

SCHEDULE 1

Amendments to the Insolvency Rules 1986

Amendments to Rule 2.109

- 93.**—(1) Rule 2.109 (creditors’ claim that remuneration is excessive) is amended as follows.
- (2) In the heading, after “is” insert “or other expenses are”.
- (3) For paragraph (1) substitute—
- “(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4).
- (1A) Application may be made on the grounds that—
- (a) the remuneration charged by the administrator,
- (b) the basis fixed for the administrator’s remuneration under Rule 2.106, or
- (c) expenses incurred by the administrator,
- is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate.
- (1B) The application must, subject to any order of the court under Rule 2.48A(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question (“the relevant report”).”.
- (4) In paragraph (2), for “7” substitute “5 business”.
- (5) For paragraph (4) substitute—
- “(4) If the court considers the application to be well-founded, it must make one or more of the following orders—
- (a) an order reducing the amount of remuneration which the administrator was entitled to charge;
- (b) an order fixing the basis of remuneration at a reduced rate or amount;
- (c) an order changing the basis of remuneration;
- (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration;
- (e) an order that the administrator or the administrator’s personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify;
- and may make any other order that it thinks just; but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report.”.