **within 14 days of holding the final meeting of creditors** or of the report to Court. The Final Account should be up to the date of the final meeting or later if remuneration is drawn after the meeting and should always show a **nil** balance.

IP's are reminded that when a Final Receipts and Payments Account is submitted, it should be accompanied by:

- Forms 6.53/4.43 'Notice to Court of Final Meeting of Creditors'
- the Final Report to creditors which should include a summary of the receipts and payments and a statement that the IP has reconciled his account with that held by the Department (see paragraphs 2(a) and (b) of Rules 4.132 and 6.134.

Please note that if an Account is returned by Insolvency Service for amendment it should be sent back within 7 days.

2. **ANNULMENT CASES**

- (a) Where a bankruptcy order is annulled the trustee is required to submit a final receipts and payments account including reconciliation statement as soon as possible. Once an Annulment Order is received from Court by CAU, final fees will be charged and a letter will be issued to Trustee informing him of the total amount charged and requesting the final account and statement. If not received within 6 weeks the Trustee will be referred to IPU. Practitioners should note that the 'Maximum Amount' may apply if money from assets previously lodged ie Fee 19 (audit fee) ceases to be chargeable once sufficient money has been raised and paid into the Insolvency Account - see 6b below.

3. **RECISSIONS**

- (a) No final receipts and payments account is required from IP. Once a Recission Order is received from Court by CAU, final fees are charged and a letter is issued to the Trustee confirming this and that no account is required.

4. **TRADING ACCOUNTS**

- (a) All entries for trading on should be shown on Part II of Form P89/L44 (see Appendix I). If a local bank account is in operation a Bank Statement must be submitted to cover the period. Audit Section must be able to reconcile the entries on the Account with the Bank Statement entries. If trading on and/or operation of the local bank account continues beyond the date approved by the Department, a fresh application should be made and a further £27 fee will be charged. The balance on the back of Form P89/L44 should reflect all monies held both in the Insolvency Account and the local bank account.

5. **OTHER FORMS TO BE COMPLETED IN RESPECT OF RECEIPTS AND PAYMENTS**

(a) Insolvency Account Remittance Forms P50/L48 – Appendix III

This form should be forwarded to the Bank of Ireland with all lodgements and a copy sent to CAU. IP's are asked to ensure that they complete the necessary details on the form ie

- Court Number
- Account Number
- How money was realised – **description should be as detailed as possible**

Cheques can be lodged to the Insolvency Account if they are made out to a bankrupt or insolvent company as payee. Otherwise they must be made out to The Insolvency Service or The Official Receiver (see Dear IP letter no 18 para 11).

(b) Requisition for Cheques P51/L47 – Appendix IV

This form is forwarded to the Insolvency Service when a cheque is required. It should be used for all payments including preferential creditors **but not** ordinary creditors. It is not necessary to submit one form for each payment, one form can be used for several payments. Again the description given for the nature of payments should be as detailed as possible eg not just 'Solicitors fees' but 'Solicitors fees iro sale of house'. If requesting a cheque for remuneration, a copy of the resolution approving remuneration should be attached with the **first** request only. If remuneration is charged using the OR's scale fee, a breakdown of the calculation should be attached or shown on the form. It is not necessary to submit the record book. Also please show VAT content separately on form.

(c) Application to the Department for the issue of Dividend Cheques P90/L45 – Appendix V

This form should only be completed for payment to ordinary creditors, **not** preferential creditors. It is not sufficient to attach a list of creditors and the dividend payable, these details must be completed on the form itself. Also please ensure that the **rate** of dividend is inserted on the form and the date dividend is payable. (At least one week should be given from the date of receipt of P90 in CAU and the date cheques are required).

NB Practitioners should be aware that under the provisions of Articles 300(4) & (5) and 303(5) of the Insolvency (NI) Order 1989 ('the Order') creditors are entitled to receive interest where there are surplus funds after payment of 100p in £. Interest is calculated from the date of adjudication

to date dividend is paid. Currently the rate of interest is 8%. These provisions should not be confused with Rules 4.099/6.110 ie interest payable on debts up to date of bankruptcy eg judgment debt .

6. FEES

- (a) Administration Fee: Fee 1 – Companies/Fee 10 – Bankruptcy
Stationery Fee: Fee 2 – Companies/Fee 11 – Bankruptcy

Once an IP has been appointed in a case, the above fees will be charged by the Department and the IP will be notified of the amount deducted.

Fee 1 (£640) and Fee 10 (£320) are for the performance by the OR of his general duties on the making of the Order and Fees 2 & 11 are the stationery fees based on the number of creditors and contributories. (£175 for a number of creditors not exceeding 25 and £40 for every additional 10 creditors or part thereof).

- (b) Audit Fee: Fee 8 – Companies/Fee 19 - Bankruptcy

This fee is charged in respect of realisations for the Department's performance of general statutory duties. The fee is charged on a reducing sliding scale, depending on the total realisations paid into the Insolvency Account.

