



York Holdings Land (WA) Pty Ltd (In Liquidation)
ACN 614 172 502
(York Holdings)

Initial Information for Creditors

Rob Kirman and I were appointed Liquidators of York Holdings by Order of the Federal Court of Australia on 5 May 2020.

We have been appointed to represent the interests of all creditors. We are responsible for locating York Holdings' assets, investigating its affairs, reporting to the Australian Securities and Investments Commission (**ASIC**) and, if funds become available, paying money owed to creditors.

According to York Holdings' records, you may be a creditor of York Holdings.

The purpose of this document is to provide you with information about the liquidation and your rights as a creditor.

Declaration of Independence, Relevant Relationships and Indemnities (DIRRI)

We enclose our DIRRI. Our independent status and who appointed us is outlined in our DIRRI.

What do you need to know?

Question	Answer
What is a court liquidation?	A court liquidation is where a creditor that is owed money by the company successfully applies for an order that the company be placed into liquidation on the grounds that the company is insolvent.
What are your rights as a creditor?	We enclose a copy of the information sheet "Creditor Rights in Liquidations" issued by the Australian Restructuring Insolvency & Turnaround Association (ARITA). It includes information on your rights to: <ul style="list-style-type: none">▪ make reasonable requests for a meeting;▪ make reasonable requests for information;▪ give directions to the Liquidators;▪ appoint a reviewing liquidator; and▪ replace us as Liquidators.
What happens to your debt?	<p>All creditors of York Holdings are now creditors in the liquidation and will now be dealt with in the liquidation.</p> <p>The amount of money you receive depends on the amount we recover, including from locating, securing and selling York Holdings' assets. After paying our fees, creditors share in any remaining money proportionally. If funds are available, the amount paid is called a dividend.</p> <p>A dividend can vary between creditors because the law entitles different types of creditors to be paid before other types of creditors. In addition, a dividend will only be paid where there are sufficient recoveries in the liquidation, which will not always be the case.</p> <p>If you have leased property to York Holdings, have a retention of title claim or have a registered personal property securities interest in relation to York Holdings, please contact Antoine Cleuet on (08) 6363 7635 as soon as possible.</p> <p>We are not trading the business of York Holdings.</p>



Question	Answer
<p>Do you have to do anything?</p>	<p>You should read this information. You can choose to participate in the liquidation process, but you don't have to.</p> <p>If we need you to take action, we will write and ask you. For example, we may ask you to provide proof of your debt before we can pay you a dividend.</p> <p>If you do not think you are a creditor, please let us know.</p>
<p>What has happened in the liquidation so far?</p>	<p>To date work performed in the liquidation has been limited to attending to the initial statutory requirements and notifications arising from our appointment, securing and preserving York Holdings records and requesting the current and former directors of York Holdings prepare and submit a Report on Company Affairs and Property and provide York Holding's books and records.</p> <p>At the time of writing the current and former directors of York Holdings have not complied with this request.</p>
<p>What is the cost of the liquidation?</p>	<p>We get paid out of York Holdings' money, including realisations from assets or from money paid to us by others, which may include funds contributed by York Holdings' creditors. If there is not enough money in the liquidation, we do not get paid in full.</p> <p>We enclose our Initial Remuneration Notice, which provides you with information about how we propose to be paid for undertaking the liquidation.</p> <p>We may write and ask that you approve our remuneration for the work that we do in completing the liquidation. If we do, we will provide you with detailed information about what tasks we have undertaken and the costs of those tasks.</p>
<p>What further communication will you receive?</p>	<p>We will write to you within three months of our appointment advising whether a dividend is likely and update you on the progress of our investigations.</p> <p>We may also send you updates on the progress of the liquidation, or proposals to approve certain matters in the liquidation, at any time.</p> <p>If we consider it to be in the interests of creditors, we will hold a meeting to communicate with creditors. Further, if we receive a request for a meeting that complies with the guidelines set out in the creditor rights information sheet, we will also hold a meeting of creditors.</p>
<p>What happens next?</p>	<p>We will proceed with the liquidation, which will include:</p> <ul style="list-style-type: none"> ▪ recovering and selling any available property; ▪ investigating York Holdings' affairs, including the validity of the sale contract; ▪ reporting to the corporate regulator, ASIC; and ▪ distributing any available funds to creditors in accordance with their priority.



