
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 18

Priority of payment of costs etc. out of the bankrupt's estate

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Expenses

10.148. All fees, costs, charges and other expenses incurred in the course of the bankruptcy are to be treated as expenses of the bankruptcy.

General rule as to priority

10.149. The expenses of the bankruptcy are payable out of the bankrupt's estate in the following order of priority—

- (a) expenses or costs which—
 - (i) are properly chargeable or incurred by the official receiver or the trustee in preserving, realising or getting in any of the assets of the bankrupt or otherwise relating to the conduct of any legal proceedings which the bankrupt has power to bring (whether the claim on which the proceedings are based forms part of the bankrupt's estate or otherwise) or defend,
 - (ii) relate to the employment of a shorthand writer, if appointed by an order of the court made at the instance of the official receiver in connection with an examination, or
 - (iii) are incurred in holding an examination under rule 10.102 (examinee unfit) where the application was made by the official receiver;
- (b) any other expenses incurred or disbursements made by the official receiver or under the official receiver's authority, including those incurred or made in carrying on the business of a debtor or bankrupt;
- (c) the fees payable under any order made under section 415(1) or 415A(2), including those payable to the official receiver (other than the fee referred to in sub-paragraph (d)), and any remuneration payable to the official receiver under general regulations;

(1) Section 415 subsections (1)(c) and (1A) are inserted by paragraph 59 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24).

(2) Section 415A subsections (1)(c) and (1A) are inserted by section 17(5) and subsection (2) is omitted by paragraph 22(5) of Schedule 6 to the Deregulation Act 2015 (c.20). Subsection (1B) is inserted by 139(2) and (5) by 140(2) of the Small Business, Enterprise and Employment Act 2015 (c.26).

- (d) the fee payable under any order made under section 415 for the performance by the official receiver of the official receiver's general duties as official receiver;
- (e) any repayable sum deposited under any such order as security for the fee mentioned in sub-paragraph (d);
- (f) the cost of any security provided by an interim receiver, trustee or special manager in accordance with the Act or these Rules;
- (g) the remuneration of the interim receiver (if any);
- (h) any sum deposited on an application for the appointment of an interim receiver;
- (i) the costs of the petitioner, and of any person appearing on the petition whose costs are allowed by the court;
- (j) the remuneration of the special manager (if any);
- (k) any amount payable to a person or firm employed or authorised, under rules 10.59, 10.60 or 10.64, to assist in the preparation of a statement of affairs or of accounts;
- (l) any allowance made, by order of the court, in respect of costs on an application for release from the obligation to submit a statement of affairs, or for an extension of time for submitting such a statement;
- (m) the costs of employing a shorthand writer in any case other than one appointed by an order of the court at the instance of the official receiver in connection with an examination;
- (n) any necessary disbursements by the trustee in the course of the trustee's administration (including any expenses incurred by members of the creditors' committee or their representatives and allowed by the trustee under rule 17.24, but not including any payment of capital gains tax in circumstances referred to in sub-paragraph (q));
- (o) the remuneration or emoluments of any person (including the bankrupt) who has been employed by the trustee to perform any services for the bankrupt's estate, as required or authorised by or under the Act or these Rules;
- (p) the remuneration of the trustee, up to any amount not exceeding that which is payable under Schedule 11;
- (q) the amount of any capital gains tax on chargeable gains accruing on the realisation of any asset of the bankrupt (irrespective of the person by whom the realisation is effected);
- (r) the balance, after payment of any sums due under sub-paragraph (p), of any remuneration due to the trustee; and
- (s) any other expenses properly chargeable by the trustee in carrying out the trustee's functions in the bankruptcy.