On the first	£50,000	(or part)	15%
On the next	£50,000	(or part)	11.25%
On the next	£400,000	(or part)	9.75%
On the next	£500,000	(or part)	5.625%
On the next	£4,000,000	(or part)	3%
On the next	£15,000,000	(or part)	1.5%
On the next	£30,000,000	(or part)	0.25%
On all further amounts			0.10%

However, there are certain lodgements on which the fee is not charged:-

- (i) deposits;
- (ii) Bank of Ireland interest;
- (iii) realisations made on behalf of a secured creditor (fixed)
(a fee is deducted for assets subject to a floating charge);
- (iv) any sums spent out of money received in carrying on business;
- (v) recoupment of fees and costs (including refunds of insurance).

Also please be aware that in the tiny minority of cases in which sufficient assets exist to pay creditors in full and all fees and expenses, Fee 19 ceases to be chargeable once sufficient money has been raised and paid into the Insolvency account to pay what is termed as the '**maximum amount**'. Therefore Ips should advise CAU once they have realised sufficient monies to pay same. CAU will then complete a calculation to determine the exact figure of the 'maximum amount' (see Dear IP letter no 18 para 16).

The audit fee is charged on all sums paid into the Insolvency Account inclusive of VAT.

NB: VAT should not be reclaimed in respect of petitioner's costs or tax on charges made by solicitors, estate agents, stock brokers, etc on exempt supplies eg input tax incurred in settling the bankrupt's dwelling house as this is an exempt supply and does not relate to the business being carried on.

(c) Realisation Fee: Fee 13/Regulation 34

This fee or remuneration represents the OR's remuneration for his functions as Liquidator of a company or as Receiver and Manager or Trustee of a bankrupt's estate. The fee is charged in a similar way to the Audit fee, on a reducing sliding scale as a percentage of sums realised.

On the first	£5,000	(or part)	20%
On the next	£5,000	(or part)	15%
On the next	£90,000	(or part)	10%
On all further sums			5%

In Bankruptcy cases the scale is applied as if it were a continuous scale from Receiver and Manager to trustee. Fee banding is to be regarded as cumulative no matter who effected the realisation.

The Fees Order and Insolvency Regulations specifically exclude the fee from being charged on sums realised on behalf of secured creditors in Bankruptcy cases however, the Insolvency Regulations do provide that in company cases remuneration may be charged on such realisations.

In a trading situation the fee or remuneration should only be charged on the net sum after deducting any expenses of carrying on the insolvent's business.

As with the Audit fee, refunds of VAT received from H M Customs and Excise will be subject to the fee.

The fee will not be charged on:-

- (i) deposits;
- (ii) Bank of Ireland interest;
- (iii) Recoupment of fees and costs (including refunds of insurance).

(d) Distribution Fee: Fee 14/Regulation 34

This fee is charged where the OR makes a distribution to any class of creditor (and to contributories in company cases). As before, it is a reducing sliding scale charged as a percentage of sums distributed.

On the first	£5,000	10%
On the next	£5,000	7.5%
On the next	£90,000	5%
On all further sums		2.5%

As with the realisation fee, this fee is specifically excluded from sums distributed to secured creditors, however, the Insolvency Regulations do provide that in company cases the fee may be charged where the distribution is to the holder of a floating charge (but not a fixed charge holder).

The distribution fee should not be calculated until all VAT has been reclaimed and other fees, adverts and disbursements accounted for. The balance (which is the amount to be distributed **including** the distribution fee) is then set into the formula (see Appendices VI & VII) to arrive at the actual amount for distribution.

(e) Cheque Issue Fee – Fees 7/18

This fee is charged whenever an IP applies for a payment from the Insolvency Account. The fee is 65p for each cheque issued including each payment to preferential creditors. When paying a dividend to ordinary creditors the fee is charged for just one cheque i.e. transferring the balance to be distributed to the Dividend Account. When a case is ready for finalisation and you contact the CAU to determine the Department's final fees, please ensure there are no further transactions or, if this is not possible, inform the staff of any further cheques to be issued so that an accurate figure can be calculated. Before advertising the notice of intention of dividend, ensure that all fees and expenses have been allowed for ie OR fees, Petitioner's costs and IP costs and remuneration. Please note – petitioner's costs must be settled before IP's remuneration.

(f) Meeting Fee: Fee 12

Please note, this fee is only chargeable by the Official Receiver. Insolvency Practitioners are entitled to charge for expenses of holding a meeting.

(g) Annulment/Rescission Fee: Fee 15

Fee 15 is chargeable in instances where a bankrupt has applied to annul or rescind the bankruptcy order, or in any Court Sittings in relation to the discharge of a bankrupt **where the OR attends court or makes a report to the court**. The rate is £90 for the first appearance or report and £45 for each subsequent report or appearance. There will be occasions where the OR will not attend Court Sittings in relation to annulments and rescissions, for example when all fees have been paid and there are no matters of concern that need to be brought to the attention of the Court. On such occasions the OR will send a letter to the Bankruptcy Master, in advance of the Sitting, informing him that the OR does not have any matters to bring to the Court's attention and does not intend to be present at the Sitting. In these instances Fee 15 will not be charged.

