
STATUTORY INSTRUMENTS

2018 No. 719

The Housing Administration (England and Wales) Rules 2018

PART 3

PROCESS OF HOUSING ADMINISTRATION

CHAPTER 1

Notice of housing administrator's appointment

Notification and advertisement of housing administrator's appointment

3.1.—(1) A notice of appointment, to be published by the housing administrator as soon as reasonably practicable under paragraph 46(2)(b) of Schedule B1, must be gazetted and may be advertised in such other manner as the housing administrator thinks fit.

(2) The notice under paragraph (1) must state—

- (a) that a housing administrator has been appointed; and
- (b) the date of the appointment.

(3) The housing administrator must, as soon as reasonably practicable after the date of the housing administration order deliver a notice of the appointment—

- (a) to the Secretary of State;
- (b) to the Regulator of Social Housing;
- (c) to the relevant registry;
- (d) if a receiver or administrative receiver has been appointed, to that person;
- (e) if a petition is pending for the winding up of the registered provider, to the petitioner (and also to the provisional liquidator, if any);
- (f) to any enforcement officer, enforcement agent or other officer who, to the housing administrator's knowledge, is charged with distress or other legal process against the registered provider or its property; and
- (g) any supervisor of a voluntary arrangement under Part 1 of the Act.

(4) Where, under Schedule B1 or these Rules, the housing administrator is required to deliver a notice of appointment to the relevant registry, or any other person, it must be headed "Notice of housing administrator's appointment" and must contain—

- (a) the housing administrator's name and address and IP number;
- (b) identification details for the proceedings; and
- (c) a statement that the housing administrator has been appointed as housing administrator of the registered provider.

(5) The notice must be authenticated and dated by the housing administrator.

CHAPTER 2

Statement of affairs

Notice requiring statement of affairs and delivery to the housing administrator

3.2.—(1) A requirement under paragraph 47(1) of Schedule B1 for one or more relevant persons to provide the housing administrator with a statement of the affairs of the registered provider must be made by a notice delivered to such persons.

(2) A relevant person who is required to provide a statement of affairs is called a nominated person in this Chapter.

(3) The notice must be headed “Notice requiring statement of affairs” and must—

- (a) require each nominated person to whom the notice is delivered to prepare and submit to the housing administrator a statement of the affairs of the registered provider; and
- (b) inform each nominated person of—
 - (i) the names and addresses of all others (if any) to whom the same notice has been delivered,
 - (ii) the requirement to deliver the statement of affairs to the housing administrator no later than eleven days after receipt of the notice requiring the statement of affairs, and
 - (iii) the effect of paragraph 48(4) of Schedule B1 and section 235 of the Act, if applicable;

(4) The housing administrator must inform each nominated person to whom notice is delivered that a document for the preparation of the statement of affairs capable of completion in compliance with rule 3.3 will be supplied if requested.

(5) The nominated person (or one of them, if more than one) must deliver the statement of affairs to the housing administrator with the statutory declaration required by paragraph 27(2)(a) of Schedule B1 and a copy of each statement.

Content of statement of affairs

3.3.—(1) The statement of the registered provider’s affairs must be headed “Statement of affairs” and must—

- (a) identify the registered provider immediately below the heading; and
- (b) state that it is a statement of affairs of the registered provider on a specified date, being the date on which it entered housing administration.

(2) The statement of affairs must contain (in addition to the matters required by paragraph 47(2) of Schedule B1)—

- (a) a summary of the assets of the registered provider, setting out the book value and the estimated realisable value of—
 - (i) any assets subject to a fixed charge,
 - (ii) any assets subject to a floating charge,
 - (iii) any uncharged assets,
 - (iv) the total value of all the assets;
- (b) a summary of the liabilities of the registered provider, setting out—
 - (i) the amount of preferential debt,
 - (ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts,
 - (iii) an estimate of the prescribed part, if applicable,

