

Statement of administrator's proposals

R2.25

Pursuant to paragraph 49 of Schedule B1 to the Insolvency Act 1986 and Rule 2.25 of the Insolvency (Scotland) Rules 1986

Name of Company
Benson City Limited

Company number
SC272918

(a) Insert full name(s) and address(es) of administrator(s)

We (a)
John Bruce Cartwright and Graham Douglas Frost of
PricewaterhouseCoopers LLP, Erskine House, 68-73
Queen Street, Edinburgh, EH2 4NH and Peter
Norman Spratt of PricewaterhouseCoopers LLP,
Plumtree Court, London, EC4A 4HT

attach a copy of our proposal in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) Insert date

(b) 23 December 2008

Signed

Joint / Administrator(s)

Dated

23/12/08

Contact Details:

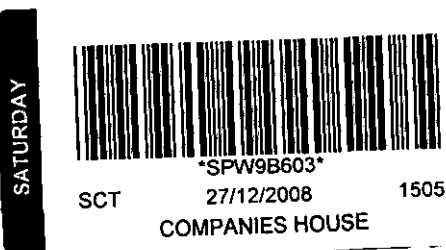
You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record

Matthew Garstang	
Tel 0131 260 4025	
DX Number	DX Exchange

Companies House receipt date barcode

When you have completed and signed this form, please send it to the Registrar of Companies at:

Companies House, 37 Castle Terrace, Edinburgh EH1 2EB
DX 235 Edinburgh / LP4 Edinburgh-2





Benson City Limited (in Administration)
Court of Session
Case No. P1893/08

Joint Administrators' proposals for achieving the purpose of Administration

22 December 2008

Contact details for queries

Contact	Address	Direct line	E-mail	Fax
Matthew Garstang	PricewaterhouseCoopers LLP Erskine House, 68-73 Queen Street, Edinburgh, EH2 4NH	0131 260 4025	mathew.d.garstang@uk.pwc.com	0131 260 4029

1. Purpose of this document

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1. Purpose of this document

I wrote to all creditors on 26 November 2008 to explain that Benson City Limited ("the Company") had entered into Administration and that GD Frost, PN Spratt and I had been appointed as Joint Administrators ("the Administrators") on 24 November 2008.

We were appointed as Administrators to manage the affairs, business and property of the Company. We will act until such time as our proposals for achieving the purpose of administration have been agreed by creditors and implemented, following which the Administration will be ended.

The purpose of administration is to achieve one of the following objectives:

- (a) primarily, rescuing the Company as a going concern, or failing that;
- (b) achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration); or finally
- (c) realising property in order to make a distribution to one or more secured or preferential creditors.

For the reasons details in this document objective (a) or failing which objective (b) is being pursued.

This document and its appendices form the Administrators' statement of proposals for achieving the purpose of administration as required by Paragraph 49 Schedule B1 of the Insolvency Act 1986 ("Sch. B1 IA86").

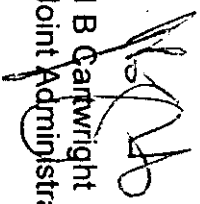
As detailed in Section 2, we have formed the view that the Company has insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of the prescribed part as provided for by Section 176A IA86.

Accordingly, by virtue of Paragraph 52(1) Sch. B1 IA86, a meeting of creditors is not being convened at this time. In accordance with Rule 2.25(3) of the Insolvency (Scotland) Rules 1986 ("ISR86") our proposals will be deemed to have been approved by creditors unless a meeting of creditors is requisitioned in the prescribed manner by at least 10% in value of creditors. If you wish a meeting to be held you must inform the Administrators in writing such that the request is received on or before 5 January 2009.

1. Purpose of this document

If you have any concerns or questions regarding the background to this case or what is being proposed, please do not hesitate to contact my colleague, Matthew Garstang, on 0131 260 4025. The address for correspondence is Benson City Limited (in Administration), c/o PricewaterhouseCoopers LLP, Erskine House, 68-73 Queen Street, Edinburgh, EH2 4NH.

