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## STATUTORY INSTRUMENTS

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# 1986 No. 1925

## The Insolvency Rules 1986

### THE FIRST GROUP OF PARTS

#### PART 4

#### COMPANIES WINDING UP

#### CHAPTER 20

#### ORDER OF PAYMENT OF COSTS, ETC., OUT OF ASSETS

##### **General rule as to priority**

**4.218.**—(1) The expenses of the liquidation are payable out of the assets in the following order of priority—

- (a) expenses properly chargeable or incurred by the official receiver or the liquidator in preserving, realising or getting in any of the assets of the company;
- (b) any other expenses incurred or disbursements made by the official receiver or under his authority, including those incurred or made in carrying on the business of the company;
- (c)
  - (i) the fee payable under any order made under section 414 for the performance by the official receiver of his general duties as official receiver;
  - (ii) any repayable deposit lodged by the petitioner under any such order as security for the fee mentioned in sub-paragraph (i);
- (d) any other fees payable under any order made under section 414, including those payable to the official receiver, and any remuneration payable to him under general regulations;
- (e) the cost of any security provided by a provisional liquidator, liquidator or special manager in accordance with the Act or the Rules;
- (f) the remuneration of the provisional liquidator (if any);
- (g) any deposit lodged on an application for the appointment of a provisional liquidator;
- (h) 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 employed or authorised, under Chapter 6 of this Part of the Rules, to assist in the preparation of a statement of affairs or of accounts;
- (l) any allowance made, by order of the court, towards 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) any necessary disbursements by the liquidator in the course of his administration (including any expenses incurred by members of the liquidation committee or their representatives and allowed by the liquidator under Rule 4.169, but not including any payment of capital gains tax in circumstances referred to in sub-paragraph (p) below);

- (n) the remuneration or emoluments of any person who has been employed by the liquidator to perform any services for the company, as required or authorised by or under the Act or the Rules;
- (o) the remuneration of the liquidator, up to any amount not exceeding that which is payable to the official receiver under general regulations;
- (p) the amount of any capital gains tax on chargeable gains accruing on the realisation of any asset of the company (without regard to whether the realisation is effected by the liquidator, a secured creditor, or a receiver or manager appointed to deal with a security);
- (q) the balance, after payment of any sums due under sub-paragraph (o) above, of any remuneration due to the liquidator.

(2) The costs of employing a shorthand writer, if appointed by an order of the court made at the instance of the official receiver in connection with an examination, rank in priority with those specified in paragraph (1)(a). The costs of employing a shorthand writer so appointed in any other case rank after the allowance mentioned in paragraph (1)(l) and before the disbursements mentioned in paragraph (1)(m).

(3) Any expenses incurred in holding an examination under Rule 4.214 (examinee unfit), where the application for it is made by the official receiver, rank in priority with those specified in paragraph (1)(a).

### **Winding up commencing as voluntary**

**4.219.** In a winding up by the court which follows immediately on a voluntary winding up (whether members' voluntary or creditors' voluntary), such remuneration of the voluntary liquidator and costs and expenses of the voluntary liquidation as the court may allow are to rank in priority with the expenses specified in Rule 4.218(1)(a).

### **Saving for powers of the court**

**4.220.—**(1) In a winding up by the court, the priorities laid down by Rules 4.218 and 4.219 are subject to the power of the court to make orders under section 156, where the assets are insufficient to satisfy the liabilities.

(2) Nothing in those Rules applies to or affects the power of any court, in proceedings by or against the company, to order costs to be paid by the company, or the liquidator; nor do they affect the rights of any person to whom such costs are ordered to be paid.