

# Statutory Report to Creditors

## **24-7 BUILDING & MAINTENANCE PTY LTD** **(IN LIQUIDATION)** **ACN 603 986 563**

**28 November 2017**

**Ian Currie**  
**Liquidator**

BRI Ferrier

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## 1 INTRODUCTION

I, Ian Currie, was appointed Liquidator of 24-7 Building & Maintenance Pty Ltd ("the Company") on 28 August 2017 pursuant to an Order of the Supreme Court of Queensland.

I provide this report as required by rule 70-40 of the *Insolvency Practice Rules (Corporations) 2016* ("the Rules"), a copy of which will be lodged with the Australian Securities and Investment Commission ("ASIC"). The purpose of this report is to:

- ▲ Provide you with an update on the progress of the liquidation; and
- ▲ Advise you on the likelihood of a dividend being paid in the liquidation.

## 2 DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

Prior to consenting to become the Liquidator of the Company, I undertook a proper assessment of any risks to my independence. The assessment identified no real or potential risks. I am not aware of any reasons that would prevent me from accepting this appointment.

I annexe my Declaration of Independence, Relevant Relationships and Indemnities to this report as required by the Australian Restructuring Insolvency and Turnaround Association ("ARITA") Code of Professional Practice.

## 3 UPDATE ON THE PROGRESS OF THE LIQUIDATION

### 3.1 COMPANY ASSETS AND LIABILITIES

Sasha Smith ("the Director") has failed to comply with my instruction for her to make out a Report as to Affairs as at 28 August 2017 detailing the Company's assets and liabilities. Further, the Director has failed to deliver to me the Company's books and records. Accordingly, I have reported the Director to ASIC for prosecution.

I have not received a Report as to Affairs or the Company's books and records as at the date of this report. A summary of the Company's assets and liabilities as at 28 August 2017 based on the limited records available to me is below:

Description	Notes	Liquidator's Estimated Value \$
<b>Assets</b>		-
WorkCover Queensland refund		804
<b>Total Assets</b>		<b>804</b>
<b>Liabilities</b>		
Secured Creditors		-
Priority (Employee) Creditors		-
Statutory Creditors		-
Ordinary Unsecured Creditors	(a)	33,346
Related Party Unsecured Creditors		-
<b>Total Liabilities</b>		<b>33,346</b>
<b>Estimated Surplus / (Deficiency)</b>		<b>(32,542)</b>

**Notes:****(a) Unsecured Creditors**

Based on the limited information available, the sole creditor of the Company appears to be Ringwood & Ply Pty Ltd, who has lodged a proof of debt for \$33,345.86.

**3.2 COMPANY BUSINESS AND HISTORY**

The Company was incorporated on 2 February 2015 and purportedly operated as a subcontractor for 1 Build Pty Ltd. The Company ceased trading prior to my appointment. The Company formerly held a Queensland Building and Construction Commission ("QBCC") Builder - Open licence which was cancelled on 22 August 2017 after the Company failed to comply with a QBCC audit. The Company's workers' compensation insurance policy held with WorkCover Queensland was cancelled on 25 August 2017.

Daniel Smith, the former director and shareholder of the Company, may have been acting as a shadow director subsequent to his retirement (see below). My investigations in this matter are continuing.

Ringwood & Ply Pty Ltd filed winding up proceedings against the Company on 7 July 2017 in the Supreme Court of Queensland. The Company was placed into liquidation as a result of these proceedings.

The following information has been extracted from Australian Securities & Investments Commission ("ASIC") records as at the date of my appointment:

**Current and Former Officers:**

Name	Position	Appointment Date	Cessation Date
Sasha Smith	Director	22 March 2016	Current
Daniel John Smith	Director	2 February 2015	22 March 2016
Sasha Smith	Secretary	22 March 2016	Current
Daniel John Smith	Secretary	2 February 2015	22 March 2016

**Share Structure:**

Shareholder	Class	Percentage of Shareholding	Fully Paid	Beneficially Held
Sasha Smith	Ordinary	100%	Yes	Yes

**3.3 STATUTORY RECOVERIES**

Part 5.7B of the Act allows me to void certain transactions and make other recoveries for the benefit of creditors. The result of my investigations in respect of these provisions is below.

