

ADMINISTRATION

Administrator's proposals		Reference
Proposed basis to be included in proposals	The administrator's proposals must state the basis on which it is proposed that remuneration should be fixed.	R.2.25(1)(j)
Pre-administration costs to be included in proposals	The administrator's proposals must also include a statement of any pre-administration costs [for which approval for payment is to be sought]. See below under Pre-administration costs.	R.2.25(1)(ka)
Basis		
Basis	The basis of remuneration may be fixed – (a) by reference to the time properly given by the administrator and his staff; (b) as a commission calculated by reference to the value of the company's assets which have been realised by the administrator	R.2.39(4)
Priority		
Priority of payment	Remuneration is paid under paragraph (h) of Rule 4.67(1) – before corporation tax on chargeable gains, but after all other expenses.	R.2.39B & 4.67
How fixed		
Determination by creditors' committee	It is for the creditors' committee (if there is one) or a meeting of creditors if there is no committee to determine the remuneration and outlays payable to the administrators.	R2.39(3)
Matters for consideration	In arriving at its determination, the committee or a meeting of creditors shall have regard to – (a) the work which having regard to that value, was reasonably undertaken by the administrator; (b) the extent of the administrator's responsibilities in administering the company's assets;	R.2.39(4)
If there is no committee or determination is insufficient	If there is no committee, or the administrator considers the amount to be insufficient or the committee fails to issue a determination, and where the administrator has <i>not</i> made a statement under paragraph 52(1) (b), the remuneration may be fixed/increased by a resolution of a meeting of creditors having regard to the matters set out above.	R.2.39(5) & (6)

Reference

Where there is a paragraph 52(1)(b) statement	If there is no committee, or the committee does not make the requisite determination, and the administrator <i>has</i> made a statement under paragraph 52(1)(b), the remuneration and outlays may be fixed by – (a) each secured creditor: or (b) if the administrator has made or intends to make a distribution to preferential creditors – (i) each secured creditor; and (ii) preferential creditors whose debts amount to more than 50% of the preferential debts, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.	R.2.39(9)
Application to court	If the creditors' committee or a meeting of creditors [or the secured and preferential creditors] fail to issue a determination the administrator shall submit a claim to the Court and it shall issue a determination.	R.2.39(6) & (7)
Joint administrators	Where there are joint administrators, it is for them to agree between themselves how the remuneration should be apportioned. If they cannot agree as to how the remuneration payable should be apportioned, any one of them may refer the issue for determination: (a) by the court; or (b) by resolution of the creditors' committee or (c) a meeting of creditors	R.2.39A(8)

Information to be provided

Provision of information to those approving remuneration	The administrator must provide those responsible for approving his remuneration with the information required under Statement of Insolvency Practice 9.	SIP 9
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Disbursements

Disbursements requiring creditor approval	Category 2 disbursements, as defined by Statement of Insolvency Practice 9, must be approved in the same manner as remuneration.	SIP 9
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Disbursements not requiring creditor approval	Category 1 disbursements, as defined by Statement of Insolvency Practice 9, do not require approval.
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SIP 9

Fees for dealing with fixed charge assets

Realisations for secured creditors	When realising assets for secured creditors, the fees for dealing with the charged assets will usually be agreed with the secured creditor concerned.
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Recourse to meeting of creditors

Request for increase	If the administrator's remuneration and outlays have been fixed by determination of the creditors committee and he considers the amount to be insufficient, he may request that it be increased by resolution of the creditors.
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R.2.39(5)

Statement under paragraph 52(1)(b)	Where the administrator has made a statement under paragraph 52(1)(b), if the administrator considers that the remuneration and outlays fixed by the committee is insufficient the administrator may request that the remuneration and outlays be increased by the approval of –
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- (a) each secured creditor: or
- (b) if the administrator has made or intends to make a distribution to preferential creditors:

- (i) each secured creditor; and
- (ii) preferential creditors whose debts amount to more than 50% of the preferential debts, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval.

R.2.39 (5) & (8)

Recourse to the court

Administrator may apply to court	If the administrator considers that the remuneration or outlays fixed by the creditors' committee or by resolution of the creditors is insufficient, he may apply to the court for the amount or rate to be increased.
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R.2.39A(1)

Notice to creditors' committee	The administrator must give at least 14 days' notice of his application to the members of the creditors' committee. The committee may nominate one or more members to appear, or be represented, and to be heard on the application.
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R.2.39A(2)

Where no creditors' committee	If there is no creditors' committee, the notice of the administrator's application must be sent to such one or more creditors as the court may direct, and those creditors may nominate one or more of their
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	number to appear or be represented.	R.2.39A(3)
Costs of application	The court may order the costs of the application, including the expenses of any member of the creditors' committee or any creditor appearing or being represented, to be paid as an expense of the administration.	R.2.39A(4)
Creditors' claim that remuneration is, or other expenses are, excessive		
Who may apply	Application may be made to the court by any secured creditor, or any unsecured creditor with either the concurrence of at least 25% in value of the creditors (including that creditor) or the permission of the court.	R.2.39A(5)
Grounds for application	Application may be made on the grounds that: - the remuneration or outlays charged by the administrator, are, in all the circumstances, excessive.	R.2.39A(5)
Time limit	The application must be made within 8 weeks after the end of an accounting period.	R.2.39A(5)
Court order if application well-founded	If the court considers the application well founded, it shall make an order fixing the remuneration at a reduced amount or rate.	R.2.39A(6)
Costs of application	The court may , if it appears to be a proper case order the expenses of the creditor making the application to be paid as an expense of the administration.	R.2.39A(7)

Pre-administration costs

Costs which may be paid as an expense	Costs which may be paid are fees charged and expenses incurred by the administrator, or another person qualified to act as an insolvency practitioner, before the company entered administration but with a view to its doing so. Details of such costs must be included in the administrator's proposals.	R.2.25(1A) R.2.25(1)(ka)
Approval of payment	Where there is a creditors' committee, it is for the committee to determine whether, and to what extent, such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination, or if it does but the administrator, or other insolvency practitioner who has incurred pre-administration costs, considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the administrator has made a	

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	statement under paragraph 52(1)(b), the determination may be made by the same creditors as approve the administrator's remuneration.	R.2.39C
Approval at request of another insolvency practitioner	The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions, or if there is but the administrator, or other insolvency practitioner, considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.	R.2.39C
Priority of payment	Where approved, pre-administration costs are payable in the same order of priority as the administrator's remuneration.	R.2.39B & 4.67(h)

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