For and on behalf of
Benson City Limited


J B Cartwright
Joint Administrator

GD Frost, JB Cartwright and PN Spratt have been appointed as Joint Administrators of Benson City Limited to manage its affairs, business and property as its agents. As such they contract without personal liability. GD Frost and JB Cartwright are licensed to act as insolvency practitioners by the Institute of Chartered Accountants of Scotland. PN Spratt is licensed to act as an insolvency practitioner by the Institute of Chartered Accountants in England and Wales.

2. The Administrators' statement of proposals

a. Brief history of the Company and summary of the Administrators' actions to date

Background

The Company is a subsidiary of Heritor's Residential Property (Scotland) Limited incorporated in Scotland.

The principal activity of the Company was the investment in, and development of, listed buildings into high specification residential properties. Specifically, the Company owns a share of St Bernard's School, Edinburgh which was purchased in October 2007. A third party owns the remaining share of St Bernard's School. The Administrators are currently assessing what, if any, impact this will have on future strategy. Currently, work is at an advanced stage with planning permission in place, however work has been temporarily suspended due to the current situation.

The Company provided a guarantee to the Bank of Scotland plc ("the Bank") in respect of the senior debt provided by the Bank to the ultimate parent company, Heritor's Residential Property (Holdings) Limited ("Holdings"). The Bank holds a bond and floating together with a standard security over the Company's heritable subject in respect of this guarantee.

The circumstances giving rise to the Administrators' appointment

By virtue of the guarantee discussed above, the Company was highly leveraged resulting in it, and the other companies in the wider group, being particularly affected by the fall in property prices. In addition, certain of the developments in the wider group suffered from severe delays in their completion together with some issues over the quality of the workmanship. This led to Holdings being unable to service its debt obligations.

As a result the Bank indicated it was unwilling to continue to support Holdings and appointed myself and my colleagues G D Frost and P N Spratt as Joint Administrators on 11 November 2008. Following a review of each of the subsidiaries financial position, it became clear that the most appropriate way to preserve value in the property assets was for each of the subsidiaries also to be placed in to administration. As a result the Bank called up its guarantee on 24 November 2008, and the Administrators were appointed.

2. The Administrators' statement of proposals

The manner in which the Company's affairs and business have been managed and financed

Management of the Company was by a board of directors with finance provided by both equity investors and, principally, senior debt from the Bank. Day to day management services were provided by Heritor's Consultants Limited, a related company that is not currently subject to an insolvency proceeding.

Objective of the Administration

The objective being pursued is rescuing the Company as a going concern, or failing that, achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up.

2. The Administrators' statement of proposals

b. Dividend prospects

It is expected that the Company has insufficient property to enable a distribution to be made to unsecured creditors other than possibly by virtue of section 176A(2)(a). The value of the prescribed part provided for by section 176A of the Insolvency Act 1986 is not yet known.

Ending the Administration

The Administrators currently envisage that once the objective of the Administration has been achieved the Administrators will file notice under Paragraph 84(1) Sch.B1 IA86 with the Registrar of Companies, following registration of which the Company will be dissolved three months later.

2. The Administrators' statement of proposals

c. Proposals for achieving the purpose of the Administration

The Administrators make the following proposals for achieving the purpose of administration.