**Insolvent Trading**

Section 588M of the Act allows me to pursue recovery from the Director, debts incurred while the Company was insolvent.

To successfully prosecute an insolvent trading action, a liquidator must establish:

- ▲ The Company incurred debts which remain unpaid;
- ▲ The Company was insolvent when the debt was incurred (or became insolvent as a result of incurring the debt); and

- ▲ The Director suspected, or should have suspected, that the Company was insolvent at the time the debt was incurred.

Please note that a presumption of insolvency in recovery proceedings (such as an insolvent trading action) can arise where the Company did not keep proper financial records as required by s 286 of the *Corporations Act 2001*.

There are insufficient funds in the liquidation to allow me to commence insolvent trading proceedings. Section 564 of the Act enables the Court to make orders in favour of creditors who provide funding to a Liquidator to meet the costs of pursuing actions for the benefit of creditors. Accordingly, should any creditors be interested in funding me to undertake further investigations or potential legal action, I request they contact this office as a matter of urgency.

### Other Recovery Actions

My investigations into the Company's affairs have also included a review of other recovery actions available to a Liquidator, including:

- ▲ Unfair preference payments;
- ▲ Unreasonable director-related transactions;
- ▲ Uncommercial transactions;
- ▲ Unfair loans;
- ▲ Voidable security interests; and
- ▲ Claims arising from breaches of Directors' duties.

I did not identify any further claims available to me for the benefit of creditors from the limited records available. However, my investigations are continuing.

## 3.4 FURTHER INVESTIGATIONS AND REPORT TO ASIC

Section 533(1) of the Act requires me to submit a report to ASIC if I suspect that any offence or misconduct has occurred in relation to the Company or, if unsecured creditors are unlikely to receive a dividend of more than 50 cents in the dollar.

As noted above, I have reported the Director to ASIC for her failure to deliver to me the Company's books and records. ASIC have reiterated to the Director her requirement to provide me with a Report as to Affairs and the Company's books and records, and that failure to do so may lead to criminal proceedings being taken by ASIC.

I have received limited records from the Australian Taxation Office pursuant to a Firmer Action Request. I intend to lodge my report to ASIC upon finalisation of ASIC's action to recover the Company's books and records from the Director.

Should any creditor have information which may assist me in this regard, I request they contact my office as a matter of urgency.

## 4 RECEIPTS AND PAYMENTS TO DATE

A summary of the receipts and payments in the liquidation to date is below:

Receipts	\$
WorkCover Queensland Refund	803.97
<b>Total Receipts</b>	<b>803.97</b>

<b>Payments</b>	<b>\$</b>
Advertising	(481.09)
<b>Total Payments</b>	<b>(481.09)</b>
<b>Cash at Bank as at 27 November 2017</b>	<b>322.88</b>

## 5 LIKELIHOOD OF DIVIDEND

There are unlikely to be any dividends payable in the liquidation. However, this view is subject to the receipt of additional books and records (discussed above), which may identify legal claims available to me for the benefit of creditors.

## 6 COST OF THE LIQUIDATION

I estimate this liquidation will cost \$10,000.00 plus GST up to the completion. Further information regarding the liquidation costs is provided in the annexed Initial Remuneration Notice.

## 7 FURTHER INFORMATION

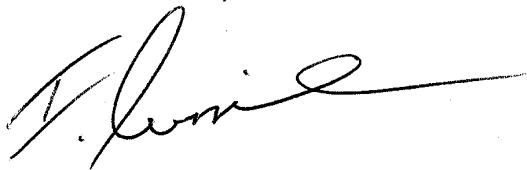
If creditors have any information which may assist me in my investigations, I ask that they contact my office as a matter of urgency.

