
STATUTORY INSTRUMENTS

2021 No. 1178

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

PART 4

Expenses of the special administration

Expenses to be paid out of the institution's assets

98.—(1) Subject to rule 99, the expenses of the special administration to be paid out of the assets of the institution are payable in the following order of priority—

- (a) expenses properly incurred by the administrator in performing the administrator's functions in the special administration (other than unpaid pre-administration costs approved under rule 100 for work done in pursuit of Objectives 2 and 3),
- (b) failure-related costs approved under regulation 42,
- (c) the cost of any security provided by the administrator,
- (d) where a special administration order was made, the costs of the applicant and any person appearing on the hearing of the application,
- (e) any amount payable to a person employed or authorised, under Chapter 1 of Part 3 of these Rules, to assist in the preparation of a statement of affairs or statement of concurrence,
- (f) any allowance made, by order of the court, towards costs on an application for release from the obligation to submit a statement of affairs or statement of concurrence,
- (g) any necessary disbursements incurred by the administrator in the course of the special administration (including any expenses incurred by members of the creditors' committee or their representatives and allowed for by the administrator under rule 84, but not including any payment of corporation tax in circumstances referred to in sub-paragraph (h) below),
- (h) the remuneration or emoluments of any person who has been employed by the administrator to perform any services for the institution, as required or authorised under the Regulations or these Rules,
- (i) the administrator's remuneration for services in pursuit of Objectives 2 and 3 the basis of which has been fixed under Chapter 2 of Part 9 of these Rules, and unpaid pre-administration costs approved under rule 100 for work done in pursuit of Objectives 2 and 3, and
- (j) the amount of any corporation tax on chargeable gains accruing on the realisation of any asset of the institution (without regard to who the realisation is effected by).

(2) The priorities laid down by paragraph (1) of this rule are subject to the power of the court to make orders under paragraph (3) of this rule where the assets are insufficient to satisfy the liabilities.

(3) The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the expenses incurred in the special administration in such order of priority as the court thinks just.

(4) For the purposes of paragraph 99(3) and subject to rule 99, the former administrator's remuneration and expenses shall comprise all those items set out in paragraph (1) of this rule.