- i) The Administrators will continue to manage and finance the Company's business, affairs and property from trading revenues and asset realisations in such manner as they consider expedient with a view to rescuing the Company as a going concern or achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration).
- ii) The Administrators may investigate and, if appropriate, pursue any claims that the Company may have under the Companies Act 1985 or IA86 or otherwise. In addition, the Administrators shall do all such other things and generally exercise all their powers as Administrators as they in their discretion consider desirable in order to achieve the purpose of the Administration or to protect and preserve the assets of the Company or to maximise their realisations or for any other purpose incidental to these proposals.
- iii) If the Administrators think that funds will become available for unsecured creditors, the Administrators may at their discretion establish in principle the claims of unsecured creditors for adjudication by a subsequent liquidator, supervisor of a company voluntary arrangement or scheme of arrangement and that the costs of so doing be met as a cost of the Administration as part of the Administrators' remuneration (where the Administrators think there will be sufficient funds for a distribution to unsecured creditors other than by virtue of the prescribed part) or out of the prescribed part as costs associated with the prescribed part (where the Administrators think that funds will become available to the unsecured creditors by virtue of the prescribed part but not otherwise).
- iv) The Administrators may use any or a combination of "exit route" strategies in order to bring the Administration to an end, but in this particular instance the Administrators are likely to wish to pursue the following option as being the most cost effective and practical in the present circumstances:
 - Once all of the assets have been realised and the Administrators have concluded all work within the Administration, the Administrators will file a notice under Paragraph 84(1) Sch.B1 IA86 with the Registrar of Companies, following registration of which the Company will be dissolved three months later.

2. The Administrators' statement of proposals

- v) The Administrators shall be discharged from liability pursuant to Paragraph 98(1) Sch.B1 IA86 in respect of any action of theirs as Administrators at a time resolved by the secured creditor, or if a distribution has been or may be made to the preferential creditors, at a time resolved by the secured and preferential creditors or in any case at a time determined by the court.
- vi) It is proposed that the Administrators' fees be fixed under Rule 2.39 of ISR86.
- vii) Category 2 disbursements (as defined by Statement of Insolvency Practice 9 (Scotland)) be charged in accordance with their firm's policy.

2. The Administrators' statement of proposals

d. Statement of affairs

A statement of affairs of the Company was delivered to the Administrators on 11 December 2008. The statement was signed by Chris Buchan and a statement of concurrence has been requested from the other director, however at the time of writing this report this has not been received, and is not yet due.

The Administrators make the following comments on the statement of affairs.

- In accordance with the standard format of the statement of affairs, no provision has been made for the costs of realising the Company's assets or the costs of the Administration;
- The Administrators have not carried out anything in the nature of an audit on the information;
- The Joint Administrators believe the valuation provided in the statement of affairs to be significantly in excess of the current market value based on professional independent valuations received;
- Despite being notified that the Bank had called up its guarantee, the director has not taken into consideration the amounts due to the Bank that is secured by a cross guarantee over the assets of the Company; and
- Based on current estimates, the Joint Administrators do not believe the bank will recover its debt in full, and therefore it is considered unlikely that there will be a return to the unsecured creditors.

The statement of affairs is enclosed in Appendix A and includes details of the names, addresses and debts of creditors.

2. The Administrators' statement of proposals

e. Statutory and other information

Court details for the Administration:	Court of Session P1893/08
Full name:	Benson City Limited
Trading name:	Benson City Limited
Registered number:	SC272918
Registered address:	Formerly 7 Albyn Place, Edinburgh, EH2 4NG changed to Erskine House, 68-73 Queen Street, Edinburgh, EH2 4NH
Company directors:	Christopher Buchan and Gordon Byrn
Company secretary:	Schroder Administrative Services (Bermuda) Limited
Shareholdings held by the directors and secretary:	Chris Buchan and Gordon Byrn do not hold shares in the Company, however they hold 4.53% and 2.23% of the shares respectively in Heritor's Residential Property (Holdings) Limited that is the ultimate parent company
Date of the Administration appointment:	24 November 2008
Administrators' names and addresses:	John Bruce Cartwright and Graham Douglas Frost of Erskine House, 68-73 Queen Street, Edinburgh, EH2 4NH and Peter Norman Spratt of Plumtree Court, London, EC4A 4HT
Appointor's / applicant's name and address:	Bank of Scotland plc, The Mound, Edinburgh, EH1 1YZ

2. The Administrators' statement of proposals

Objective being pursued by the Administrators:

Rescuing the Company as a going concern, or failing that achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in administration)

Division of the Administrators' responsibilities:

Pursuant to paragraph 100(2) of Schedule B1 to the Insolvency Act 1986 it is specified that the functions which require to be exercised by the joint administrators in relation to their appointment will be exercised by whichever joint administrator is more available and/or better qualified to exercise such function, and in certain cases by both.

