
STATUTORY INSTRUMENTS

2021 No. 1178

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

PART 7

Distributions to creditors

CHAPTER 1

Application

Distribution to creditors

116.—(1) This Chapter applies where the administrator makes, or proposes to make, a distribution to any class of creditors other than secured creditors.

(2) Where the distribution is to a particular class of creditors, references in this Chapter to creditors shall be a reference to that class of creditors only.

(3) The administrator must give notice to the creditors of their intention to declare and distribute a dividend in accordance with rule 142.

(4) Where it is intended that the distribution is to be a sole or final dividend, the administrator must, after the date specified in the notice referred to in paragraph (3)—

- (a) pay any outstanding expenses of a voluntary arrangement that immediately preceded the special administration in accordance with rule 97,
- (b) pay any items payable in accordance with rules 98 and 100,
- (c) pay any amounts (including any debts or liabilities and the administrator's own remuneration and expenses) which would, if the administrator were to cease to be the administrator of the institution, be payable out of the property of which the administrator had custody or control in accordance with paragraph 99, and
- (d) declare and distribute that dividend without regard to the claim of any person in respect of a debt not already proved.

(5) The court may, on the application of any person, postpone the date specified in the notice.

Debts of institution to rank equally

117. Debts, other than preferential debts, rank equally between themselves in the special administration and, after the preferential debts, must be paid in full unless the assets are insufficient for meeting them, in which case they abate in equal proportions between themselves.

Supplementary provisions as to dividend

118.—(1) In the calculation and distribution of a dividend the administrator must make provision for—

- (a) any debts which are the subject of claims which have not yet been determined, and
 - (b) disputed proofs and claims.
- (2) A creditor who has not proved their debt before the declaration of any dividend is not entitled to disturb, by reason that they have not participated in it, the distribution of that dividend or any other dividend declared before their debt was proved, but—
- (a) when the creditor has proved that debt, they are entitled to be paid, out of any money for the time being available for the payment of any further dividend, any dividend or dividends which the creditor has failed to receive, and
 - (b) any dividends payable under sub-paragraph (a) must be paid before the money is applied to the payment of any such further dividend.
- (3) No action lies against the administrator for a dividend, but if the administrator refuses to pay a dividend the court may, if it thinks just, order the administrator to pay it and also to pay, out of the administrator's own money—
- (a) interest on the dividend, at the rate for the time being specified in section 17 of the Judgments Act 1838(1), from the time when it was withheld, and
 - (b) the costs of the proceedings in which the order to pay is made.

Division of unsold assets

119.—(1) The administrator may, with the permission of the creditors' committee, or if there is no creditors' committee, the creditors, divide in its existing form amongst the institution's creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

- (2) The administrator must—
- (a) in the receipts and payments account included in the final progress report under rule 182, state the estimated value of the property divided amongst the creditors of the investment during the period to which the report relates, and
 - (b) as a note to the account, provide details of the basis of the valuation.