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

Application of scale fees where creditors fail to fix the basis of the office-holder's remuneration

18.22.—(1) This rule applies where in a winding up by the court or bankruptcy, the liquidator or trustee—

(a) has requested the creditors to fix the basis of remuneration under rule 18.20(3) or 18.21(3) as applicable and the creditors have not done so; or

(b) in any event if the basis of remuneration is not fixed by the creditors within 18 months after the date of the liquidator's or trustee's appointment.

(2) The liquidator or trustee is entitled to such sum as is arrived at (subject to paragraph (3)) by—

(a) applying the realisation scale set out in Schedule 11 to the moneys received by the liquidator or trustee from the realisation of the assets of the company or bankrupt (including any Value Added Tax on the realisation but after deducting any sums paid to secured creditors in respect of their securities and any sums spent out of money received in carrying on the business of the company or bankrupt); and

(b) adding to the sum arrived at under sub-paragraph (a) such sum as is arrived at by applying the distribution scale set out in Schedule 11 to the value of assets distributed to creditors of the company or bankrupt (including payments made in respect of preferential debts) and to contributories.

(3) In a bankruptcy that part of the trustee's remuneration calculated under paragraph (2) by reference to the realisation scale must not exceed such sum as is arrived at by applying the realisation scale to such part of the bankrupt's assets as are required to pay—

(a) the bankruptcy debts (including any interest payable by virtue of section 328(4)) to the extent required to be paid by these Rules (ignoring those debts paid otherwise than out of the proceeds of the realisation of the bankrupt's assets or which have been secured to the satisfaction of the court);

(b) the expenses of the bankruptcy other than–

(i) fees or the remuneration of the official receiver, and

(ii) any sums spent out of money received in carrying on the business of the bankrupt;

(c) fees payable by virtue of any order made under section 415(**1**); and

(d) the remuneration of the official receiver.

(**1**) Section 415 subsection (1) is amended and a new subsection (1A) is inserted by paragraph 59(1) to (3) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c.24).