Question	Answer
Where can you get more information?	<p>ARITA provides information to assist creditors to understand liquidations and insolvency. This information is available from ARITA's website at www.arita.com.au/creditors.</p> <p>A copy of the information sheet, "Insolvency information for directors, employees, creditors and shareholders", issued by ASIC is also enclosed for your information.</p>

If you have any queries, please contact Antoine Cleuet of my staff on (08) 6363 7635. For further information about this engagement, please refer to the website www.mcgrathnicol.com/creditors.

Dated: 3 June 2020

Rob Brauer
Liquidator

Enclosures:

- 1 ARITA Information Sheet - Creditor Rights in Liquidations
- 2 Declaration of Independence, Relevant Relationships and Indemnities
- 3 Initial Remuneration Notice
- 4 ASIC Information Sheet - Insolvency information for directors, employees, creditors and shareholders

Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by $\geq 5\%$ of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$ but $< 25\%$ of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$ of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

Specific queries about the liquidation should be directed to the liquidator's office.

Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

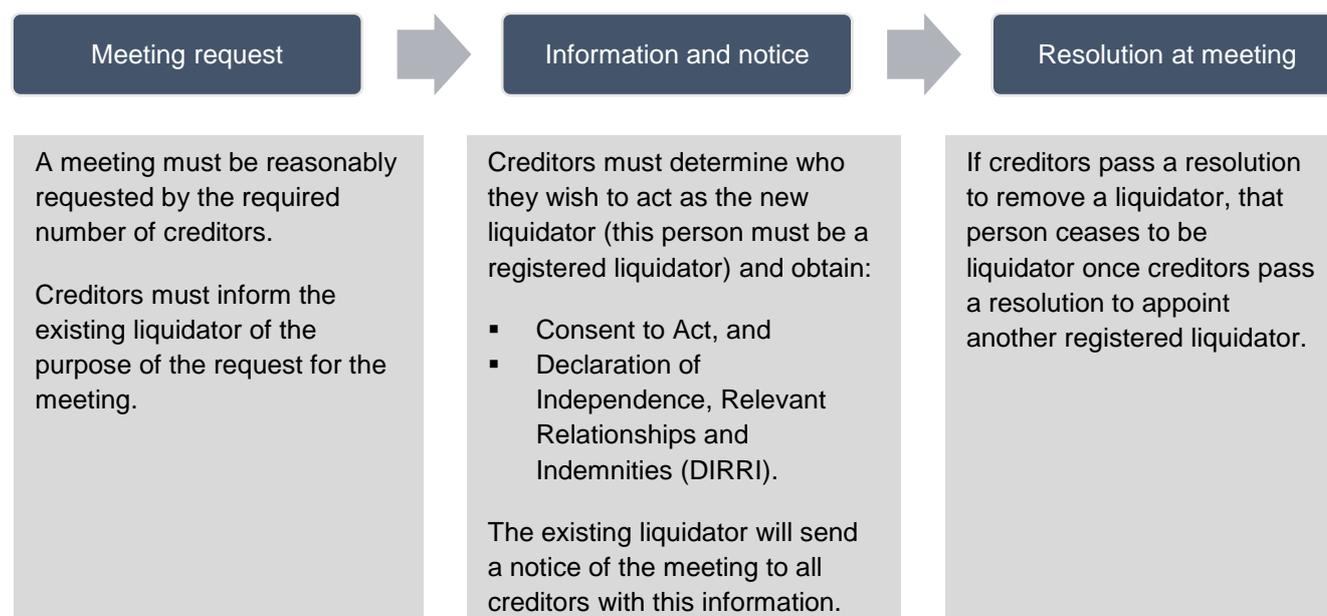
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



**For more information, go to www.arita.com.au/creditors.
Specific queries about the liquidation should be directed to the liquidator's office.**



Declaration of Independence, Relevant Relationships and Indemnities (DIRRI)

York Holdings Land (WA) Pty Ltd (In Liquidation)

ACN 614 172 502

(the Company)

The purpose of this document is to assist creditors with understanding any relationships that the Liquidators have and any indemnities or upfront payments that have been provided to the Liquidators. None of the relationships disclosed in this document are such that the independence of the Liquidators is affected.