- (iv) the amount of debt secured by floating charges,
 - (v) an estimate of the total assets available to pay debts secured by floating charges,
 - (vi) an estimate of the deficiency with respect of debts secured by floating charges or the surplus available after paying the debts secured by fixed or floating charges,
 - (vii) the amount of unsecured debt (excluding preferential debts),
 - (viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts,
 - (ix) any issued and called-up capital, where appropriate,
 - (x) an estimate of the deficiency with respect to, or surplus available to, members of the registered provider;
- (c) a list of the registered provider's creditors with the further particulars required by paragraph (3) indicating—
- (i) any creditors under hire-purchase, chattel leasing or conditional sales agreements;
 - (ii) any creditors who are consumers claiming amounts paid in advance for the supply of goods or services;
 - (iii) any creditors claiming retention of title over property in the registered provider's possession; and
- (d) the name and address of each member of the registered provider and full details of their interest in the registered provider.
- (3) The particulars required by paragraph 47(2) of Schedule B1 and paragraph (2)(c) of this rule relating to each creditor are as follows—
- (a) the name and postal address of each creditor;
 - (b) the amount of the debt owed to the creditor;
 - (c) details of any security held by the creditor;
 - (d) the date on which the security was given;
 - (e) the value of any such security.
- (4) Paragraph (5) applies where the particulars required by paragraph (3) relate to creditors who are either—
- (a) employees or former employees of the registered provider; or
 - (b) consumers claiming amounts paid in advance for the supply of goods or services.
- (5) Where this paragraph applies—
- (a) the statement of affairs itself must state separately for each of paragraph (4)(a) and (b) the number of such creditors and the total of the debts owed to each of them;
 - (b) the particulars required by paragraph (3) must be set out in separate schedules to the statement of affairs for each of paragraphs (4)(a) and (b).

Statement of concurrence

3.4.—(1) The housing administrator may require a relevant person, as defined by paragraph 47(3) of Schedule B1, to deliver to the housing administrator a statement of concurrence.

(2) A statement of concurrence is a statement, verified by a statement of truth, that that person concurs in the statement of affairs by a nominated person.

(3) The housing administrator must inform the nominated person who has been required to submit a statement of affairs that the relevant person has been required to deliver a statement of concurrence.

(4) The nominated person must deliver a copy of the statement of affairs to every relevant person who has been required to submit a statement of concurrence.

(5) A statement of concurrence—

(a) must identify the registered provider; and

(b) may be qualified in relation to matters dealt with in the statement of affairs where the relevant person—

(i) is not in agreement with the statement of affairs,

(ii) considers the statement of affairs to be erroneous or misleading, or

(iii) is without the direct knowledge necessary to concur with it.

(6) The relevant person must deliver the required statement of concurrence to the housing administrator before the end of the period of five business days or such other period as the housing administrator may agree) beginning with the day on which the relevant person receives the statement of affairs.

(7) The relevant person must deliver to the housing administrator with the statement a copy of each of them, if more than one.

Filing of statement of affairs

3.5.—(1) The housing administrator must as soon as is reasonably practicable deliver to the relevant registry a copy of—

(a) the statement of affairs; and

(b) any statement of concurrence.

(2) However, the housing administrator must not deliver to the relevant registry with the statement of affairs any schedule required by rule 3.3(5)(b).

(3) The requirement to deliver the statement of affairs is subject to any order of the court made under rule 3.31(2).

Release from requirement to provide statement of affairs and extension of time

3.6.—(1) The power of the housing administrator under paragraph 48(2) of Schedule B1 to revoke a requirement to provide a statement of affairs or to extend the period within which it must be submitted may be exercised upon the housing administrator's own initiative or at the request of the relevant person who has been required to provide it.

(2) A relevant person may apply to the court if the housing administrator refuses that person's request for a revocation or extension.

(3) On receipt of an application, the court may, if it is satisfied that no sufficient cause is shown for it, dismiss it without giving notice to any party other than the applicant.

(4) Unless the application is dismissed, the court must fix a venue for it to be heard.

(5) The applicant must, at least 14 days before any hearing, deliver to the housing administrator a notice stating the venue with a copy of the application and of any evidence on which the applicant intends to rely.

(6) The housing administrator may do either or both of the following—

(a) file a report of any matters which the housing administrator thinks ought to be drawn to the court's attention; or

(b) appear and be heard on the application.

