
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 7

WINDING UP BY THE COURT

CHAPTER 5

Provisional liquidator

Remuneration

7.38.—(1) The remuneration of the provisional liquidator (other than the official receiver) is to be fixed by the court from time to time on the application of the provisional liquidator.

(2) In fixing the remuneration of the provisional liquidator, the court must take into account—

- (a) the time properly given by the provisional liquidator and the staff of the provisional liquidator in attending to the company's affairs;
- (b) the complexity of the case;
- (c) any respects in which, in connection with the company's affairs, there falls on the provisional liquidator any responsibility of an exceptional kind or degree;
- (d) the effectiveness with which the provisional liquidator appears to be carrying out, or to have carried out, the duties of the provisional liquidator; and
- (e) the value and nature of the property with which the provisional liquidator has to deal.

(3) Without prejudice to any order the court may make as to costs, the remuneration of the provisional liquidator (whether the official receiver or another) must be paid to the provisional liquidator, and the amount of any expenses incurred by the provisional liquidator (including the remuneration and expenses of any special manager appointed under section 177) reimbursed—

- (a) if a winding-up order is not made, out of the property of the company;
- (b) if a winding-up order is made, as an expense of the winding up, in the prescribed order of priority; and
- (c) in either case (if the relevant funds are insufficient), out of the deposit under rule 7.34.

(4) Unless the court otherwise directs, where a winding up order is not made, the provisional liquidator may retain out of the company's property such sums or property as are or may be required for meeting the remuneration and expenses of the provisional liquidator.

(5) Where a person other than the official receiver has been appointed provisional liquidator, and the official receiver has taken any steps for the purpose of obtaining a statement of affairs or has performed any other duty under these Rules, the provisional liquidator must pay the official receiver such sum (if any) as the court may direct.