This information is provided to you to enable you to make an informed assessment on any independence concerns, so you have trust and confidence in our independence and, if not, can act to remove and replace us if you wish.

This declaration is made in respect of ourselves, our partners, the firm McGrathNicol, which for the purpose of this declaration includes the McGrathNicol Partnership, the McGrathNicol Advisory Partnership and McGrathNicol Services Pty Ltd.

A. Independence

We, Robert Brauer and Robert Kirman, of the firm McGrathNicol have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Liquidators of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

B. Declaration of Relationships

B1. Circumstances of appointment

On 1 November 2019, a representative of the Australian Taxation Office (**ATO**) enquired whether Mr Kirman and Mr Brauer were in a position to act as Liquidators of the Company in the event that the ATO's winding up petition was successful. On 5 November 2019, Mr Kirman and Mr Brauer provided their written consent to the ATO.

Subsequently there was a small volume of emails between the ATO and Mr Brauer which were limited to obtaining updates on the status of the ATO's winding up petition against the Company for planning purposes.

We believe this referral does not result in a conflict of interest or duty because:

- the referral was made on an unconditional basis ;
- the ATO refers insolvency engagements to McGrathNicol from time to time, and each referral by the ATO in relation to a particular entity is conducted on an entirely separate basis and is commenced only after full regard is given to potential conflicts of interest in relation to all relevant parties;
- no prior engagements have been undertaken by McGrathNicol in relation to the Company; and
- the limited dealings with the ATO in relation to consenting to act as Liquidators of the Company and obtaining updates does not impact on our independence as it does not result in any duty owed to that creditor that would conflict with our duties as Liquidators.

B2. Prior professional services to the Insolvent

Neither we, nor our firm, have provided any professional services to, or in relation to, the Company in the previous 24 months.



B3. Relevant Relationships (excluding professional services to the Insolvent)

Neither we, nor our firm, have, or have had, within the preceding 24 months, any relationships with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has security over the whole or substantially the whole of the Company's property.

(i) Appointment to entity with common director

On 17 December 2019, Mr Brauer and Mr Kirman were appointed Liquidators of Urban (WA) Pty Ltd (In Liquidation) (**Urban**) by order of the Federal Court on the petition of the ATO. Mr Roberto Tilli is a director of both Urban and the Company.

The Liquidators are not aware of any other relationship or potential conflicts of interest arising from their appointment to Urban. The Liquidators note, however, that Mr Tilli has not provided a Report on Company Activities and Property, delivered Urban's books and records or otherwise responded to the Liquidators' correspondence in respect of Urban.

To the extent it becomes apparent that pre-appointment dealings between the Company and Urban may give rise to a conflict which may impact the outcome for creditors of either company, the Liquidators undertake to disclose any such conflicts to creditors and, as appropriate, seek Court directions as to the means of resolving any potential conflict.

B4. No other relevant relationships to disclose

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that is entitled to enforce a security interest in the whole or substantially the whole of the Company's property that should be disclosed.

C. Indemnities and up-front payments

We have been provided with the following indemnity for remuneration and expenses for the conduct of this Liquidation:

Name	Relationship with the Company	Nature of indemnity or payment
Australian Taxation Office	Unsecured creditor and petitioning creditor	<p>The ATO has agreed to provide the Liquidators with limited funding, by way of an indemnity, to cover fees and expenses associated with securing and preserving the Company's electronic and physical records.</p> <p>The terms of the indemnity are being finalised, however there will be no conditions on the conduct or outcome of the liquidation attached to the indemnity.</p>



This does not include statutory indemnities. We have not received any other indemnities or up-front payments that should be disclosed.

Dated: 3 June 2020

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Robert Brauer, Liquidator

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Robert Kirman, Liquidator

Note:

If the circumstances change or new information is identified, we are required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication, as well as table a copy of any replacement Declaration at the next meeting of the insolvent's creditors. For Creditors' Voluntary Liquidations and Voluntary Administrations, this document and any updated versions of this document are required to be lodged with ASIC.