(7) If a report is filed, the housing administrator must deliver a copy of it to the applicant not later than five business days before the hearing.

(8) Sealed copies of any order made on the application must be delivered by the court to the applicant and the housing administrator.

(9) On an application under this rule, the applicant's costs must be paid by the applicant in any event; but the court may order that an allowance of all or part of them may be payable as an expense of the housing administration.

Expenses of statement of affairs

3.7.—(1) The expenses of a relevant person which the housing administrator considers to have been reasonably incurred in the making of a statement of affairs or a statement of concurrence must be paid by the housing administrator as an expense of the housing administration.

(2) A decision by the housing administrator that expenses were not reasonably incurred (and are therefore not payable as an expense of the housing administration) may be appealed to the court.

CHAPTER 3

Housing administrator's proposals

Housing administrator's proposals - additional content

3.8.—(1) The housing administrator's statement of proposals made under paragraph 49 of Schedule B1(1) must identify the proceedings and, in addition to the matters set out in paragraph 49, contain—

- (a) any other trading names of the registered provider;
- (b) details of the housing administrator's appointment, including—
 - (i) the date of the appointment,
 - (ii) the person making the application or appointment; and
- (c) the names of the relevant officers of the registered provider and details of any interest in the registered provider they may have;
- (d) an account of the circumstances giving rise to the appointment of the housing administrator;
- (e) the date the proposals were sent to the creditors;
- (f) if a statement of the registered provider's affairs has been submitted—
 - (i) a copy or summary of it, except so far as an order under rule 3.31 or 3.32 limits disclosure of it, and excluding any schedule referred to in rule 3.3(5), or the particulars relating to individual creditors contained in any such schedule,
 - (ii) details of who provided the statement of affairs, and
 - (iii) any comments which the housing administrator may have on the statement of affairs; and
- (g) if an order under rule 3.31 or 3.32 has been made—
 - (i) a statement of that fact,
 - (ii) the date of the order;
- (h) if no statement of affairs has been submitted—

(1) Paragraph 49(4) is amended by paragraph 10(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

- (i) details of the financial position of the registered provider at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the registered provider entered into housing administration), and
 - (ii) an explanation as to why there is no statement of affairs;
 - (i) a full list of the registered provider's creditors if either—
 - (i) no statement of affairs has been submitted, or
 - (ii) a statement of affairs has been submitted but does not include such a list, or the housing administrator believes the list included is less than full;
 - (j) a statement (which must comply with paragraph (4) of this rule where that paragraph applies) of how it is envisaged that the purpose of the housing administration will be achieved and how it is proposed that the housing administration shall end;
 - (k) the manner in which the affairs and business of the registered provider—
 - (i) have, since the date of the housing administrator's appointment, been managed and financed, including, where any assets have been disposed of, the reasons for the disposals and the terms upon which the disposals were made, and
 - (ii) will continue to be managed and financed.
- (2) The list of creditors required by (1)(i) must contain the details set out in paragraph (3) except where paragraphs (5) and (6) apply;
- (3) The particulars required by paragraph (2) are as follows and must be given in this order—
- (a) the name and postal address of each creditor;
 - (b) the amount of the debt owed to the creditor;
 - (c) details of any security held by the creditor;
 - (d) the date on which any such security was given; and
 - (e) the value of any such security.
- (4) This paragraph applies where it is proposed that the housing administration will end by the company moving to a creditors' voluntary liquidation, and, in that case, the statement required by paragraph (1)(j) of this rule must include—
- (a) details of the proposed liquidator;
 - (b) where applicable, the declaration required by section 231 of the Act; and
 - (c) a statement that creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) of Schedule B1 and rule 3.42(6).
- (5) This paragraph applies where the particulars required by paragraph (3) relate to creditors who are either—
- (a) employees or former employees of the registered provider; or
 - (b) consumers claiming amounts paid in advance for the supply of goods or services.
- (6) Where paragraph (5) applies—
- (a) the list of creditors required by paragraph (1)(i) must state separately for each of paragraphs (5)(a) and (b) the number of creditors and the total of the debt owed to them; and
 - (b) the particulars required by paragraph (3) in respect of such creditors must be set out in separate schedules to the list of creditors for each of sub-paragraphs (5)(a) and (b); and
 - (c) the housing administrator must not deliver any such schedule to the relevant registry with the statement of proposals.

