
STATUTORY INSTRUMENTS

2009 No. 2477

The Water Industry (Special Administration) Rules 2009

PART 3

The special administrator

Special administrator's remuneration

19.—(1) The special administrator is entitled to receive remuneration for work done in acting as special administrator.

(2) The remuneration is determined either—

- (a) as a percentage of the value of the property with which the special administrator has to deal; or
- (b) by reference to the time properly given by the special administrator and the special administrator's staff in attending to matters arising in the administration.

Fixing of remuneration by court

20.—(1) The special administrator must apply to the court to rule—

- (a) whether the remuneration will be under rule 19(2)(a) or rule 19(2)(b), and
- (b) if it is under rule 19(2)(a), the percentage to be applied.

(2) The special administrator must give at least 14 days' notice of the application to the following, who may appear or be represented—

- (a) the Authority (whether or not it is the petitioner);
 - (b) any creditors that the special administrator knows about.
- (3) In determining the remuneration, the court must have regard to—
- (a) any oral or written representations made by the Authority;
 - (b) the complexity (or otherwise) of the case;
 - (c) any respects in which, in connection with the water company's affairs, an exceptional kind or degree of responsibility falls or may fall on the special administrator;
 - (d) how effectively the special administrator appears to be carrying out, or to have carried out, the duties of special administrator; and
 - (e) the value and nature of the property with which the special administrator has to deal.

(4) The court may in its discretion order the costs of the special administrator's application to be paid as an expense of the special administration.

Remuneration: joint special administrators

21.—(1) If there are joint special administrators, they may agree as to how their remuneration should be apportioned.

(2) The court may settle, by order, any dispute between joint special administrators about the apportionment of their remuneration.

Remuneration: special administrator a solicitor

22. If the special administrator is a solicitor and employs, to act on behalf of the water company, a firm or a partner of a firm of which the special administrator is a member, profit costs must not be paid unless authorised by the court.

Resignation of special administrator

23.—(1) The special administrator may resign, by giving a notice of intention to resign to the court—

- (a) on grounds of ill health;
- (b) because the special administrator intends to cease practice as an insolvency practitioner; or
- (c) because a conflict of interest or change of personal circumstances precludes or makes impracticable the continued discharge of the duties of special administrator.

(2) In any other circumstance, the special administrator may resign with the permission of the court.

(3) The special administrator must give at least 7 days' written notice of intention to resign to—

- (a) the Secretary of State or the Welsh Ministers, as appropriate;
- (b) the Authority;
- (c) any continuing special administrator of the water company; and
- (d) if there is no continuing special administrator, the water company and each creditor.

(4) The special administrator must, as soon as reasonably practicable—

- (a) give notice to the court—
 - (i) in Form WAT10 of resignation under paragraph (1), or
 - (ii) in Form WAT11 of resignation under paragraph (2); and
- (b) send a completed copy of Form WAT10 or Form WAT11 to the registrar of companies.

Special administrator's death in office

24.—(1) If a special administrator dies while in office, the special administrator's personal representative must give notice of the fact, specifying the date of death, to the court.

(2) The personal representative must send a copy of the notice to—

- (a) the Secretary of State or the Welsh Ministers, as appropriate;
- (b) the Authority; and
- (c) the registrar of companies.

(3) Paragraph (1) is taken to have been complied with—

- (a) if the deceased special administrator was a partner in a firm, if the notice is given by another partner in the firm who—
 - (i) is qualified to act as an insolvency practitioner, or
 - (ii) is a member of a body recognised by order under section 391 of the Insolvency Act for the authorisation of insolvency practitioners; or
- (b) in any other case, if a person gives the court a copy of the relevant death certificate.

Order filling vacancy

25. If the court makes an order filling a vacancy in the office of special administrator, the person so appointed must give notice of the appointment—

- (a) once in the London Gazette;
- (b) in such other way as the person thinks most appropriate to ensure that the appointment comes to the notice of the water company's creditors;
- (c) to the Secretary of State or the Welsh Ministers, as appropriate;
- (d) to any person (other than the water company) on whom the petition was served; and
- (e) to the registrar of companies.