Proposed end of the Administration:

Dissolution

Estimated dividend for unsecured creditors:

Not currently known

Estimated values of the prescribed part and the Company's net property:

Not currently known

Whether and why the Administrators intend to apply to court under Section 176A(5) IA86:

Not currently anticipated

The European Regulation on Insolvency Proceedings (Council Regulation (EC) No. 1346/2000 of 29 May 2000):

The European Regulation on Insolvency Proceedings applies to this Administration and the proceedings are main proceedings

Any other information which the Administrators think necessary to enable creditors to decide whether or not to vote for adoption of the proposals:

None

3. Receipts and payments account

No receipts and payments account has been included since there have been no receipts or payments to date.

Statement of Affairs

Pursuant to paragraph 47 of Schedule B1 to the Insolvency Act 1986
and Rule 2.21(1) of the Insolvency (Scotland) Rules 1986

Insert name of the
company

Statement as to the affairs of

Benson City Limited

as at the 24 November 2008, the date that the company entered administration.

Statutory Declaration

I solemnly and sincerely declare that the information provided in this statement and the lists A to G annexed and signed as relative hereto is, to the best of my knowledge and belief, true and complete,

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at *Edinburgh*

Signed 

This *11* day of *December* 20*08*

Before me *OKA*, Notary Public, Edinburgh

A Notary Public or Justice of the Peace or Solicitor

STATEMENT as to the affairs of the company on the 24 November 2008, the date that the company entered administration

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		Estimated Realisable Values £
ASSETS		
Assets not specifically secured (as per List "A")		5,595,359
Assets specifically secured (as per List "B")		
Estimated realisable value	£	-
Less: Amount due to secured creditors		-
Estimated Surplus		-
Estimated Total Assets available for preferential creditors, holders of floating charges and unsecured creditors		5,595,359
LIABILITIES		
Preferential creditors (as per List "C")		-
Estimated balance of assets available for holders of floating charges and unsecured creditors		5,595,359
Estimated prescribed part of net property where applicable (to carry forward)		-
Holders of floating charges (as per List "D")		-
Estimated surplus/deficiency as regards holders of floating charges		5,595,359
Estimated prescribed part of net property where applicable (brought down)		-
Unsecured Creditors		
Trade accounts (as per List "E")	£	-
Bills payable (as per List "F")		-
Contingent or other liabilities (as per List "G")		4,760,658
Estimated deficiency after floating charge where applicable (brought down)		-
Total unsecured creditors		(4,760,658)
Estimated Surplus/Deficiency as regards creditors		834,701
Issued and Called-up Capital		(2)
Estimated Surplus/Deficiency as regards members		834,699

These figures must be read subject to the following:-

- (a) There is no unpaid capital liable to be called up.

The estimates are subject to the expenses of the administration and to any surplus or deficiency on trading pending realisation of the Assets.

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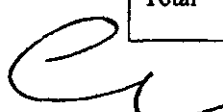
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Statement of affairs LIST 'A'

Assets not specifically secured

Particulars of assets	Book value £	Estimated to produce £
Balance at bank	34	34
Cash in hand.....	n/a	-
Marketable securities (as per Schedule I)	n/a	-
Bills receivable (as per Schedule II)	n/a	-
Trade debtors (as per Schedule III)	n/a	-
Loans and advances (as per Schedule IV)	n/a	-
Unpaid calls (as per Schedule V)	n/a	-
Other debtors (as per Schedule VI)	n/a	-
Stock in trade	n/a	-
Work in progress	n/a	-
Heritable property (note 1)	5,579,965	5,579,965
Leasehold property.....	n/a	-
Plant, machinery and vehicles.....	n/a	-
Furniture and fittings, etc	15,360	15,360
Patents, trade marks, etc.....	n/a	-
Investments other than marketable securities.....	n/a	-
Other property.....	n/a	-
Total	5,595,359	5,595,359

Signed



Date 11/12/08

Note 1:

The book value of the heritable property is the property valuation as at 30 June 2008, on the assumption that the refurbishment work is complete, as prepared by Rettie & Co Chartered Surveyors, adjusting where applicable for the estimated costs to completion. This is the basis on which the properties have been consistently valued in the management accounts and in the six monthly reports to investors.