(h) Applications to Department - Fee 17a/6a

A fee of £27 is charged each time a formal application is made to the Department by an IP to exercise the powers of a creditor's/liquidation committee (in their absence) eg permission to carry on trading/commence legal proceedings. (see para 9 below)

REMUNERATION

(a) **Insolvency Practitioner's Remuneration Rules 4.134 and 6.135 of the Rules and Statement of Insolvency Practice 9(NI) (SIP 9(NI))**

I refer to Statement of Insolvency Practice 9 which deals with remuneration of insolvency office-holders. I wish to draw your attention the fact that fees should not be drawn on the Official Receiver's scale without first attempting to obtain the agreement of the committee or the creditors to basis for the fixing of the remuneration, **nor as an interim measure pending the agreement of the committee or creditors**".

SIP 9(NI) also deals with the level of information to be provided to creditors when seeking approval for remuneration and I would refer you to the explanatory notes made available for use by R3.

In seeking approval of creditors, practitioners are also asked to ensure that any resolutions afford the opportunity to creditors to approve or reject the resolution, as drafted.

(b) **Fees and remuneration**

When charging a realisation fee under the Official Receiver's scale fee please note that it is applied as if it were a continuous scale from Receiver and Manager to Trustee. Therefore, if the Official Receiver has realised assets before an IP is appointed, the IP must take these realisations into account before commencing to charge a realisation fee on any assets realised by him. Fee banding is to be regarded as cumulative no matter who effected the realisation. Similarly an IP is not entitled to charge a further fee on assets already realised by the Official Receiver.

Also please note that the fee should be charged as a percentage of monies received by IP ie if office holder's agent accounts to IP net of their fees then the IP should only charge remuneration based upon the amount which he receives and not the gross.

(c) **Request for payment of Fees and Remuneration**

Details of the basis on which the IP's fees have been calculated and the authority on which they have been drawn should be provided. If remuneration has been approved by a creditors' committee/liquidation committee or, in the absence of a committee, by the creditors, a copy of the resolution approving the fees should be submitted. This will only be required with the first request for payment of fees. If charged under the OR's scale fee, a copy of the calculation of fees showing how the amounts on which the fee is charged are made up both for realisation and distribution. Practitioners are reminded that they should take account of any outstanding fees due to the Department before submitting a requisition for remuneration.

(d) **Professional Fees**

All sums paid to the practitioner and his firm should be clearly identified as such. The practitioners fee should be stated separately with subheadings (where applicable) for remuneration, out of pocket expenses, other disbursements, management fees and fees for preparing statutory accounts and taxation matters, etc. Sums paid to any sub-contractor for work which would normally be carried out by office holders themselves should be identified as such and must be included within the total fee claimed by IP.

8. ADVERTISING

(a) Advertising – Final Meeting in Winding Up

Liquidators should ensure that, in accordance with Rule 4.132(1) they

- (i) send notification of the final meeting of creditors to all creditors who have proved their debts at least 28 days before the date of the meeting and:-
- (ii) **advertise** notice of the final meeting in the Belfast Gazette at least one month before the meeting is to be held. (There is no such requirement for bankruptcies).

(b) Advertising – Notice of Intended Dividend to Ordinary Creditors – Winding Up and Bankruptcy

Rule 11.02(2) states that before declaring a first dividend the responsible IP shall, unless he has previously by public advertisement invited creditors to prove their debts, give notice of the intended dividend by **public advertisement**. This means that the advertisement must be placed in the Belfast Telegraph, Irish News or Newsletter and that advertising in the Belfast Gazette is not required. As a result CAU will only sanction reimbursement of one advertisement in the above listed newspapers and not in the Gazette (unless there are exceptional circumstances). See Dear Ip letter no 18 para 9.

Notice of intended dividend must also be sent to all ordinary creditors whose addresses are known but who have not proved their debts. The advertisement notice of intended dividend should specify a date up to which proofs may be lodged which is not less than 21 days from the date of the notice and must state the IP's intention to declare a dividend (specified as interim or final) within 4 months from the last date for proving.

In cases where the balance remaining for distribution to ordinary creditors is very small and would be further reduced by having to pay for an advertisement, the IP may decide not to advertise and pay a dividend, but to transfer the balance to the Unclaimed Dividend Sub account as an undistributable balance (no cheque fee is charged for this transfer).

NB: Payment of Creditors in full in a Winding Up – Practitioners are reminded that under the provisions of Schedule 2 Part 1 Paragraph 1 of the Order, sanction of the liquidation committee, or in its absence the Department, is required to pay “any class of creditors in full”. (There is no such requirement for Bankruptcies.)

(c) Advertising of Appointment of IP

Rules 4.113/6121 of the Rules states that where an IP is appointed by a creditors' meeting he shall forthwith after receiving his certificate of

appointment, advertise his appointment in such newspaper as he feels most appropriate for ensuring that it comes to the notice of the bankrupt's creditors. However where an IP is appointed by the Department, he shall give notice to the creditors of his appointment but shall only advertise his appointment if the High Court so allows (see Articles 117 and 269 of the Order).

