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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 12**

**COURT PROCEDURE AND PRACTICE**

**CHAPTER 8**

**Costs**

**Requirement to assess costs by the detailed procedure**

**12.42.**—(1) Where the costs of any person are payable as an expense out of the insolvent estate, the amount payable must be decided by detailed assessment unless agreed between the office-holder and the person entitled to payment.

(2) In the absence of agreement, the office-holder—

- (a) may serve notice requiring the person entitled to payment to commence detailed assessment proceedings in accordance with CPR Part 47; and
- (b) must serve such notice (except in an administrative receivership) where a liquidation or creditors' committee formed in relation to the insolvency proceedings resolves that the amount of the costs must be decided by detailed assessment.

(3) Detailed assessment proceedings must be commenced in the court to which the insolvency proceedings are allocated or, where in relation to a company there is no such court, any court having jurisdiction to wind up the company.

(4) Where the costs of any person employed by an office-holder in insolvency proceedings are required to be decided by detailed assessment or fixed by order of the court, the office-holder may make payments on account to such person in respect of those costs if that person undertakes in writing—

- (a) to repay as soon as reasonably practicable any money which may, when detailed assessment is made, prove to have been overpaid; and
- (b) to pay interest on any such sum as is mentioned in sub-paragraph (a) at the rate specified in section 17 of the Judgments Act 1838<sup>MI</sup> on the date payment was made and for the period beginning with the date of payment and ending with the date of repayment.

(5) In any proceedings before the court (including proceedings on a petition), the court may order costs to be decided by detailed assessment.

(6) Unless otherwise directed or authorised, the costs of a trustee in bankruptcy or a liquidator are to be allowed on the standard basis for which provision is made in—

- (a) CPR rule 44.3 (basis of assessment); and
- (b) CPR rule 44.4 (factors to be taken into account when deciding the amount of costs).

**Modifications etc. (not altering text)**

- C1** Rules 12.39-12.43 applied (with modifications) (19.3.2024) by [The Water Industry \(Special Administration\) \(England and Wales\) Rules 2024 \(S.I. 2024/229\)](#), rules 1, 5, 75-77, **Sch.** (with rule 2(2))
- C2** Rule 12.42(5) applied (with modifications) (temp.) (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), **Sch. 4 para. 47** (with ss. 2(2), 5(2), Sch. 4 para. 12)
- C3** Rule 12.42(5) applied (with modifications) (30.9.2021) by [S.I. 2014/229](#), art. 2(2A), Sch. 1A paras. 1(4)(5), **35, 38** (as inserted by [The Co-operative and Community Benefit Societies \(Administration\) \(Amendment\) Order 2021 \(S.I. 2021/1048\)](#), arts. 1(1), **2**)

**Marginal Citations**

- M1** Section 17 is amended by the [Statute Law Revision \(No 2\) Act 1888 \(c.57\)](#), **article 2** of S.I. 1993/564, **article 3** of S.I. 1998/2940 , Part 1 of the Schedule to the [Civil Procedure Acts Repeal Act 1879 \(c.59\)](#) and article 3(c) of SI 1998/3132.

**Changes to legislation:**

There are currently no known outstanding effects for the The Insolvency (England and Wales) Rules 2016, Section 12.