- (7) The statement made by the housing administrator must also include—
- (a) to the best of the housing administrator’s knowledge and belief, an estimate of the value of—
 - (i) the prescribed part (whether or not the housing administrator might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts); and
 - (ii) the registered provider’s net property (as defined by section 176A(6)); and
 - (b) a statement whether the housing administrator proposes to make an application to the court under section 176A(5) and, if so, the reason for the application.
- (8) The housing administrator may exclude from an estimate under paragraph (7)(a) information the disclosure of which could seriously prejudice the commercial interests of the registered provider.
- (9) If the exclusion of such information affects the calculation of an estimate, the report must say so.
- (10) Where applicable, the document containing the statement of proposals must include—
- (a) a statement of any pre-administration costs charged or incurred by the housing administrator or, to the housing administrator’s knowledge, by any other person qualified to act as an insolvency practitioner;
 - (b) a statement that the payment of any unpaid pre-administration costs as an expense of the housing administration is subject to approval by the court under rule 6.11.

Statement of pre-administration costs

- 3.9.** A statement of pre-administration costs under rule 3.8(10) must include—
- (a) details of any agreement under which the fees were charged and expenses incurred including the parties to the agreement and the date on which the agreement was made;
 - (b) details of the work done for which the fees were charged and expenses incurred;
 - (c) an explanation of why the work was done before the registered provider entered housing administration and how it had been intended to further the achievement of an objective in section 96 of the Housing and Planning Act;
 - (d) a statement of the amount of the pre-administration costs, setting out separately—
 - (i) the fees charged by the housing administrator,
 - (ii) the expenses incurred by the housing administrator,
 - (iii) the fees charged (to the housing administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and if more than one, by each separately), and
 - (iv) the expenses incurred (to the housing administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and if more than one, by each separately);
 - (e) a statement of the amounts of pre-administration costs which have already been paid (set out separately as under sub-paragraph (d));
 - (f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person set out separately as under sub-paragraph (d);
 - (g) a statement of the amounts of unpaid pre-administration costs (set out separately as under sub-paragraph (d)).

Ancillary provisions about delivery of housing administrator's proposals

3.10.—(1) Where the court orders, upon an application by the housing administrator under paragraph 107 of Schedule B1, an extension of the period for providing the housing administrator's proposals, the housing administrator must as soon as reasonably practicable after the making of the order deliver a notice of the extension to—

- (a) every creditor of the registered provider;
- (b) every member of the registered provider of whose address the housing administrator is aware;
- (c) the relevant registry;
- (d) the Secretary of State; and
- (e) the Regulator of Social Housing.

(2) The notice must—

- (a) identify the proceedings;
- (b) identify the registered office of the registered provider; and
- (c) state the date to which the court has ordered the extension.

(3) The housing administrator is taken to comply with paragraph (1)(b) if the housing administrator publishes a notice complying with paragraph (4).

(4) A notice under paragraph 49(6) of Schedule B1 or under paragraph (3) of this rule must—

- (a) be advertised in such manner as the housing administrator thinks fit;
- (b) state that members of the registered provider may request in writing a copy of the statement of proposals or notice of the extension, and state the address to which to write; and
- (c) be published as soon as reasonably practicable after the housing administrator has delivered the statement of proposals or notice of the extension to the registered provider's creditors.

