

[Subsidiary]

[附屬法例]

176. Costs and taxation

If the bill of costs, charges and disbursements of a person employed by the Official Receiver or the liquidator, incurred in a winding up by the court, exceed \$3,000 in the aggregate, such bill of costs, charges and disbursements shall be taxed by the Registrar.

(L.N. 286 of 1997)

177. Review of taxation and appeals thereon

The procedure and practice of the High Court shall be observed in all reviews of taxation.

(25 of 1998 s. 2)
[cf. R. 190]

COSTS AND EXPENSES PAYABLE OUT OF THE ASSETS OF THE COMPANY

178. Liquidator's charges

(1) Where a liquidator or special manager in a winding up by the court receives remuneration for his services as such, no payment shall be allowed on his accounts in respect of the performance by any other person of the ordinary duties which are required by Ordinance or rules to be performed by himself.

(2) Where a liquidator is a solicitor he may contract that the remuneration for his services as liquidator shall include all professional services.

[cf. R. 191]

179. Costs payable out of the assets

(1) The assets of a company in a winding up by the court, remaining after payment of the fees and expenses properly incurred in preserving, realizing or getting in the assets, including where the company has previously commenced to be wound up voluntarily such remuneration, costs, and expenses as the court may allow to a liquidator appointed in such voluntary winding up shall, subject to any order of the court, be liable to the following payments, which shall be made in the following order of priority, namely—

First.—The fees, percentages and charges payable to, or costs, charges and expenses incurred by or authorized by, the Official Receiver, whether acting as Official Receiver or liquidator, including the costs of any person properly employed by him.

Next.—The taxed costs of the petition, including the taxed costs of any person appearing on the petition whose costs are allowed by the court but excluding the interest on such costs. (46 of 2000 s. 40)

176. 訟費及訟費評定

如破產管理署署長或清盤人所聘用的人的訟費、收費及支出帳單的總額超過 \$3,000，而有關的訟費、收費及支出是在由法院作出的清盤中招致的，則該等訟費、收費及支出帳單須由司法常務官評定。

(1997 年第 286 號法律公告)

177. 訟費評定的覆核及就其提出的上訴

在就所有訟費評定而進行的覆核中，高等法院的程序及慣例須予遵行。

(1998 年第 25 號第 2 條)
[比照 R. 190]

須從公司的資產撥付的訟費及開支

178. 清盤人的收費

(1) 凡在由法院作出的清盤中的清盤人或特別經理人，就他作為清盤人或特別經理人所提供的服務而收取酬金，則不得獲准就任何其他他人執行本條例或本規則所規定須由清盤人或特別經理人本人執行的一般職務而作出任何記入清盤人帳目的付款。

(2) 凡清盤人是一名律師，他可訂立合約，訂明就他作為清盤人所提供的服務而支付的酬金須包括所有專業服務在內。

[比照 R. 191]

179. 須從資產撥付的費用

(1) 在由法院作出的清盤中，於支付為保存資產、將資產變現或取得資產而恰當招致的費用及開支，包括在公司以往曾開始自動清盤的情況下，法院准許付給在該宗自動清盤中獲委任的清盤人的酬金、訟費及開支後，除法院的任何命令另有規定外，公司的剩餘資產須用於作出以下各項付款，而該等付款須按以下優先次序作出，即——

第一。——須付給破產管理署署長的費用、百分率及收費，或破產管理署署長所招致或批准的訟費、收費及開支，包括他恰當聘用的任何人的費用，不論他是破產管理署署長身分或是以清盤人身分行事。

其次。——呈請的經評定的訟費，包括在呈請中出庭並獲法庭判給訟費的任何人的經評定訟費在內，但不包括該等訟費的利息。(2000 年第 46 號第 40 條)

Next.—The remuneration of and any fees, disbursements and expenses properly incurred by the special manager (if any). (46 of 2000 s. 40)

Next.—The costs and expenses of any person who makes or concurs in making, the company's statement of affairs.

Next.—The taxed charges of any shorthand writer appointed to take an examination:

Provided that where the shorthand writer is appointed at the instance of the Official Receiver the cost of the shorthand notes shall be deemed to be an expense incurred by the Official Receiver in getting in and realizing the assets of the company.