I annexe an ASIC information sheet entitled "Insolvency information for directors, employees, creditors and shareholders". This publication provides details as to how to access further information to assist creditors in circumstances where a company has been wound up.

I also annexe an information sheet to this report entitled Creditors' Rights in a Liquidation as published by the ARITA for creditors' information.

Should you have any queries in relation to any matter raised in this report, please contact William Clement of this office on (07) 3220 0994 or at [wclement@brifsg.com.au](mailto:wclement@brifsg.com.au).

DATED this 28th day of November 2017



**I A Currie**  
**Liquidator**

**24-7 BUILDING & MAINTENANCE PTY LTD (IN LIQUIDATION)**  
**ACN 603 986 563**  
**("THE COMPANY")**

**DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES**

This document requires the Practitioner appointed to an insolvent entity to make declarations at to:

- A. Their relationships generally;
- B. Relationships, including:
  - i. The circumstances of the appointment;
  - ii. Any relationships with the Company and others within the previous 24 months;
  - iii. Any prior professional services for the Company within the previous 24 months;
  - iv. That there are no other relationships to declare; and
- C. Any indemnities given, or up-front payments made, to the Practitioner.

This declaration is made in respect of me, my partners, BRI Ferrier Southern Queensland and the interstate offices of BRI Ferrier.

**A. Independence**

I, Ian Currie of BRI Ferrier, have undertaken a proper assessment of the risks to my independence prior to accepting the appointment as Liquidator of the Company in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to my independence. I am not aware of any reasons that would prevent me from accepting this appointment.

**B. Declaration of Relationships**

**i. Circumstances of Appointment**

This appointment was referred to me by the Bennett & Philp Lawyers, the solicitors of Ringwood & Ply Pty Ltd, the petitioning creditor. I believe that this referral does not result in a conflict of interest or duty because:

- ▲ There are no conditions on the conduct or outcome of the liquidation of the Company attached to this referral; and
- ▲ Referrals from solicitors, business advisors and accountants are commonplace and do not impact on my independence in carrying out my duties as Liquidator.

I was contacted by the Bennett & Philp Lawyers on 10 July 2017 and requested to give my consent to act as Liquidator should the Company be wound up in insolvency. I provided my consent to act on 11 July 2017.

I received no remuneration in relation to this request.

In my opinion, this contact does not affect my independence for the following reasons:

- ▲ This contact is of a brief and general nature;
- ▲ This contact is of a nature normally provided prior to accepting an insolvency appointment; and
- ▲ Providing my consent to act does not result in any duty owed to the petitioning creditor that would conflict with my interests or duties under the *Corporations Act 2001* ("the Act").

I have provided no other information or advice to the Company, its director, the petitioning creditors or their solicitors prior to my appointment beyond that outlined in this DIRRI.

**ii. Relevant Relationships (excluding Professional Services to the Insolvent)**

Neither I, nor my 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 whole of the Company's property.

**iii. Prior Professional Services to the Insolvent**

Neither I, nor my firm, have provided any professional services to the Company in the previous 24 months.

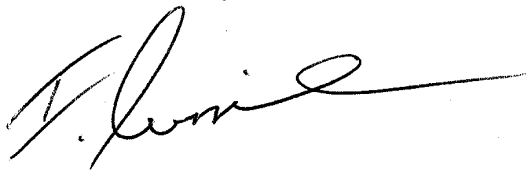
**iv. No Other Relevant Relationships to Disclose**

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 has security over the whole or substantially whole of the Company's property that should be disclosed.

**C. Indemnities and Up-Front Payments**

I have not been indemnified in relation to this administration, other than any indemnities that I may be entitled to under statute and I have not received any up-front payments in respect of my remuneration or disbursements.

