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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 114**

**The Insolvency (Scotland) Amendment Rules 2014**

**Outlays and remuneration of liquidator**

**12.** For Rule 4.32 (determination of amount of outlays and remuneration) substitute—

**“Determination of amount of outlays and remuneration**

**4.32.—**(1) Subject to the provision of Rules 4.33 to 4.35, claims by the liquidator for the outlays reasonably incurred and for the liquidator’s remuneration shall be made in accordance with this Rule.

(2) Within 14 days after the end of an accounting period, the liquidator shall in respect of that period submit to the liquidation committee or, if there is no liquidation committee, to the court—

- (a) accounts of the liquidator’s intromissions with the company’s assets for audit and, where funds are available after making allowance for contingencies, a scheme of division of the divisible funds; and
- (b) a claim for the outlays reasonably incurred by the liquidator and for the liquidator’s remuneration.

(3) Where the documents mentioned in paragraph (2) are submitted to the liquidation committee, the liquidator shall send a copy of them to the court.

(4) The liquidator may, at any time before the end of the accounting period, submit to the liquidation committee (if any) an interim claim in respect of that period for the outlays reasonably incurred by the liquidator and for the liquidator’s remuneration and the liquidation committee may make an interim determination in relation to the amount of the outlays and remuneration payable to the liquidator and, where they do so, they shall take into account that interim determination when making their determination under paragraph (7) (a)(ii).

(5) Subject to paragraph (6) below, all accounts in respect of legal services incurred by the liquidator shall, before payment thereof, be submitted for taxation to the auditor of the court before which the liquidation is pending.

(6) Where—

- (a) any such account has been agreed between the liquidator and the person entitled to payment in respect of that account (in this paragraph referred to as “the payee”);
- (b) the liquidator is not an associate of the payee; and
- (c) the liquidation committee or, if there is no liquidation committee, the court, have determined that the account need not be submitted for taxation,

the liquidator may pay such account without submitting it for taxation.

(7) Within 6 weeks after the end of an accounting period—

- (a) the liquidation committee or, as the case may be, the court—
  - (i) may audit the accounts; and

- (ii) shall issue a determination fixing the amount of the outlays and the remuneration payable to the liquidator; and
  - (b) the liquidator shall make the audited accounts, scheme of division and the said determination available for inspection by the creditors and the contributories.
- (8) The basis of remuneration must be fixed—
- (a) as a percentage of the value of the company’s assets which are realised by the liquidator;
  - (b) by reference to the work which was reasonably undertaken by the liquidator and the liquidator’s staff in attending to matters arising in the winding up; or
  - (c) as a set amount.
- (9) The basis of remuneration may be fixed as any one or more of the bases set out in paragraph (8)(a) to (c), and different bases may be fixed in respect of different things done by the liquidator.
- (10) In fixing the amount of such remuneration in respect of any accounting period, the liquidation committee or, as the case may be, the court may take into account any adjustment which the liquidation committee or the court may wish to make in the amount of the remuneration fixed in respect of any earlier accounting period.
- (11) Not later than 14 days after the issue of the determination, the liquidator, any creditor or contributory may appeal against a determination issued under paragraph (4) or (7)(a)(ii) above, where it is a determination of the liquidation committee, to the court.
- (12) An appeal may only be made against a determination issued under paragraph (7)(a) by a creditor or a contributory if notice is given to the liquidator of intention to appeal.”.