9. **SANCTION – FUNCTIONS CARRIED OUT BY THE DEPARTMENT WHERE THERE IS NO CREDITORS’ OR LIQUIDATION COMMITTEE INCLUDING SANCTION TO EMPLOY SOLICITORS**

Where there is no liquidation committee in a compulsory liquidation case or no creditors’ committee in a bankruptcy, the functions of the committee are vested in the Department under Articles 120 and 275 respectively of the Insolvency Order. The officers in IPU are duly authorised to exercise these powers.

(a) **Matters that Require Sanction by the Committee**

Sanction may be granted for the exercise of the following powers:

(i) Bankruptcy

- those listed in Schedule 3, Part 1 of the Order;
- appointment of the bankrupt to superintend the management of his estate, to carry on his business or to assist the trustee under Article 287 of the Order;
- division in its existing form among the creditors of any property which cannot readily be sold, under Article 299 of the Order;
- operation of a local bank account – Regulations 6 and 21

(ii) Compulsory Liquidation

- those listed in Schedule 2, Parts 1 and 11 of the Order;
- division in its existing form among the creditors of any property which cannot readily be sold, under Rule 4.193.

(b) **General Considerations**

All requests for sanction should be addressed to IPU and must be made in writing. Sanction will only be granted in respect of a specified power and a separate fee, currently £27, will be charged to the estate account by the Department in respect of each sanction. Practitioners can send a cheque for the fees along with the request for sanction if they wish to avoid the balance in the estate account being depleted by the amount of the fees.

Requests for sanction should not be made retrospectively except in an emergency, in which case, no undue delay should occur in applying for sanction (Article 287 and Rule 4.194(2)).

In Dear IP No 14 practitioners were advised of the level of information to be provided to the Department when applying for authorisation to commence legal proceedings, operate a local bank account, etc. Practitioners should take note of the following paragraphs which detail the information required before any sanction can be given.

(c) **Specific Requests**

Authorisation to take or defend legal proceedings

Written request for sanction should include the following information:

- details of the solicitors to be used and any special terms as to their costs;
- the amount of the funds in the insolvent's estate, together with details of any further realisations which are expected either as a result of the proceedings or otherwise;
- an estimate of the costs of fighting the case and of the potential costs of losing it;
- the arrangements made for payment of the costs where the estate funds (including future realisations) are inadequate;
- if indemnities are to be relied upon, details of the amount, by whom given and the grounds upon which the practitioner considers that the indemnifiers are good for the amount of their indemnities;
- the likely benefit to the estate if the proposed proceedings are successful, together with an indication of the prospects of success;
- an explanation of the need for and objective of the proposed proceedings.

If the funding is by a conditional fee agreement, the following further information should be provided:

- the uplift on fees to be applied;
- how any liability for costs, expenses and disbursements are to be met;
- the extent to which any recoveries will be absorbed by legal fees;
- the views of the principal creditors to this arrangement.

The sanction, when granted, will include a **financial limit** based upon estimated costs. If the practitioner needs, at a later date, to request an increase in the limit for costs, he should provide the reasons for the increase and details of any changes in the factors listed in the earlier application.

(d) **All other requests for sanction**

- the need for the proposed action;
- the effect of the proposed action;
- details of the approval of major creditors who may be adversely affected by it.

All applications for sanction and any other sanction queries should be addressed to IPU.

(e) **Sanction Applications; undervalue transactions; preferences; misfeasance and compromised claims**

Article 142 and Schedule Part 1 of the Order provide that in a compulsory liquidation, any litigation in the name of and on behalf of the company has to be sanctioned.

Articles 202 and 203 of the Order respectively provide that where the company has, within the relevant time, entered into a transaction at an undervalue or given a preference to any person, the office-holder may apply to court for an order restoring the position to what it would have been if the company had not entered into that transaction or given that preference.

The Department has no standing to sanction Articles 202 or 203 actions, as it does not appear that the proceedings are commenced in the name of and on behalf of the company but that the liquidator will be bringing the proceedings in his own name as office holder.

Technically, these actions do not involve preserving, realising or getting in “assets of the company”. The proceeds of a successful action are not company assets, and are held by the IP on so-called statutory trusts for the creditors.

The same view applies where proceedings are brought by a liquidator under the provisions of Article 177 and 178 of the Order (fraudulent/wrongful trading).

Similarly Article 287 and Schedule 3 Part 1 of the Order provide that any litigation relating to property comprised in a bankruptcy estate has to be sanctioned.

Article 312 and 313 respectively provide that where a bankrupt has, within the relevant time, entered into a transaction at undervalue or given a preference to any person the trustee may apply to the court for an order restoring the position to what it would have been if the bankrupt had not entered into the transaction or given the preference.

