
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: recourse by administrator, liquidator or trustee to the court

18.28.—(1) This rule applies to an application by an office-holder to the court in accordance with rule 18.24 for an increase in the rate or amount of remuneration or change in the basis.

(2) An administrator may make such an application where the basis of the administrator's remuneration has been fixed—

- (a) by the committee and the administrator has requested that the rate or amount be increased or the basis changed by decision of the creditors (by a decision procedure), but the creditors have not changed it;
- (b) by decision of the creditors (by decision procedure); or
- (c) by the approval of either the secured creditors or the preferential creditors or both in a case where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1.

(3) A liquidator may make such an application where the basis of the liquidator's remuneration has been fixed—

- (a) by the committee, and the liquidator has requested that the rate or amount be increased or the basis changed by decision of the creditors (by a decision procedure), but the creditors have not changed it;
- (b) by decision of the creditors (by a decision procedure);
- (c) under rule 18.20(4) and (5) or 18.22; or
- (d) in a members' voluntary winding up, by the company in general meeting.

(4) A trustee may make such an application where the trustee's remuneration has been fixed—

- (a) by the committee and the trustee has requested that the amount be increased or the basis changed by decision of the creditors (by a decision procedure), but the creditors have not changed it;
- (b) by decision of the creditors (by a decision procedure); or
- (c) under rule 18.22.

(5) Where an application is made under paragraph (2)(c), the administrator must deliver notice to each of the creditors whose approval was sought under rule 18.18(4).

(6) The office-holder must deliver a notice of the application at least 14 days before the hearing as follows—

- (a) in an administration, a creditors' voluntary winding up, a winding up by the court or a bankruptcy—
 - (i) to the members of the committee, or
 - (ii) if there is no committee to such one or more of the creditors as the court may direct;
 - (b) in a members' voluntary winding up, to the company's contributories, or such one or more of them as the court may direct.
- (7) The committee, the creditors or the contributories (as the case may be) may nominate one or more of their number to appear or be represented and to be heard on the application.
- (8) The court may, if it appears to be a proper case (including in a members' voluntary winding up), order the costs of the office-holder's application, including the costs of any member of the committee appearing or being represented on it, or of any creditor or contributory so appearing or being represented on it, to be paid as an expense of the estate.