Please note that the presentation of the above information is in accordance with the standard format suggested by ARITA.



Initial Remuneration Notice

York Holdings Land (WA) Pty Ltd (In Liquidation) ACN 614 172 502 (York Holdings)

The purpose of the Initial Remuneration Notice is to provide you with information about how we propose our remuneration for undertaking the Liquidation will be set.

1 Remuneration methods

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner in a Liquidation. They are:

- A. Time based/hourly rates:** This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work, multiplied by the number of hours spent by each person on each of the tasks performed.
- B. Fixed Fee:** The total fee charged is normally quoted at the commencement of the Liquidation and is the total cost for the Liquidation.
- C. Percentage:** The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of asset realisations.
- D. Contingency:** The fee is structured to be contingent on a particular outcome being achieved.

2 Method chosen

Given the nature of this external administration, we propose that our remuneration be calculated on a time basis which will be recorded and charged in six minute increments. Details of the hourly rates for different levels of staff are included below. The complexity and demands of the external administration will determine the staff to be utilised for this appointment.

We have chosen the time based method because:

- This method is considered to be most suitable for this appointment as it ensures creditors are only charged for work that is performed in the Liquidation, which can be difficult to accurately estimate at the date of appointment.
- Even later than the date of appointment, it can be difficult to estimate the time that may be required in advance of the substantive work being undertaken. The time based method in this case again ensures that creditors are only charged for work that is actually performed in the Liquidation.
- We are required to perform a number of tasks which do not relate to the realisation of assets, for example responding to creditor enquiries, reporting to ASIC and distributing funds in accordance with the provisions of the *Corporations Act*.
- We have a time recording system that can produce a detailed analysis of time spent on each type of task by each individual staff member utilised in the Liquidation.
- Time based remuneration calculates fees upon a basis of time spent at the level appropriate to the work performed.



3 Explanation of Hourly Rates

The rates for our remuneration calculation are set out in the following table, together with a general guide showing the qualifications and experience of staff engaged in the Liquidation and the role they take in the Liquidation. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

Title	Description	Hourly rate (excl GST)
Appointee/Partner	Registered liquidator, Chartered Accountant or equivalent and generally degree qualified with more than twelve years of experience. Leads assignments with full accountability for strategy and execution.	\$660
Director 1	Generally Chartered Accountant or comparable qualification and degree qualified with more than ten years of experience, including four years of Director or equivalent experience. Autonomously leads complex insolvency appointments reporting to Appointee/Partner.	\$590
Director	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than nine years of experience. Autonomously leads insolvency appointments reporting to Appointee/Partner.	\$550
Senior Manager	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than seven years of experience. Self-sufficiently conducts small to medium insolvency appointments and leads major workstreams in larger matters.	\$500
Manager	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than five years of experience. Self-sufficiently conducts small insolvency appointments and takes a supervisory role on workstreams in larger matters.	\$470
Assistant Manager	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than three years of experience. Autonomously manages workstream activity within appointments.	\$430
Senior Accountant	Generally degree qualified and undertaking Chartered Accountant's qualification or comparable relevant qualification with more than 16 months of experience. Completes tasks within workstreams and appointments under supervision.	\$390
Accountant	Generally degree qualified and undertaking or about to undertake Chartered Accountant's qualification or comparable relevant qualification with less than one year of experience. Assists with tasks within workstreams and appointments under supervision.	\$305



Title	Description	Hourly rate (excl GST)
Undergraduate/Cadet	Undertaking relevant degree. Assists with tasks within workstreams and appointments under supervision.	\$180
Practice Services Director	National Practice Service leaders, generally degree qualified with more than ten years of experience and reporting directly to partners. Technical experts in their specific areas and have team management responsibilities.	\$590
Senior Treasury staff	Appropriately experienced and undertakes senior Treasury activities such as oversight of the processing of payment of receipts and banking administration. May be responsible for day to day management of projects or operations and may have supervisory responsibility for junior staff.	\$425
Senior Client Administration and Treasury	Appropriately experienced and undertakes senior level administrative support activities or Treasury activities. May be responsible for day to day management of projects or operations and may have supervisory responsibility for junior staff.	\$335
Administration	Appropriately experienced and undertakes support activities such as meeting coordination and preparation of materials where it is efficient and appropriate to do so.	\$175

McGrathNicol reviews its hourly rates on either 31 December or 30 June. Creditors will be advised of any change to the hourly rates for this external administration.