Next.—The necessary disbursements of any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance, other than expenses properly incurred in preserving, realizing or getting in the assets heretofore provided for. (46 of 2000 s. 40)

Next.—The costs of any person properly employed by any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance. (46 of 2000 s. 40)

Next.—The remuneration of any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance. (46 of 2000 s. 40)

Next.—The actual out-of-pocket expenses necessarily incurred by the committee of inspection, subject to the approval of the Official Receiver.

(2) No payments in respect of bills or charges of solicitors, managers, accountants, auctioneers, brokers, or other persons, other than payments for costs and expenses incurred and sanctioned under rule 43, and payments of bills which have been taxed and allowed under orders made for the taxation thereof, shall be allowed out of the assets of the company without proof that the same have been considered and allowed by the Registrar. The taxing officer shall satisfy himself before passing such bills or charges that the employment of the solicitor or other person in respect of the matters mentioned in the bills or charges has been duly sanctioned:

Provided that the Official Receiver when acting as liquidator may without taxation pay and allow the costs and charges of any person other than a solicitor employed by him where such costs and charges are within the scale usually allowed by the court and do not exceed the sum of \$3,000. (L.N. 50 of 1964; L.N. 433 of 1993; L.N. 286 of 1997)

(3) Nothing contained in this rule shall apply to or affect costs which, in the course of legal proceedings by or against a company which is being wound up by the court, are ordered by the court in which such proceedings are pending or a judge thereof to be paid by the company or the liquidator, or the rights of the person to whom such costs are payable.

(L.N. 245 of 1977)

[cf. R. 192]

其次，——特別經理人(如有的話)的酬金和由他恰當招致的費用、支出及開支。(2000 年第 46 號第 40 條)

其次，——任何填寫或贊同填寫公司的資產負債狀況說明書的人的費用及開支。

其次，——任何獲委任將訊問作紀錄的速記員的經評定收費：

但如速記員是應破產管理署署長的請求而獲委任的，則有關速記紀錄的費用須當作破產管理署署長為取得公司資產並將其變現而招致的開支。

其次，——任何在由法院或根據本條例作出的清盤中獲委任而又並非破產管理署署長的清盤人的必需支出，但上文所訂為保存資產、將資產變現或取得資產而恰當招致的開支除外。(2000 年第 46 號第 40 條)

其次，——由任何在由法院或根據本條例作出的清盤中獲委任而又並非破產管理署署長的清盤人恰當聘用的人的費用。(2000 年第 46 號第 40 條)

其次，——任何在由法院或根據本條例作出的清盤中獲委任而又並非破產管理署署長的清盤人的酬金。(2000 年第 46 號第 40 條)

其次，——審查委員會在有需要的情況下招致的實際現金付款開支，但該等開支須獲破產管理署署長認可。

(2) 除支付已招致並根據第 43 條獲得認許的訟費及開支，以及根據下令評定訟費單的命令而經評定並獲准支付的訟費單外，任何就律師、經理人、會計師、拍賣商、經紀或其他人的訟費單或收費單而作出的付款，如無證明經獲司法常務官考慮及准許支付，不得從公司資產中撥付。訟費評定官在通過批准該等訟費單或收費單前，須先令自己信納就該等訟費單或收費單內所述事宜而聘用律師或其他人一事經獲妥為認許：

但破產管理署署長以清盤人身分行事時，可不經訟費評定而支付並准許支付任何由他聘用的人(律師除外)的費用及收費，但該等費用及收費必須是在法院通常批准的收費表範圍內，且款額不超過 \$3,000。(1964 年第 50 號法律公告；1993 年第 433 號法律公告；1997 年第 286 號法律公告)

(3) 本條所載任何規定，對於在正由法院清盤的公司所提出或針對正由法院清盤的公司而提出的法律程序過程中，由正有該等程序待決的法院或該法院的法官下令須由公司或清盤人支付的訟費，以及對於有權獲支付該等訟費的人的權利，既不適用，亦無影響。

(1977 年第 245 號法律公告)

[比照 R. 192]