Valuations have fallen since that date but a revaluation of the portfolio was not due until 31 December 2008 and so the values have not been adjusted. Costs to completion were estimated on the basis of budgets received from the project manager, Saïid Mohammadtaghi. Assuming new contractors are appointed, the costs for completing the refurbishment are likely to increase substantially and would need to be assessed by an appropriate surveyor. Without a property re-valuation or updated budget to complete the works, the book value has been used as the basis for the estimated realisable value.

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SCHEDULE I TO LIST 'A'
Statement of affairs
Marketable Securities

Names to be arranged in alphabetical order and
numbered consecutively

No	Name of organisation in which securities are held	Details of securities held	Book value £	Estimated to produce £
	NONE			

Signed



Date 11/12/08

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SCHEDULE II TO LIST 'A'

Statement of affairs

Bills of exchange, promissory notes, etc. available as assets

Names to be arranged in alphabetical order and numbered consecutively

No	Name and address of acceptor of bill or note	Amount of bill or note £	Date when due	Estimated to produce £	Particulars of any property held as security for payment of bill or note
	NONE				

Signed



Date

11/12/08

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SCHEDULE III TO LIST 'A'
Statement of affairs
Trade debtors

Names to be arranged in alphabetical order and
numbered consecutively

No	Name and address of debtor	Particulars of any securities held for debt	Book value £	Estimated to produce £
	NONE			

Signed



Date 11/12/08

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SCHEDULE IV TO LIST 'A'
Statement of affairs
Loans and Advances

Names to be arranged in alphabetical order and
numbered consecutively

No	Name and address of debtor	Particulars of any securities held for debt	Book value £	Estimated to produce £
	NONE			

Signed



Date 11/12/08

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SCHEDULE V TO LIST 'A'
Statement of affairs
Unpaid Calls

Names to be arranged in alphabetical order and
numbered consecutively

No	No in share register	Name and address of shareholder	No of shares held	Amount of call per share unpaid £	Total amount due £	Estimated to produce £
		NONE				

Signed



Date

11/12/03

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SCHEDULE VI TO LIST 'A'
Statement of affairs
Other Debtors

Names to be arranged in alphabetical order and
numbered consecutively

No	Name and address of debtor	Particulars of any securities held for debt	Book value £	Estimated to produce £
	NONE			

Signed



Date .11/12/08

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LIST 'B' (consisting of 1 page)

Statement of affairs

Assets specifically secured and creditors fully or partly secured (see note below) (not including debenture holders secured by a floating charge)

No	Particulars of assets specifically secured and nature of security	Date when security granted	Name of creditor	Address and occupation
	NONE			

Note: For this purpose treat as a creditor but identify separately

- (a) an owner of goods in the company's possession under a hire-purchase agreement or an agreement for the hire of goods for more than 3 months, or
- (b) a seller of goods to the company claiming a retention of title or a seller under a conditional sale agreement.

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LIST 'C' (consisting of 2 pages)

Statement of affairs

Preferential creditors for salaries, wages and otherwise

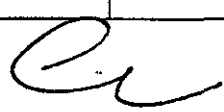
Names to be arranged in alphabetical order and numbered consecutively

No	Name of creditor	Address
	NONE	

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Nature of claim	Total amount of claim	Amount ranking as preferential	Balance not preferential carried to List 'E'

Signed



Date 11/12/03

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LIST 'D'

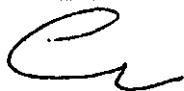
Statement of affairs

List of holders of debentures secured by a floating charge

Names to be arranged in alphabetical order and numbered consecutively

No	Name and address of Holder	Amount £	Description of assets over which security extends
	NONE		

Signed



Date

11/12/08

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LIST 'E' (consisting of 1 page)

Statement of affairs

Unsecured creditors – trade accounts.

