
STATUTORY INSTRUMENTS

2021 No. 1178

The Payment and Electronic Money Institution
Insolvency (England and Wales) Rules 2021

PART 8

The Administrator

CHAPTER 2

Fixing of remuneration

Apportionment of set fee remuneration

170.—(1) In a case in which the basis of the administrator’s remuneration is a set amount under rule 163(2)(c) and the administrator (“the former administrator”) ceases (for whatever reason) to hold office before the time has elapsed or the work has been completed in respect of which the amount was set, application may be made for determination of what portion of the amount should be paid to the former administrator or the former administrator’s personal representative in respect of the time which has actually elapsed or the work which has actually been done.

(2) An application under paragraph (1) may be made—

- (a) by the former administrator or the former administrator’s personal representative within the period of twenty-eight days beginning with the date upon which the former administrator ceased to hold office, or
- (b) by the administrator for the time being in office if the former administrator or the former administrator’s personal representative has not applied by the end of that period.

(3) Application must be made—

- (a) where the creditors’ committee fixed the basis, to that committee for a resolution determining the portion;
- (b) where the creditors and customers fixed the basis, to the creditors and customers for a resolution determining the portion;
- (c) where the court fixed the basis, to the court for an order determining the portion;

(4) The applicant must give a copy of the application to the administrator for the time being in office or to the former administrator or the former administrator’s personal representative, as the case may be (“the recipient”).

(5) The recipient may within twenty-one days of receipt of the copy of the application give notice of intent to make representations to the creditors’ committee or to the creditors and customers, or to appear or be represented before the court, as the case may be.

(6) No determination may be made upon the application until expiry of the twenty-one days referred to in paragraph (5) or, if the recipient does give notice of intent in accordance with that paragraph, until the recipient has been afforded the opportunity to make representations or to appear or be represented on the application, as the case may be.

(7) If the former administrator or the former administrator’s personal representative (whether or not the original applicant) considers that the portion determined upon application to the creditors’ committee or the creditors and customers is insufficient, that person may apply—

- (a) in the case of a determination by the creditors’ committee, to the creditors and customers for a resolution increasing the portion;
- (b) in the case of a resolution of the creditors and customers (whether under paragraph (1) or under sub-paragraph (a)), to the court for an order increasing the portion;

and paragraphs (4) to (6) apply as appropriate.