Revision of housing administrator's proposals

3.11.—(1) Where paragraph 54(1) of Schedule B1(2) applies, the housing administrator's revised proposals must identify the proceedings and include—

- (a) any other trading names of the registered provider;
- (b) details of the housing administrator's appointment, including—
 - (i) the date of the appointment; and
 - (ii) the person making the application or appointment;
- (c) details of the relevant officers and details of any interest in the registered provider which they may have;
- (d) a summary of the original proposals and the reason or reasons for the revised proposals;
- (e) details of the revised proposals, including details of the housing administrator's assessment of the likely impact of the revised proposal upon creditors generally or upon each class of creditor;
- (f) where the revised proposals relate to the ending of the housing administration by a creditors' voluntary winding up and the nomination of a person to be the proposed liquidator of the registered provider—

(2) Paragraph 54 is modified by paragraph 9 of Schedule 5 to the Housing and Planning Act 2016 and Schedule 1 and Schedule 2 to the Insolvency of Registered Providers of Social Housing Regulations 2017.

- (i) details of the proposed liquidator;
- (ii) where applicable, the declaration required by section 231 of the Act; and
- (iii) a statement that the creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) of Schedule B1 and rule 3.42(6).

(g) any other information that the housing administrator thinks necessary.

(2) In accordance with paragraph 54(2) of Schedule B1, the housing administrator must send a copy of the revised proposals to the persons set out at paragraph 54 of Schedule B1 within 14 days after the housing administrator's revision of those proposals.

(3) Notice under paragraph 54(4) of Schedule B1 must—

- (a) be advertised in such manner as the housing administrator thinks fit; and
- (b) state that members may request in writing a copy of the revised proposals, and state the address to which to write.

(4) As soon as reasonably practicable after sending the copy of the revised proposals in accordance with paragraph (2), the housing administrator must deliver a copy to the relevant registry accompanied by a notice which must contain—

- (a) identification details for the proceedings; and
- (b) the date of the revised proposals.

CHAPTER 4

Housing Administrator's reports

Reporting by the housing administrator

3.12. The housing administrator must prepare and deliver reports in accordance with this Chapter.

Progress reports

3.13.—(1) The housing administrator must prepare a progress report covering the periods of—

- (a) six months starting on the date the registered provider entered housing administration; and
- (b) each subsequent period of six months.

(2) The periods for which progress reports are required under paragraph (1) are unaffected by any change in the housing administrator.

(3) However where a housing administrator ceases to act, the succeeding housing administrator must, as soon as reasonably practicable after being appointed, deliver a notice to the creditors of any matters about which the succeeding housing administrator thinks the creditors should be informed.

(4) The housing administrator must deliver a copy of a progress report to the relevant registry and the creditors within one month of the end of the period covered by the report unless the report is a final progress report under rule 3.15.

(5) A housing administrator who makes default in delivering a progress report within the time limit in paragraph (4) is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine as set out in Schedule 1.

Contents of progress reports

3.14.—(1) The housing administrator's progress reports must contain the following—

- (a) identification details for the proceedings;
- (b) identification details for the registered provider;

- (c) identification and contact details for the housing administrator;
 - (d) the date of appointment of the housing administrator and any changes in the housing administrator in accordance with paragraphs (2) and (3);
 - (e) details of progress during the period of the report, including a summary account of receipts and payments during the period of the report;
 - (f) the information relating to distributions required by rule 5.43, if any;
 - (g) details of what remains to be done to bring the housing administration to an end; and
 - (h) any other information of relevance to the creditors.
- (2) A change in the housing administrator is only required to be shown in the next report after the change.
- (3) However if the current housing administrator is seeking the repayment of pre-administration expenses from a former housing administrator the change in the housing administrator must continue to be shown until the next report after the claim is settled.

Final progress report

3.15. “Final progress report” means a progress report which must contain an account of the housing administrator’s administration including—

- (a) a summary of the housing administrator’s proposals;
- (b) any major amendments to, or deviations from, those proposals;
- (c) the steps taken during the administration;
- (d) a statement as to the amount paid to unsecured creditors by virtue of section 176A of the Act; and
- (e) the outcome.

Information about pre-administration costs

3.16.—(1) Where the housing administrator has made a statement of pre-administration costs under rule 3.8(10)(a)—

- (a) if they are approved under rule 6.11, the first progress report after the approval must include a statement setting out the date of approval and the amounts approved;
- (b) while any of the costs remain unapproved each successive report must include a statement of any steps taken to obtain approval.

