
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 18

REPORTING AND REMUNERATION OF OFFICE-HOLDERS

CHAPTER 4

Remuneration and expenses in administration, winding up and bankruptcy

Remuneration: principles

18.16.—(1) An administrator, liquidator or trustee in bankruptcy is entitled to receive remuneration for services as office-holder.

(2) The basis of remuneration must be fixed—

(a) as a percentage of the value of—

(i) the property with which the administrator has to deal, or

(ii) the assets which are realised, distributed or both realised and distributed by the liquidator or trustee;

(b) by reference to the time properly given by the office-holder and the office-holder's staff in attending to matters arising in the administration, winding up or bankruptcy; or

(c) as a set amount.

(3) The basis of remuneration may be one or a combination of the bases set out in paragraph (2) and different bases or percentages may be fixed in respect of different things done by the office-holder.

(4) Where an office-holder, other than in a members' voluntary winding up, proposes to take all or any part of the remuneration on the basis set out in paragraph (2)(b), the office-holder must, prior to the determination of which of the bases set out in paragraph (2) are to be fixed, deliver to the creditors—

(a) a fees estimate; and

(b) details of the expenses the office-holder considers will be, or are likely to be, incurred.

(5) The fees estimate and details of expenses given under paragraph (4) may include remuneration expected to be charged and expenses expected to be incurred if the administrator becomes the liquidator where the administration moves into winding up.

(6) An office-holder, other than in a members' voluntary winding up, must deliver to the creditors the information required under paragraph (7) before the determination of which of the bases set out in paragraph (2) is or are to be fixed, unless the information has already been delivered under paragraph (4).

(7) The information the office-holder is required to give under this paragraph is—

(a) the work the office-holder proposes to undertake; and

- (b) details of the expenses the office-holder considers will be, or are likely to be, incurred.
- (8) The matters to be determined in fixing the basis of remuneration are—
- (a) which of the bases set out in paragraph (2) is or are to be fixed and (where appropriate) in what combination;
 - (b) the percentage or percentages (if any) to be fixed under paragraphs (2)(a) and (3);
 - (c) the amount (if any) to be set under paragraph (2)(c).
- (9) In arriving at that determination, regard must be had to the following—
- (a) the complexity (or otherwise) of the case;
 - (b) any respects in which, in connection with the company's or bankrupt's affairs, there falls on the office-holder, any responsibility of an exceptional kind or degree;
 - (c) the effectiveness with which the office-holder appears to be carrying out, or to have carried out, the office-holder's duties; and
 - (d) the value and nature of the property with which the office-holder has to deal.
- (10) A proposed liquidator in respect of a creditors' voluntary winding up may deliver to the creditors the information required by paragraphs (4) or (6) before becoming liquidator in which case that person is not required to deliver that information again if that person is appointed as liquidator.