

**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*)

*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 the statement of affairs of the company or a supplementary affidavit in relation to that statement. (*14 of 2016 s. 169*)

*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.

*Next.*—The reasonable expenses incurred directly by members of the committee of inspection or their representatives in respect of travelling within Hong Kong—

- (a) to attend the committee's meetings; or
- (b) on the committee's business. (*14 of 2016 s. 169*)

- (2) A payment in respect of a bill or charges of a solicitor, manager, accountant, auctioneer, broker or other person is only allowed out of the assets of a company on proof that the payment has been allowed by the Registrar, unless it is—
- (a) a payment made for costs and expenses payable under section 190A of the Ordinance;
  - (b) a payment of a bill that has been taxed and allowed under an order made for its taxation; or
  - (c) a payment in respect of a bill or charges that have been approved by the committee of inspection by resolution. (*14 of 2016 s. 169*)

- (2A) Before allowing the bill or charges mentioned in paragraph (2), a taxing officer must be

satisfied that—

- (a) the employment of the solicitor or other person in respect of the matters mentioned in the bill or charges has been duly sanctioned; or
  - (b) in relation to the employment of a solicitor, proof that the requirement under section 199(4)(b) of the Ordinance has been complied with. *(14 of 2016 s. 169)*
- (2B) Despite paragraphs (2) and (2A), the Official Receiver, when acting as a liquidator, may, without taxation, pay and allow the costs and charges of a person (other than a solicitor) employed by the Official Receiver, if the costs and charges—
- (a) are within the scale usually allowed by the court; and
  - (b) do not exceed \$3,000 in total. *(14 of 2016 s. 169)*
- (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)*