Identify separately on this list customers claiming amounts paid in advance of the supply of
goods and services

Names to be arranged in alphabetical order and numbered consecutively

No	Name of and address of creditor	Amount of the debt £
	NONE	

Signed



Date

11/12/08

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LIST 'F'

Statement of affairs

Unsecured creditors – Bills payable, promissory notes, etc

Names to be arranged in alphabetical order and numbered consecutively

***Note**

The particulars of any bills of exchange and promissory notes held by a holder should be inserted immediately below the name and address of such creditor.

No	Name and address of acceptor of bill or note	Name and address of holder*	Date when due	Amount of claim £
	NONE			

Signed



Date 11/12/08

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LIST 'G'

Statement of affairs

Unsecured creditors – contingent or other liabilities

Names to be arranged in alphabetical order and numbered consecutively

No	Name and address of creditor	Nature of liability	Amount of claim £
1	Heritor's Residential Property (Scotland) Ltd c/o PricewaterhouseCoopers LLP Erskine House 68-73 Queen Street, Edinburgh EH2 4NH	I/co Loan	4,760,658
			4,760,658

Signed



Date 11/12/08

Appendix B Common questions and answers (references to "Rule" or "Rules" are to the Insolvency (Scotland) Rules 1986)

How is the Administrators' remuneration fixed?

The following information about the Administrators' fees is from Statement of Insolvency Practice 9 (Scotland) issued by the Association of Business Recovery Professionals, Appendix B: Administrators' guidance, as amended by The Insolvency (Scotland) Amendment Rules 2006.

Introduction

When a company goes into administration the costs of the proceedings are paid out of its assets in priority to creditors' claims. The creditors, who hope eventually 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 Administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the Administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees and explains the basis on which fees are fixed.

The nature of administration

Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the objective of:

- rescuing the company as a going concern; or
- achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration); or
- realising property in order to make a distribution to one or more secured or preferential creditors.

Administration may be followed by a company voluntary arrangement or liquidation or the company may be returned to the control of the directors or may be dissolved.

The Creditors' Committee

The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the Administrator's remuneration. The committee is established at the meeting of creditors which the Administrator is required to hold within 10 weeks of the administration to consider his proposals. The Administrator must

Appendix B Common questions and answers (references to “Rule” or “Rules” are to the Insolvency (Scotland) Rules 1986)

call the first meeting of the committee within 3 months of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the Administrator decides he needs to hold one. The committee has power to summon the Administrator to attend before it and provide such information as it may require.

Fixing the Administrator's fees

The basis for fixing the Administrator's remuneration is set out in Rule 2.39 of the Insolvency (Scotland) Rules 1986 as amended, which states that it may be a commission calculated by reference to the value of the company's property with which he has to deal.

- it is for the Creditors' Committee (if there is one) to fix the remuneration and Rule 2.39 says that in arriving at its decision the committee shall take into account: the work which, having regard to the value of the company's property, was reasonably undertaken by the Administrator; and
- the extent of his responsibilities in administering the company's assets.

Although not specifically stated in the Rules, the normal basis for determining the remuneration will be that of the time costs properly incurred by the Administrator and his staff.

If there is no Creditors' Committee, and there will be a distribution to ordinary creditors in addition to any distribution under s.176A IA86, the prescribed part, or the committee does not make the requisite determination, the Administrator's remuneration will be fixed by a meeting of creditors, which meeting can be held by correspondence. If the Administrator is dissatisfied with the determination of the creditors he may appeal to the Court under Rule 2.39A.

