
STATUTORY INSTRUMENTS

2018 No. 1082

The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018

PART 3

ADMINISTRATION

CHAPTER 14

Reporting and Remuneration

Administrator's outlays and remuneration: determination

3.96.—(1) Within six weeks after the end of an accounting period—

(a) the creditors' committee or, if there is no creditors' committee, the creditors through a decision procedure—

(i) may audit the accounts submitted or made available under rule 3.95(1)(a), and

(ii) must issue a determination fixing the amount of the outlays and remuneration payable to the administrator; and

(b) the administrator must make the accounts submitted for audit, scheme of division and determination of the amount fixed under paragraph (1)(a)(ii) available for the inspection by the members of the company and the creditors.

(2) If the administrator's remuneration and outlays have been fixed by determination of the creditors' committee in accordance with paragraph (1)(a)(ii) and the administrator considers the amount to be insufficient, the administrator may request that it be increased by decision of the creditors by decision procedure.

(3) If the creditors' committee fails to issue a determination in accordance with paragraph (1)(a)(ii), the administrator must seek a decision of the creditors through decision procedure (except in a case under paragraph (6)) and they must issue a determination in accordance with paragraph (1)(a)(ii).

(4) If the creditors fail to issue a determination by decision procedure in accordance with paragraph (3) then the administrator must submit the claim to the court and the court must issue a determination.

(5) In a case where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1, a decision under paragraph (2) or a decision under rule 3.101 is taken to be passed if (and only if) passed by the approval of—

(a) each secured creditor of the company; or

(b) if the administrator has made, or proposes to make, a distribution to preferential creditors—

(i) each secured creditor of the company, and

(ii) a decision of the preferential creditors in a decision procedure.

(6) In a case where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1, if there is no creditor's committee, or the committee does not make the requisite determination in accordance with rule 3.96(1)(a)(ii) or 3.96(3), the administrator's remuneration and outlays may be fixed (in accordance with this rule) by the approval of—

- (a) each secured creditor of the company; or
- (b) if the administrator has made, or proposes to make, a distribution to preferential creditors—
 - (i) each secured creditor of the company, and
 - (ii) a decision of the preferential creditors in a decision procedure.

(7) In fixing the amount of the administrator's remuneration and outlays in respect of any accounting period, the creditors' committee or, as the case may be, the creditors by decision procedure, may take into account any adjustment which the creditors' committee or the creditors may wish to make in the amount of the remuneration and outlays fixed in respect of any earlier accounting period.

Changes to legislation:

There are currently no known outstanding effects for the The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018, Section 3.