
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 7

WINDING UP BY THE COURT

CHAPTER 15

Litigation expenses and property subject to a floating charge

Application to the court by the liquidator

7.116.—(1) In the circumstances specified below the court may, upon the application of the liquidator, approve or authorise such amount of litigation expenses as it thinks just.

(2) Except where paragraph (3) applies, the liquidator may apply to the court for an order approving or authorising an amount for litigation expenses only where the specified creditor (or, if more than one, any of them)—

- (a) is or is intended to be a defendant in the legal proceedings in relation to which the litigation expenses have been or are to be incurred; or
- (b) has been requested to approve or authorise the amount specified under rule 7.114(1)(b) and has—
 - (i) declined to approve or authorise, as the case may be, the specified amount,
 - (ii) approved or authorised an amount which is less than the specified amount and which lesser amount the liquidator considers insufficient, or
 - (iii) made such application for further particulars or other response to the liquidator's request as is, in the liquidator's opinion, unreasonable.

(3) Where the liquidator thinks that circumstances are such that the liquidator requires urgent approval or authorisation of litigation expenses, the liquidator may apply to the court for approval or authorisation either—

- (a) without seeking approval or authorisation from the specified creditor; or
- (b) if sought, before the expiry of the specified time limit.

(4) The court may grant such application for approval or authorisation—

- (a) if the liquidator satisfies the court of the urgency of the case; and
- (b) subject to such terms and conditions as the court thinks just.

(5) The liquidator must, at the same time as making any application to the court under this rule, deliver copies of it to the specified creditor, unless the court orders otherwise.

(6) The specified creditor (or, if more than one, any of them) is entitled to be heard on any such application unless the court orders otherwise.

(7) The court may grant approval or authorisation subject to such terms and conditions as it may think just, including terms and conditions relating to the amount or nature of the litigation expenses and as to any obligation to make further applications to the court under this rule.

(8) The costs of the liquidator's application under this rule, including the costs of any specified creditor appearing or represented on it, will be an expense of the winding up unless the court orders otherwise.