

## INFORMATION SHEET TO CREDITORS OF A BANKRUPTCY REGARDING REMUNERATION

### Rule 6.78C - Creditors' request for further information

- (1) If—
  - (a) within the period mentioned in paragraph (2)—
    - (i) a secured creditor, or
    - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
  - (b) with the permission of the court upon an application made within the period mentioned in paragraph (2), any unsecured creditor, makes a request in writing to the trustee for further information about remuneration or expenses set out in a progress report under Rule 6.78A(1)(f) or (g) or in a draft report under Rule 6.78B, the trustee must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter in a draft report under Rule 6.78B or a progress report required by Rule 6.126 which (in either case) was previously included in a progress report not required by Rule 6.126.
- (2) The period referred to in paragraph (1)(a) is—
  - (a) 7 business days of receipt of the progress report where it is required by Rule 6.126, and
  - (b) 21 days of receipt of the report or draft report in any other case.
- (3) The trustee complies with this paragraph by either—
  - (a) providing all of the information asked for, or
  - (b) so far as the trustee considers that—
    - (i) the time or cost of preparation of the information would be excessive, or
    - (ii) disclosure of the information would be prejudicial to the conduct of the bankruptcy or might reasonably be expected to lead to violence against any person, or
    - (iii) the trustee is subject to an obligation of confidentiality in respect of the information, giving reasons for not providing all of the information.
- (4) Any creditor, who need not be the same as the creditor who asked for the information, may apply to the court within 21 days of—
  - (a) the giving by the trustee of reasons for not providing all of the information asked for, or
  - (b) the expiry of the 14 days provided for in paragraph (1), and the court may make such order as it thinks just.
- (5) Without prejudice to the generality of paragraph (4), the order of the court under that paragraph may extend the period of 8 weeks or, as the case may be, 4 weeks provided for in Rule 6.142(1B) by such further period as the court thinks just.
- (6) This Rule does not apply where the trustee is the official receiver.

## **Rule 6.142 - Creditor's claim that remuneration is or other expenses are excessive**

(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, or the bankrupt may apply to the court for one or more of the orders in paragraph (4).

(1A) Application by a creditor may be made on the grounds that—

- (a) the remuneration charged by the trustee,
- (b) the basis fixed for the trustee's remuneration under Rule 6.138, or
- (c) expenses incurred by the trustee,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate.

(1B) Application by a creditor must, subject to any order of the court under Rule 6.78C(5), be made no later than 8 weeks (or in a case falling within Rule 6.126, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 6.78B, which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report").

(1C) Application by the bankrupt may be made only on one or both of the grounds in paragraph

(1A)(a) and (c) and no later than—

- (a) 8 weeks after receipt by the bankrupt of the draft report under Rule 6.78B, or
- (b) in a case falling within Rule 6.126, 4 weeks after receipt by the bankrupt of notice under Rule 6.126(1C).

(2) When the application is made by a creditor, the court may dismiss it if it thinks that no sufficient cause is shown; but it must not do so unless the applicant has had an opportunity to attend the court for a hearing of which the applicant has been given at least 5 business days' notice but which is without notice to any other party.

(2A) Application may be made by the bankrupt only with the permission of the court; and without prejudice to the generality of the matters which the court may take into account, permission must not be given unless the bankrupt shows that there is (or would be but for the remuneration or expenses in question), or that it is likely that there will be (or would be but for the remuneration or expenses in question), a surplus of assets to which the bankrupt would be entitled.

(2B) If, as the case may be, the application is not dismissed under paragraph (2) or the bankrupt is given permission under paragraph (2A), the court must fix a venue for the application to be heard.

(3) The applicant shall, at least 14 days before the hearing, send to the trustee a notice stating the venue so fixed; and the notice shall be accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it.

(4) If the court considers the application to be well-founded, it must make one or more of the following orders—

- (a) an order reducing the amount of remuneration which the trustee was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or amount;
- (c) an order changing the basis of remuneration;
- (d) an order that some or all of the remuneration or expenses in question be treated as not being bankruptcy expenses;
- (e) an order that the trustee or the trustee's personal representative pay to such person as the court may specify as property comprised in the bankrupt's estate the amount of the excess of remuneration or expenses or such part of the excess as the court may specify; and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.

(5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and do not fall on the estate.