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STATUTORY INSTRUMENTS

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**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: apportionment of set fees**

**18.32.**—(1) This rule applies where the basis of the office-holder's remuneration is a set amount under rule 18.16(2)(c) and the office-holder ceases (for whatever reason) to hold office before the time has elapsed or the work has been completed in respect of which the amount was set.

(2) A request or application may be made to determine what portion of the amount should be paid to the former office-holder or the former office-holder's personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(3) The request or application may be made by—

- (a) the former office-holder or the former office-holder's personal representative within the period of 28 days beginning with the date upon which the former office-holder ceased to hold office; or
- (b) the office-holder for the time being in office, if the former office-holder or the former office-holder's personal representative has not applied by the end of that period.

(4) The request or application to determine the portion must be made to the relevant person being—

- (a) the company, where the company is in members' voluntary liquidation and it fixed the basis in general meeting;
- (b) the committee, where the committee fixed the basis;
- (c) the creditors or a class of creditors where the creditors or that class fixed the basis;
- (d) the court where the court fixed the basis.

(5) In an administration where the circumstances set out in rule 18.18(4) apply the relevant person is to be determined under that paragraph.

(6) The person making the request or application must deliver a copy of it to the office-holder for the time being or to the former office-holder or the former office-holder's personal representative, as the case may be ("the recipient").

(7) The recipient may, within 21 days of receipt of the copy of the request or application, deliver notice of intent to make representations to the relevant person or to appear or be represented before the court on an application to the court.

(8) No determination may be made upon the request or application until either—

- (a) the expiry of the 21 days, or

(b) if the recipient delivers a notice of intent, the recipient has been given the opportunity to make representations or to appear or be represented.

(9) Where the former office-holder or the former office-holder's personal representative (whether or not the original person making the request or application) considers that the portion so determined is insufficient that person may apply—

(a) to the creditors for a decision increasing the portion, in the case of a determination by the committee;

(b) to the court, in the case of a decision or resolution (as the case may be) of—

(i) the creditors (whether under paragraph (4)(c) or under sub-paragraph (a)), or

(ii) the company in general meeting.

(10) Paragraphs (6) to (8) apply to an application under paragraph (9) as appropriate.