Article 315(3) of the Order provides that any sums required to be paid to the trustee in accordance with an order under Article 312 or 313 shall be comprised in the bankrupt’s estate. Therefore, although the Department considers that it is unable to sanction an application to commence proceedings under Article 312 or 313, if such an application is successful, the trustee will require the sanction for any action to enforce an Article 312 or 313 Order.

On the same basis, an Article 367 application (“transactions defrauding creditors”) does not require sanction but any subsequent enforcement action would.

Some IPs have applied for sanction to compromise a claim in advance of an offer being made. It may help IPs to know that, taking into account the provisions of Article 287 of the Order the view of the Department is that sanction to compromise a claim may only be given when the details of the proposed settlement are known, IPs should, therefore, not apply for sanction in anticipation of an offer from another party.

In the normal course of events an offer from the spouse to buy the bankrupt's interest in the matrimonial home at less than market value would not amount to a compromise. The trustee's acceptance of an offer in those circumstances would not have to be sanctioned.

However, where a definite value has been placed on the property, for example in other legal proceedings, sanction to compromise the claim against the other party would be required.

As stated above at 6(b) under the provisions of Schedule 2, Part 1, Paragraph 1 of the Order, sanction of the liquidation committee, or in its absence, the Department is required to pay "any class of creditors in full".

Note: While sanction is required to commence or defend any action or legal proceedings, it is not required merely to employ solicitors.

10. **Individual Voluntary Arrangements – Time limits for making Reports of the Creditors Meeting to the Court and the Department in compliance with Rules 5.25 and 5.27 of the Insolvency Rules (NI) 1991 – see Appendix VIII**

Practitioners are reminded of the requirement, under Rule 5.25 (3) for a copy of the chairman's report to be filed in court within 4 days of a meeting to approve an IVA being held. Rule 5.27 provides that immediately after the chairman has filed in court a copy of a report that a meeting has approved a voluntary arrangement, he/she shall report details of the arrangement to the Department and the supervisor shall forthwith give written notice of his/her appointment to the Department. In practice, a joint report and notice are usually sent to the Department. (see Dear IP letter no 18 para 12).

11. MISCELLANEOUS MATTERS

(a) **Submission of proof of debt and proxy forms by fax**

IP's are advised that proof of debt and proxy forms lodged with the Official Receiver by fax are acceptable for voting purposes at meetings of creditors (and contributories) to appoint trustees and liquidators. It is however essential that the forms have been validly signed by or on behalf of the creditor and that they are sent to arrive with the Official Receiver within the time limit for their acceptance.

It would greatly assist the Official Receiver's staff if IP's would send them, whether by fax or post, well in advance of the cut-off point for their receipt.

(b) **Proof of debt lists**

It has been noted that some IP's continue to admit claims and close creditors' lists in cases where there is no money to make a distribution. I would advise that this is not necessary as it only leads to delays in closing cases.

Once you have established that no dividend is likely to be paid, any creditors' claims received should be filed and no further correspondence issued in respect of queries on claims or to creditors who have not submitted claims.

(c) **Account Balances**

Printouts showing the estate account balance are forwarded to IP's when a case is handed over to them and on a six-monthly basis thereafter, IP's should be aware of all receipts and payments to the account and should keep records sufficient to show the current balance in the estate account.

Some IP's are requesting balances when the only difference in the account since the last time they received a printout is the cheques they have requisitioned and the monies they have lodged to the account.

IP's are reminded that under no circumstances should they send a requisition to CAU when there are no funds in the account to meet the cheque.

(d) **Final Fees Calculations**

It has been noted that some IP's, when finalising a case, will make 2 or 3 requests for final fees calculations. It would be helpful if Ips refrained from requesting such calculations until all realisations have been made. IP's are informed, in response to a request, of the fees outstanding but are reminded that if anything further is realised/paid after the date of the

calculation, that the audit fee and cheque fee will still be applicable. From this information, they should be able to work out for themselves what monies should be left to cover these fees. CAU will now provide only one final fee calculation per case.

IP's should also ensure that, when requesting a final fee calculation, they inform CAU if they want the Bank of Ireland interest stopped.

(e) Unrealised Assets

When submitting final accounts practitioners should ensure that any unrealised assets are disclosed and brought to the specific attention of the Official Receiver as detailed in Rules 6.142(3) and 4.144(3). This detail is recorded by the Official Receiver on the register of unrealised or unrealisable assets for future action as required.

Practitioners are further asked to ensure that any documentation relevant to the asset (such as policy documentation, agents valuation etc) is copied to the Official Receiver

(f) Change of Insolvency Practitioner

The Official Receiver and Department (IPU) must be informed of any resignations or removals of Liquidators/Trustees in accordance with Rules 4.115 and 6.123.

Regulation 29

Trustee Receipts and Payments Account

THE INSOLVENCY REGULATIONS (NORTHERN IRELAND) 1996

No:

RE:

I, _____, the trustee of the above-named bankrupt, hereby certify as follows-

1. The accounts in Parts I and II of this form contain a full and true account of my receipts and payments relating to the said bankrupt from _____, to _____, and I have not, nor has any other person by my order or for my use, during such period received or paid any moneys on account of the said bankrupt other than and except the items mentioned and specified in the said account.