(2) However if either the housing administrator has decided not to seek approval, or another insolvency practitioner entitled to seek approval has told the housing administrator of that practitioner’s decision not to seek approval then—

- (a) the next report after that must include a statement of whichever is the case, and
- (b) no statement under paragraph (1)(b) is required in subsequent reports.

CHAPTER 5

Registered provider meetings

Application of Chapter 5 to meetings of the registered provider

3.17. This Chapter applies where the housing administrator calls a meeting of members under paragraph 62 of Schedule B1(3).

(3) Paragraph 62 was amended by paragraph 10 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

Meetings of the registered provider

3.18.—(1) Unless the Act or these Rules provides otherwise, where the housing administrator calls a meeting of the registered provider, that meeting must be called and conducted, and records of the meeting must be kept—

- (a) in accordance with the law of England and Wales, including any applicable provision in or made under the Companies Act, in the case of a registered provider which is incorporated—
 - (i) in England and Wales, or
 - (ii) outside the United Kingdom other than in an EEA state;
- (b) in accordance with the law of the state applicable to meetings of the registered provider in the case of a registered provider which is a registered provider incorporated in an EEA state other than the United Kingdom.

(2) In calling a meeting of the registered provider, the housing administrator must have regard to the convenience of the members when fixing the venue.

Nature of meetings

3.19.—(1) Meetings called by the housing administrator under this Chapter may be physical meetings or virtual meetings.

- (2) Where the meeting is a virtual meeting, notification of that meeting must contain—
 - (a) any necessary information as to how to access the virtual meeting including any telephone number, access code or password required; and
 - (b) a statement that the meeting may be suspended or adjourned by the chair of the meeting (and must be adjourned if it is so resolved at the meeting).

Remote attendance: notification requirements

3.20. When a meeting is to be summoned and held in accordance with section 246A(3) of the Act, the housing administrator must notify all those to whom notice of the meeting is being given of—

- (a) the ability of a person claiming to be an excluded person to request an indication in accordance with rule 3.24;
- (b) the ability of a person within rule 3.25(1) to make a complaint in accordance with that rule; and
- (c) in either case, the period within which a request or complaint must be made.

Location of meetings

3.21.—(1) This rule applies to a request made under section 246(A)(9) to specify a place for the meeting.

- (2) The request must be accompanied by—
 - (a) a list of the members making or concurring with the request and their voting rights; and
 - (b) from each person concurring, confirmation of that person's concurrence.
- (3) The request must be delivered to the housing administrator within seven business days of the date on which the housing administrator delivered the notice of the meeting in question.
- (4) Where the housing administrator considers that the request has been properly made in accordance with the Act and this rule, the housing administrator must—
 - (a) deliver notice to all those previously given notice of the meeting—

- (i) that it is to be held at a specified place, and
- (ii) as to whether the date and time are to remain the same or not;
- (b) set a venue (including specification of a place) for the meeting, the date of which must not be later than 28 days after the original date for the meeting; and
- (c) deliver at least 14 days' notice of that venue to all those previously given notice of the meeting;

and the notices required by sub-paragraphs (a) to (c) may be delivered at the same or different times.

(5) Where the housing administrator has specified a place for the meeting in response to a request to which this rule applies, the housing administrator, or a person appointed by the housing administrator to chair the meeting, must attend the meeting by being present in person at that place.

Chair of the meeting

3.22. The chair of a meeting of the members of the registered provider must be either the housing administrator or a person nominated by the housing administrator to act as chair.

Action where person excluded

3.23.—(1) In this rule and rules 3.24 and 3.25 an “excluded person” means a person who has taken all steps necessary to attend a meeting of the registered provider under arrangements which—

- (a) have been put in place by the housing administrator under section 246A(6); but
- (b) do not enable that person to attend the whole or part of that meeting.

(2) Where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may—

- (a) continue the meeting;
- (b) declare the meeting void and convene the meeting again; or
- (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.

(3) Where the chair continues the meeting, the meeting is valid unless—

- (a) the chair decides in consequence of a complaint under rule 3.25 to declare the meeting void and hold the meeting again; or
- (b) the court directs otherwise.

