

Liquidator's remuneration — procedure for fixing liquidator's entitlement thereto

646. (1) A liquidator, other than a provisional liquidator, has an entitlement to remuneration upon the terms agreed, fixed or otherwise set in the manner specified in subsection (2) and the terms upon which the liquidator has, in accordance with that subsection, such an entitlement may be expressed to be—

- (a) by way of a relevant percentage,
- (b) by reference to time expended in the conduct of the winding up, or
- (c) otherwise by reference to any method or thing.

(2) The terms upon which the liquidator has an entitlement to remuneration shall be—

(a) where there is a committee of inspection, such terms as have been agreed in writing between the liquidator and the committee of inspection, or

(b) in a winding up by the court or a creditors' voluntary winding up, where—

- (i) there is no committee of inspection, or
- (ii) the liquidator and the committee of inspection fail to agree,

such terms as have been approved by resolution of the creditors, or

(c) in a members' voluntary winding up, such terms as have been approved by resolution of the members of the company in general meeting, or

(d) where the creditors or members, as the case may be — having been requested to do so by the liquidator — fail to pass a resolution in accordance with paragraph (b) or (c), such terms as have been fixed by the court.

(3) Before the terms upon which a liquidator has an entitlement to remuneration have been agreed, approved or fixed, as the case may be, in accordance with subsection (2), the liquidator shall, as appropriate—

(a) cause particulars in writing of the terms upon which he or she seeks such entitlement to be furnished—

- (i) in a case to which subsection (2)(a) applies, to the committee of inspection,
- (ii) in a case to which subsection (2)(b) applies, to the creditors,

(iii) in a case to which subsection (2)(c) applies, to the members of the company, or

(b) in a case to which subsection (2)(d) applies, include, as part of his or her application to the court, particulars of the terms upon which he or she seeks such an entitlement.

(4) A liquidator shall, as soon as is practicable after his or her appointment and in accordance with subsection (2), seek the agreement or, as the case may be, approval (or, as the case may require, the fixing) of the terms upon which he or she has an entitlement to remuneration.

(5) Subject to subsection (6), the terms upon which a liquidator has an entitlement to remuneration may be varied by—

(a) a subsequent agreement between the liquidator and the committee of inspection,

(b) approval thereto (given by the means referred to in subsection (2)(b) or (c), as appropriate) of the creditors or members, or

(c) a subsequent order made by the court on application to it by the liquidator,

as the case may be.

(6) No such variation may, without the consent of the liquidator, reduce the entitlement of the liquidator to remuneration for work that has already been performed.

(7) This section is subject to sections 647 and 648.