2. The summary in Part III, with respect to the proceedings in and position of the administration of the estate of the said bankrupt, is true to the best of my knowledge and belief.

Signature _____ Trustee

Date

Part II. Where the trustee carries on a business, the trading account must be set out in

PART I

STATEMENT OF ACCOUNT

<i>Date</i>	<i>Receipts (nature and from whom received)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART I

STATEMENT OF ACCOUNT (CONT.)

<i>Date</i>	<i>Payments (nature and to whom paid)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART II

TRADING ACCOUNT

<i>Date</i>	<i>Receipts (nature and from whom received)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART II

TRADING ACCOUNT (CONT.)

<i>Date</i>	<i>Payments (nature and to whom paid)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART III

SUMMARY OF PROCEEDINGS IN AND POSITION OF
ADMINISTRATION OF ESTATE OF BANKRUPT

(1)	The amount of the estimated assets and liabilities at the date of the commencement of the bankruptcy.	Assets (after deducting amounts charged to secured creditors) Liabilities Secured creditors Unsecured creditors	£ £ £
(2)	Analysis of balance Total realisations £ Total disbursements £ Balance £	The balance is made up as follows- 1. Cash in hands of Trustee 2. Balance at Bank 3. Amount in Insolvency Account Balance	£ £ £ £
(3)	General Description and estimated values of any outstanding assets.		
(4)	Reasons for any non-realisation of assets.		
(5)	The causes which delay the termination of the completion of the administration of the bankrupt's estate.		
(6)	Whether a final dividend is likely to be paid and, if so, the period within which it may probably be paid.		
(7)	Add here any special remarks the trustee thinks desirable.		

Regulation 14

Liquidator Receipts and Payments Account

THE INSOLVENCY REGULATIONS (NORTHERN IRELAND) 1996

No:

RE:

I, _____, the liquidator of the above-named company hereby certify as follows-

1. The accounts in Parts I and II of this form contain a full and true account of my receipts and payments in the winding up of the said company from _____, to _____, and I have not, nor has any other person by my order or for my use, during such period received or paid any moneys on account of the said company other than and except the items mentioned and specified in the said account.

2. The summary in Part III, with respect to the proceedings in and position of the liquidation of the said company, is true to the best of my knowledge and belief.

Signature _____ Liquidator

Date

Where the liquidator carries on a business, the trading account must be set out in Part II

PART I
STATEMENT OF ACCOUNT

<i>Date</i>	<i>Receipts (nature and from whom received)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART I
STATEMENT OF ACCOUNT (CONT.)

<i>Date</i>	<i>Payments (nature and to whom paid)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART II
TRADING ACCOUNT

<i>Date</i>	<i>Receipts (nature and from whom received)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART II
TRADING ACCOUNT (CONT.)

<i>Date</i>	<i>Payments (nature and to whom paid)</i>	<i>VAT</i>	<i>Total</i>
	Brought Forward		
	carried down		

PART III

SUMMARY OF PROCEEDINGS IN AND POSITION OF LIQUIDATION

(1) The amount of the estimated assets and liabilities at the date of the commencement of the winding up.	Assets (after deducting amounts charged to secured creditors [including debenture holders])	£
	Liabilities	
	Fixed charge holders	£
	Floating charge holders	£
	Unsecured creditors	£
(2) The total amount of the capital paid up at the date of the commencement of the winding up.	Paid up in cash	£
	Issued as paid up otherwise than for cash	£
(3) Analysis of balance Total realisations £ Total disbursements £ (Includes Notional Fees of)	The balance is made up as follows-	
	4. Cash in hands of Liquidator	£
	5. Balance at Bank	£
	6. Amount in Insolvency Account	£
Balance £	Balance (Notional Debit)	£
(4) General Description and estimated values of any outstanding assets.		
(5) Reasons for any non-realisation of assets.		
(6) The causes which delay the termination of the winding up.		
(7) Whether a final dividend is likely to be paid and, if so, the period within which it may probably be paid.		
(8) Add here any special remarks the liquidator thinks desirable.		

BANKRUPTCY**Trustee's Summary of All Known Assets (for Submission with Accounts)**

THE INSOLVENCY (NORTHERN IRELAND) ORDER 1989

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

CHANCERY DIVISION (BANKRUPTCY)

No:

RE:

– BANKRUPT

[NOTE: This form must be completed in as much detail as possible]**Assets known to Trustee**

Nature	Estimated Value £	Amount Realised to date £	Estimated value of outstanding assets £	Reasons for non-realisation of outstanding assets
Cash at bank etc				
Cash in hand				
Cash deposited with solicitors				
Household furniture				
Life policies				
Motor vehicles				
Book debts				
Stock in trade (cost £)				
Machinery				
Trade fixtures etc				
Farming stock				
Growing crops etc				

Continued:

Nature	Estimated Value £	Amount Realised to date £	Estimated value of outstanding assets £	Reasons for non-realisation of outstanding assets
Stocks and shares				
Reversionary or other interest under wills etc				
Premium Bonds				
Jewellery				
Freehold property				
Leasehold property				
Bills of exchange, promissory notes, etc available as assets				
Other property viz:				
Surplus from securities				
Trading receipts £ Less trading payments £				
Other receipts viz:-				

Signed: _____

Dated:

LIQUIDATION
Liquidator's Summary of All Known Assets
(for submission with Accounts)

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
 CHANCERY DIVISION (COMPANIES WINDING UP)

IN THE MATTER OF
 (in Liquidation)

AND IN THE MATTER OF THE INSOLVENCY (NORTHERN IRELAND) ORDER 1989

[NOTE: This form must be completed in as much detail as possible]

Assets known to liquidator		Amount Realised to date £	Estimated Value of Outstanding Assets £	Reasons for non- realisation of Outstanding Assets
Nature	Estimated value £			
Balance at Bank				
Cash in hand				
Marketable securities				
Bills receivable				
Trade debtors				
Loans and advances				
Unpaid calls				
Stock in trade (cost £)				
Work in progress				
Freehold property				
Leasehold property				
Plant and Machinery				
Furniture, fittings, etc				
Patents, trade marks, etc				

Continued overleaf

Insolvency Account Remittance Form

THE INSOLVENCY REGULATIONS (NORTHERN IRELAND) 1996

RE:**No:**

Name and full postal address
of Trustee

As Trustee, I have been directed by the Department of Enterprise, Trade and Investment pursuant to Regulation 20(3) of the Insolvency Regulations (Northern Ireland) 1996 to pay to the credit of the Insolvency Account the sum of £ _____ in respect of the above-named bankrupt (**Account Number** _____).

PAYMENT MADE IN RESPECT OF:- £			CASH ANALYSIS £		
(1) Sale of fixed assets			Notes and coins		
(2) Sale of stock					
(3) Debts recovered			Postal orders		
(4) Bills of exchange					
(5) Cash in hand			Cheques, etc [list by amount]		
(6) Other realisations – please provide details					
(7) Unclaimed dividends, unapplied or undistributed balances					
TOTAL			TOTAL		

Dated:

Signed: _____

Trustee

To: Bank of Ireland, Belfast City Branch, 4-8 High Street, Belfast, BT1 2BA.

I hereby certify that the above-mentioned sum has been credited to the Insolvency Account, Bank of Ireland.

Dated:

Signed: _____

Authorised Officer of Bank of Ireland

NOTE: This form must accompany the remittance to the bank and a copy forwarded by IP to Central Accounting Unit, Insolvency Service.

Insolvency Account Remittance Form

THE INSOLVENCY REGULATIONS (NORTHERN IRELAND) 1996

RE:**No:**

Name and full postal address
of Liquidator

As Liquidator, I have been directed by the Department of Enterprise, Trade and Investment pursuant to Regulation 5 (3) of the Insolvency Regulations (Northern Ireland) 1996 to pay to the credit of the Insolvency Account the sum of £ _____ in respect of the above-named company. (Account Number _____).

PAYMENT MADE IN RESPECT OF:- £			CASH ANALYSIS £		
(1) Sale of fixed assets			Notes and coins		
(2) Sale of stock					
(3) Debts recovered			Postal orders		
(4) Bills of exchange					
(5) Cash in hand			Cheques, etc [list by amount]		
(6) Other realisations – please provide details					
(7) Unclaimed dividends, unapplied or undistributed balances					
TOTAL			TOTAL		

Dated:

Signed:

Liquidator

To: Bank of Ireland, Belfast City Branch, 4-8 High Street, Belfast, BT1 2BA

I hereby certify that the above-mentioned sum has been credited to the Insolvency Account, Bank of Ireland.

Dated:

Signed:

Authorised Officer of Bank of Ireland

NOTE: This form must accompany the remittance to the bank and a copy forwarded by IP to Central Accounting Unit, Insolvency Service.

Requisition for Cheques

THE INSOLVENCY REGULATIONS (NORTHERN IRELAND) 1996

RE:

No:

Account No.

The amounts set out below are required to be paid from the Insolvency Account

Dated:

To:

Insolvency Service
 Department of Enterprise, Trade and Investment
 Fermanagh House
 Ormeau Avenue
 Belfast
 BT 2 8NJ

 Responsible Insolvency
 Practitioner's Signature
 Name Responsible
 Insolvency Practitioner
 (in BLOCK letters)
 Address

Payees' names (in BLOCK letters)	Nature of payments	VAT	Total Amount	
			£	p
Sub-Total brought forward from continuation sheet				
TOTAL				

NOTES:

- a) The account number must be shown.
- b) In cases of payment to executors, trustees, representative officials, etc, the exact names of payees should be entered in column 1. [Where the responsible insolvency practitioner requires payment his name should be entered in column 1.]
- c) Before submitting his requisition the responsible insolvency practitioner should verify that the estate has a sufficient balance.
- d) Vouchers should not be submitted at this stage.
- e) Applications for 1st payment of remuneration should be accompanied by the Resolution of the Creditors or the Committee fixing the remuneration or where there is no resolution, verification that the remuneration has been fixed by Rule 6.135(6) of the Insolvency Rules (Northern Ireland) 1991.

