

3. Memorandum to all Official Liquidators (NT) ("A" & "B" Lists) and to all Legal Practitioners- No 1A/94 - Application for determination of Liquidators' remuneration by the Court

Section 473 of the *Corporations Law* provides for the determination of remuneration payable to a Liquidator. Sub-section (3) provides that that determination is to be:

- "(a) if there is a committee of inspection - by agreement between the liquidator and the committee of inspection; or
- (b) if there is no committee of inspection or the liquidator and the committee of inspection have failed to agree:
 - (i) by resolution of the creditors; or
 - (ii) if no such resolution is passed – by the Court."

The court's jurisdiction may only be invoked if there is no agreement as provided in sub-section (3)(a) or no resolution of the creditors is passed as provided by sub-section 3(b)(i). (See *Re Interchase Corp Ltd (in Prov Liq)* 117 ALR 267). This does not apply to Provisional Liquidators. (See *Deputy Commissioner of Taxation v Muswellbrook Engineering Pty Ltd (1992)* 10 ACLC 1580)

An application for determination of remuneration should contain evidence as to whether or not there was a committee of inspection, and if so, the failure to obtain its agreement, and as to the failure to obtain a resolution at a meeting of creditors.

26 April 1994