If there is no Creditors' Committee and there will only be a distribution to ordinary creditors under s.176A IA86, the Administrators' remuneration will be fixed by each secured creditor and if a distribution will be made to preferential creditors, the preferential creditors.

If the Administrator is dissatisfied with the determination of the meeting of creditors he may appeal to the Court under Rule 2.39A.

Appendix B Common questions and answers (references to “Rule” or “Rules” are to the Insolvency (Scotland) Rules 1986)

What information should be provided by the Administrator?

When seeking fee approval

Claims by the Administrator for the outlays reasonably incurred by him and for his remuneration shall be made within two weeks after the end of an accounting period (Rule 2.39). The Administrator shall submit to the approving party.

- his accounts of intromissions for audit;
- a claim for the outlays reasonably incurred by him and for his remuneration, broken down into category 1 disbursements, being those costs where there is specific expenditure relating to the administration of the company's affairs and referable to payment to an independent third party, and category 2 disbursements, which are costs which include elements of shared or allocated costs, and are supplied internally by the Administrator's own firm; and
- where the documents are submitted to the Creditors' Committee, he shall send a copy of them to the court.

When seeking agreement to his fees the Administrator should provide sufficient supporting information to enable the approving party 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.

Where, at any creditors' or committee meeting, the Administrator 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.

Where the Administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the Administrator should be prepared to disclose 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

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comprise a sufficient explanation of what the Administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the Administrator must fulfill 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 complexity, responsibility, value and nature of the assets with which he has had to deal. To enable this assessment to be carried out it may be necessary for the Administrator 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

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The explanation of what has been done can be expected to include an outline of the nature of the assignment and the Administrator'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 being spent accompanying the request the Administrator 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, or the drawing, or agreement of remuneration.

Any existing agreement about remuneration.

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.

Where the fee is charged on a percentage basis the Administrator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by an Administrator or his staff.

After fee approval

Where a resolution fixing the basis of remuneration is passed at any Creditors' Committee meeting held before he has substantially completed his functions, the Administrator should immediately notify the creditors of the details of the resolution. In subsequent reports to creditors the Administrator should specify the amount of remuneration he has had approved and has drawn in

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accordance with the resolution. 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. Where the remuneration is charged on a percentage basis the Administrator should provide the details regarding work which has been sub-contracted out.

Outlays, expenses and disbursements

Approval is generally required for the drawing of necessary outlays, expenses and disbursements (together referred to as disbursements). Professional guidance issued to insolvency practitioners requires that, where the Administrator 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 Administrator'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.

What if a creditor is dissatisfied?

If the Administrator's remuneration has been fixed by the Creditors' Committee or by the creditors (following an appeal by the Administrator) any creditor or creditors of the company representing at least 25 per cent in value of the creditors, apply to the court for an order that it be reduced, on the grounds that it is, in all the circumstances excessive (Rule 2.39A). If the court considers the application to be well-founded, it shall make an order fixing the remuneration at a reduced amount or rate. Unless the court orders otherwise, the costs must be paid by the applicant and not as an expense of the administration.

Notwithstanding the fact that the statutory time limit for appealing under this provision expires 8 weeks from the end of the accounting practice, it is normal practice to advise the creditors that they may appeal within 14 days of being notified of the determination in cases where this extends beyond the statutory appeal period.

What if the Administrator is dissatisfied?

If the Administrator considers that the remuneration fixed by the Creditors' Committee is insufficient he may request that it be increased by resolution of the creditors (Rule 2.39A). If he considers that the remuneration fixed by the committee or by a resolution of the creditors is insufficient, he may apply to the court for an order increasing its amount or rate (Rule 2.39A). If he

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decides to apply to the court he must give at least 14 days' notice to the members of the Creditors' Committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the Administrator's notice of his application must be sent to such of the company's 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 as an expense of the administration.

Other matters relating to fees

Where there are Joint Administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the Creditors' Committee or a meeting of creditors (Rule 2.39(8)).

HERITOR'S RESIDENTIAL PROPERTY (HOLDINGS) LIMITED