FOR OFFICIAL USE		
Payment Authorised		Cheque No(s)
		Issued
		Entered on Computer
		Examined

Requisition for Cheques

THE INSOLVENCY REGULATIONS (NORTHERN IRELAND) 1996

RE:

No:

Account No.

The amounts set out below are required to be paid from the Insolvency Account

Dated:

To:

Insolvency Service
 Department of Enterprise, Trade and Investment
 Fermanagh House
 Ormeau Avenue
 Belfast
 BT 2 8NJ

Responsible Insolvency
 Practitioner's Signature
 Name Responsible
 Insolvency Practitioner
 (in BLOCK letters)
 Address

Payees' names (in BLOCK letters)	Nature of payments	VAT	Total Amount	
			£	p
Sub-Total brought forward from continuation sheet				
TOTAL				

NOTES:

- f) The account number must be shown.
- g) In cases of payment to executors, trustees, representative officials, etc, the exact names of payees should be entered in column 1. [Where the responsible insolvency practitioner requires payment his name should be entered in column 1.]
- h) Before submitting his requisition the responsible insolvency practitioner should verify that the estate has a sufficient balance.
- i) Vouchers should not be submitted at this stage.
- j) Applications for 1st payment of remuneration should be accompanied by the Resolution of the Committee or Creditors fixing the remuneration or where there is no resolution, verification that the remuneration has been fixed by Rule 4.134(6) of the Insolvency Rules (Northern Ireland) 1991.

FOR OFFICIAL USE		
Payment Authorised		Cheque No(s)
		Issued
		Entered on Computer
		Examined

NOTES:

- (a) The account number must be shown.
- (b) In cases of payment to executors, trustees, representative officials, etc, the exact names of payees should be entered in column 1. [Where the Trustee requires payment his name should be entered in column 1].
- (c) Before submitting his requisition the Trustee should verify that the estate has a sufficient balance.
- (d) Vouchers should not be submitted at this stage.

FOR OFFICIAL USE		
Payment Authorised		Cheque No(s)
		Issued
		Entered on Computer
		Examined

NOTES:

- (e) The account number must be shown.
- (f) In cases of payment to executors, trustees, representative officials, etc, the exact names of payees should be entered in column 1. [Where the Liquidator requires payment his name should be entered in column 1].
- (g) Before submitting his requisition the Liquidator should verify that the estate has a sufficient balance.
- (h) Vouchers should not be submitted at this stage.

FOR OFFICIAL USE		
Payment Authorised		Cheque No(s)
		Issued Entered on Computer Examined

FORMULA A**VAT PAID ON FEES BUT NOT BEING RECLAIMED**

To calculate the amount to be distributed and Distribution Fee, given the final balance in the Account.

If the final balance (x) representing the total distribution plus Fee plus VAT on Fee is: £	Distribution Fee will be £	The VAT on the Fee will be: £	The amount to be distributed will be: £
Less than £5,587.50	$x \div 111.75 \times 10$	$x \div 111.75 \times 1.75$	$x \div 111.75 \times 100$
£5,587.51 - £11,028.13	$x - 5,587.51 \div 108.8125$ $\times 7.5 + 500$	$x - 5,587.51 \div 108.8125$ $\times 1.3125 + 87.50$	$x - 5,587.51 \div 108.8125$ $\times 100 + 5,000$
£11,028.14 - £106,315.63	$x - 11,028.14 \div 105.875$ $\times 5 + 875$	$x - 11,028.14 \div 105.875$ $\times 0.875 + 153.13$	$x - 11,028.14 \div 105.875$ $\times 100 + 10,000$
On all further sums	$x - 106,315.64 \div 102.9375$ $\times 2.5 + 5,375$	$x - 106,315.64 \div 102.9375$ $\times 0.4375 + 940.63$	$x - 106,315.64 \div 102.9375$ $\times 100 + 100,000$

FORMULA B
VAT BEING RECLAIMED

To calculate the amount to be distributed and Distribution Fee, given the final balance in the Account.

If the final balance (x) representing the total distribution plus Fee £	Distribution Fee will be £	The amount to be distributed will be: £
Less than £5,500.00	$x \div 110 \times 10$	$x \div 110 \times 100$
£5,500.01 - £10,875.00	$x - 5,500.01 \div 107.5 \times 7.5 + 500$	$x - 5,500.01 \div 107.5 \times 100 + 5,000$
£10,875.01 - £105,375.00	$x - 10,875.01 \div 105 \times 5 + 875$	$x - 10,875.01 \div 105 \times 100 + 10,000$
More than £105,375.01	$x - 105,375.01 \div 102.5 \times 2.5 + 5375$	$x - 105,375.01 \div 102.5 \times 100 + 100,000$