DATED this 28th day of November 2017



**I A Currie**  
**Liquidator**

*Note:*

- 1. If circumstances change, or new information is identified, I am required under the Act and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with my next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors.*
- 2. Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.*



## 24-7 BUILDING & MAINTENANCE PTY LTD (IN LIQUIDATION)

ACN 603 986 563  
("THE COMPANY")

### INITIAL REMUNERATION NOTICE

#### REMUNERATION METHODS

There are four (4) basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

##### 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.

##### Fixed Fee

The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.

##### Percentage

The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.

##### Contingency

The practitioner's fee is structured to be contingent on a particular outcome being achieved.

#### METHOD CHOSEN

Given the nature of this administration, I propose that my remuneration be calculated on a time based method. This is because:

- ▲ It ensure that creditors are only charged for work that is performed;
- ▲ I am required to perform a number of tasks which do not relate to the realisation of assets, for example responding to creditor enquires, reporting to ASIC and creditors and distributing funds in accordance with the provisions of the *Corporations Act 2001*;
- ▲ I am unable to estimate with certainty the total amount of fees necessary to complete all tasks required in the liquidation;
- ▲ I 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; and
- ▲ The method provides full accountability in the method of calculation.

#### ESTIMATE OF THE COST OF THE ADMINISTRATION

I estimate that this administration will cost approximately \$10,000.00 (excluding GST) up to the completion of the liquidation, subject to the following variables which may have a significant effect on this estimate and that I am unable to determine at this early stage in the administration.

- ▲ The costs in recovering the books and records from the Company's director; and
- ▲ The undertaking of further investigations and the possible commencement of legal action to recover monies for the benefit of creditors.

## EXPLANATION OF HOURLY RATES

The rates for my 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 administration. 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	Registered liquidator/trustee, his or her partner bringing specialist skills to the insolvency task	\$550.00
Director	Minimum of 12 years insolvency experience, at least 5 years at manager level, qualified accountant and capable of controlling all aspects of an administration. May be appropriately qualified to take appointments in his/her own right.	\$510.00
Senior Manager	More than 7 years insolvency experience, more than 3 years as a manager, qualified accountant. Answerable to the appointee but otherwise responsible for all aspects of administration. Experienced at all levels and considered very competent. Controls staff and their training.	\$460.00
Manager	6-7 years qualified accountant, with well-developed technical and commercial skills. Should be constantly alert to opportunities to meet clients' needs and to improve the clients' future operation either by revenue enhancement or by reducing costs and improving efficiency. Controls 2-4 staff	\$400.00
Supervisor	4-6 years. Qualified. Will have had conduct of minor administrations and experience in control of 1-3 staff. Assists planning and control of medium to larger jobs	\$365.00
Senior 1	2-4 Years. Qualifications would normally be completed within this period. Assists planning and control of small to medium sized jobs as well as performing some of the more difficult work on larger jobs.	\$305.00
Senior 2	1-2 years. Qualifications would normally be commenced during this period. Required to control the fieldwork on small jobs and is responsible for assisting complete fieldwork on medium to large jobs.	\$265.00
Intermediate 1	0-2 years. Graduate with little or no professional experience. Required to assist in day-to-day fieldwork under supervision of more senior staff	\$230.00
Intermediate 2	0-1 year. Trainee undertaking a degree with an accountancy major. Required to assist in day-to-day fieldwork under supervision of more senior staff.	\$195.00
Secretary	Appropriate skills	\$165.00
Junior	Required to assist in administration and day-to-day field work under supervision of more senior staff	\$150.00

### Notes:

1. Please note the above rates quoted are **GST exclusive**.
2. The BRI Ferrier Southern Queensland rates are intended only to be a guide as to the qualifications and experience of the staff engaged. It should be noted that in some instances staff may be engaged under an appropriate classification principally due to their experience.
3. "Qualified" means CAANZ, CPA, Masters, ARITA or some recognised qualification above that of graduate.
4. Time spent on matters is recorded and charged in 6 minute intervals.
5. The rates are subject to increase from time to time.