4 **Estimated remuneration**

Subject to the assumptions set out below, we estimate that this external administration may involve remuneration for the practitioners of approximately \$30,000 to \$60,000. The following variables may have a significant effect on this estimate:

- Uncertainty around the timing and manner of realisation of York Holding's assets;
- The time that may be required to obtain books, records, funds and assets (if any) from the parties that hold them;
- The number and value of claims that may be received in the liquidation and work that may be required to adjudicate on those claims for voting and/or dividend purposes;
- Work that may be required to distribute funds to creditors;
- Investigations that may be required to ascertain the existence and location of any other assets, including potential legal actions and examinations that may be available to the external administrator;
- Where viable legal claims are identified, the timeframe to resolution is significantly impacted by the conduct of the defendant and their willingness to resolve the claim by a negotiated settlement, as well as Court timeframes, both of which are difficult to predict; and
- Any identified matters that are required to be reported to statutory authorities such as ASIC.



5 **Disbursements**

Disbursements are divided into two types:

- **External disbursements** – these are recovered at cost. Examples are travel, accommodation, postage, advertising, couriers and search fees.
- **Internal disbursements** – these disbursements are charged at a rate which recoups both fixed and variable costs and may include an element of profit or advantage to the External Administrator or a related party of the External Administrator. Examples are printing and data storage. The recovery of these costs must be on a reasonable commercial basis. Details of the basis of recovery of each of these costs is discussed below.

We are not required to seek creditor approval for disbursements paid to third parties where we are recovering at cost what was incurred on behalf of the administration, but must account to creditors. We must be satisfied that these disbursements are appropriate, justified and reasonable.

We are required to obtain creditor’s consent for the payment of a disbursement where we, or a related entity of ours, may directly or indirectly obtain a profit. In these circumstances, creditors will be asked to approve our disbursements prior to these disbursements being paid from the Liquidation.

Details of the basis of recovering disbursements in this external administration are provided below.

For clarity, it is noted that any time costs of any employee of McGrathNicol or any associated entity will be reported as part of our remuneration, for which approval may be sought.

Basis of disbursement claim

<i>Disbursement type</i>	<i>Rate (GST exclusive)</i>
External disbursements	
Postage	At cost
Stationery and other incidental disbursements	At cost
Conference call phone charges	At cost
Searches	At cost
Advertising	At cost
Courier	At cost
Staff per diem travel allowance*	\$89.00 per day**
Staff vehicle use	\$0.68 per km**
ASIC user pays levy	At cost
Internal disbursements (that may have an element of profit or advantage)	
Data processing – data loading & processing fee	\$20-\$60 per gigabyte (GB)***, minimum \$3,000 for matters less than 50GB.
Data hosting – monthly hosting fee	\$10 per GB, per month. Minimum \$1,000 for small matters. Large matters are priced on application.



<i>Disbursement type</i>	<i>Rate (GST exclusive)</i>
Printing – black and white	\$0.09 per page
Printing – Colour	\$0.28 per page

* Tiered pricing model depending on volume of data to be hosted

** Payable when partners or staff are required for business purposes to stay away from their usual place of residence overnight

*** These rates are deemed reasonable by the Australian Taxation Office

Further explanation of data hosting disbursements

In the conduct of this Liquidation, we may use McGrathNicol's Forensic Technology team to extract, aggregate, electronically process and/or host electronic data, which could be used for the:

- trade or sale of the business or assets; and/or
- investigations regarding transactions or potential recoveries available to creditors.

If data hosting is required and we choose not to use the services of McGrathNicol's Forensic Technology team, we will otherwise have to purchase those services from an alternative provider and/or use another method to achieve the same end, which will not be as efficient as using these available internal services.

We note that the data hosting rates above are no more than our standard commercial pricing available for the same services when they are provided to external parties.

Date: 3 June 2020



Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Last updated: 01/09/2017 10:57