

PRACTICE DIRECTION NO. 1 OF 2006

LIQUIDATORS' REMUNERATION

By judgment of the Privy Council delivered on 6th June 2006 in the matter of **The Attorney General v Cleaver, Johnson and others**; the judgment of the Court of Appeal was set aside and the judgment of the Grand Court restored.

The result is confirmation of the Grand Court's primary responsibility for determining the remuneration of liquidators.

Practice Direction No. 2/03 (Remuneration of Official Liquidators) was issued for the purpose of setting out the procedure required for giving effect to the decision of the Court of Appeal.

Practice Direction No. 2/03 is therefore now redundant and is hereby revoked.

Instead, and until further notice, the following directions are issued pursuant to the Law and the judgment of this Court:

1. Liquidators appointed by or who act under supervision of the Court are required to make applications to the Court for the setting and approval of their fees and expenses.
2. Where there is available a body of creditors (in the case of insolvency or doubtful solvency) or contributories (in other cases), who may be convened to consider the appropriateness and reasonableness of an application and who, to

the satisfaction of the Court, may be regarded as fairly representational of the interests of creditors or contributors as a whole; the application must first be presented to that body for their consideration and opinion. All relevant information to enable that process must be provided for their consideration.

The application will then be presented to the Court, along with their opinion, for its decision.

3. Where, for any reason explained to the satisfaction of the Court (such as in certain cases of provisional liquidation) there is not available such a body of creditors or contributories, the application will be served upon any person or persons who may be acceptable to the Court as fairly representing the respective interests of creditors or contributories, as the case may be.

Similarly, all relevant information must be provided and the application will be returned with their opinion for the decision of the Court.

4. The provision of relevant information to the creditors, contributories or representatives will be as the Court may direct in each case.

5. In cases where a Fee Protocol is already in place or is proposed as between the liquidator here and his counterpart overseas, there may be continued compliance with or accession to such Protocol (as the case may be), unless the Court otherwise orders. The Protocol must be brought to the attention of the Court as soon as practicable.

6. In any other case – for instance, where the value of the estate would be disproportionate to the costs of getting the creditors' or contributories'

opinions - the application must be presented to the Court for approval, and subject to such directions as the Court might give.

Hon. Anthony Smellie
Chief Justice