## DISBURSEMENTS

Disbursements are divided into three types:

- ▲ **Externally provided professional services** - these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.
- ▲ **Externally provided non-professional costs** such as travel, accommodation and search fees - these are recovered at cost.
- ▲ **Internal disbursements** such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis.

I am not required to seek creditor approval for disbursements paid to third parties, but must account to creditors. However, I must be satisfied that these disbursements are appropriate, justified and reasonable.

I am required to obtain creditor's consent for the payment of internal disbursements where there may be a profit or advantage. Creditors will be asked to approve my internal disbursements where there is a profit or advantage prior to these disbursements being paid from the administration.

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

### Basis of Internal Disbursement Claim

Facsimile - Outgoing	\$1.00 per page
Facsimile - Incoming	\$0.50 per page
Mail & Postage	at cost
Motor Vehicle	Subject to ATO rates
Photocopying and Printing	50 cents per page
Stationery	at cost
Telephone Calls	at cost

*Scale applicable for financial year ending 30 June 2018*



ASIC

Australian Securities & Investments Commission

## 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

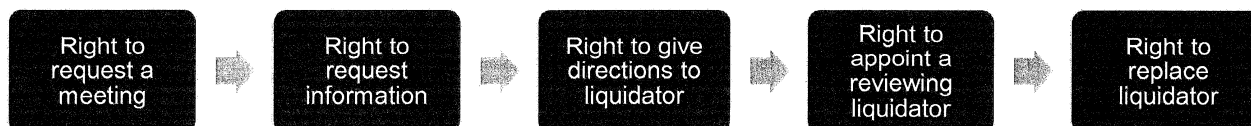
### Where can I get more information?

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.

# 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.

## 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.

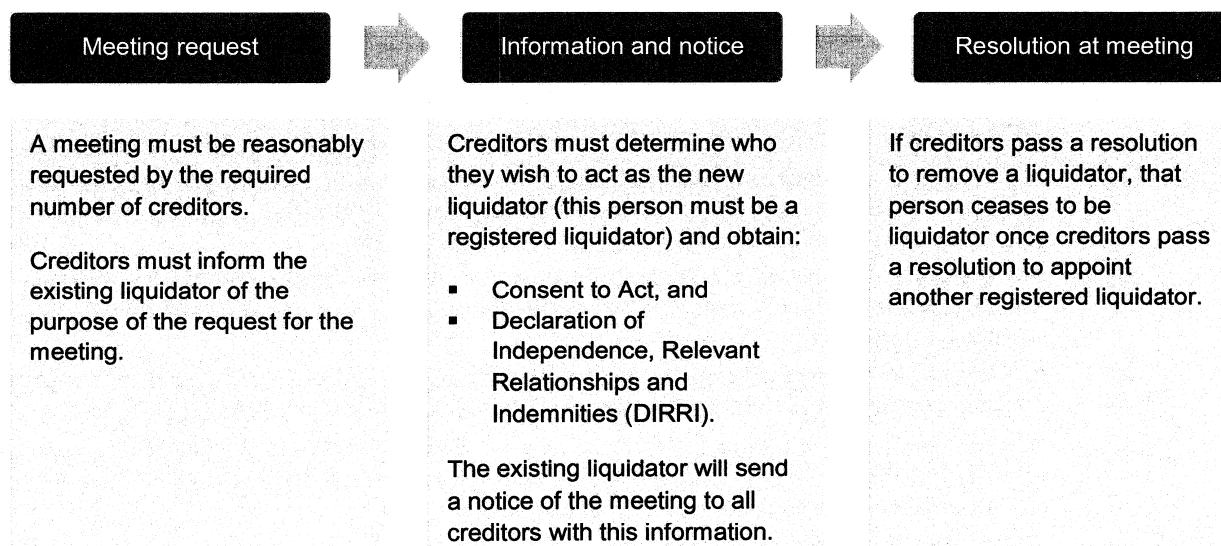
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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](http://www.arita.com.au/creditors)**