(4) Without prejudice to paragraph (2), where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may, in the chair's discretion and without an adjournment, declare the meeting suspended for any period up to 1 hour.

Indication to excluded person

3.24.—(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person's claimed exclusion.

(2) A request under paragraph (1) must be made in accordance with paragraph (3) as soon as reasonably practicable, and in any event not later than 4pm on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

- (a) the chair where it is made during the course of the business of the meeting; or
- (b) the housing administrator where it is made after the conclusion of the business of the meeting.

(4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made under paragraph (3) must deliver the requested indication to the excluded person as soon as reasonably practicable, and in any event not later than 4pm on the business day following the day on which the request was made under paragraph (1).

Complaint

- 3.25.**—(1) A person may make a complaint who—
- (a) is, or claims to be, an excluded person; or
 - (b) attends the meeting and claims to have been adversely affected by the actual, apparent or claimed exclusion of another person.
- (2) The complaint must be made to the appropriate person who is—
- (a) the chair, where the complaint is made during the course of the meeting; or
 - (b) the housing administrator where it is made after the meeting.
- (3) The complaint must be made as soon as reasonably practicable and, in any event, no later than 4pm on the business day following—
- (a) the day on which the person was, appeared or claimed to be excluded; or
 - (b) where an indication is sought under rule 3.24, the day on which the complainant received the indication.
- (4) The appropriate person must, as soon as reasonably practicable following receipt of the complaint—
- (a) consider whether there is an excluded person;
 - (b) where satisfied that there is an excluded person, consider the complaint; and
 - (c) where satisfied that there has been prejudice, take such action as the appropriate person considers fit to remedy the prejudice.
- (5) Paragraph (6) applies where the appropriate person is satisfied that the complainant is an excluded person and—
- (a) a resolution was voted on at the meeting during the period of the person’s exclusion; and
 - (b) the excluded person asserts how the excluded person intended to vote on the resolution.
- (6) Where the appropriate person is satisfied that, if the excluded person had voted as that person intended, it would have changed the result of the resolution then the appropriate person must, as soon as reasonably practicable,—
- (a) count the intended vote as having been cast in that way;
 - (b) amend the record of the result of the resolution;
 - (c) where notice of the result of the resolution has been delivered to those entitled to attend the meeting, deliver notice to them of the change and the reason for it; and
 - (d) where notice of the result of the resolution has yet to be delivered to those entitled to attend the meeting, the notice must include details of the change and the reason for it.
- (7) Where satisfied that more than one complainant is an excluded person, the appropriate person must have regard to the combined effect of the intended votes.
- (8) The appropriate person must deliver notice to the complainant of any decision as soon as reasonably practicable.
- (9) A complainant who is not satisfied by the action of the appropriate person may apply to the court for directions and any application must be made no more than two business days from the date of receiving the decision of the appropriate person.

CHAPTER 6

Creditors' decisions

Application of Chapter 6 to creditors' decisions

3.26. This Chapter applies where the housing administrator seeks a decision from creditors in accordance with paragraph 62 of Schedule B1.

Creditors' decisions

3.27. The housing administrator may, and in the circumstances set out in rule 3.28 must, seek a decision from the registered provider's creditors under paragraph 62 of Schedule B1.

Creditors' decisions for the nomination of alternative liquidator

3.28.—(1) Where, under rule 3.8(4)(c) or rule 3.11(1)(f)(iii) the housing administrator has proposed that the housing administration will end by the registered provider entering creditors' voluntary liquidation, the housing administrator must, in the circumstances detailed in paragraph (2), seek a decision from the registered provider's creditors for the purpose of nominating a person other than the person named as the proposed liquidator in the housing administrator's proposals or revised proposals.

(2) The housing administrator must seek a decision from the registered provider's creditors where such decision is requested by creditors of the relevant provider whose debts amount to at least 10 per cent of the total debts of the registered provider.

(3) The request for a decision from the registered provider's creditors for the purpose set out in paragraph (1) must be made within 8 days of the date on which the housing administrator's statement of proposals is delivered, or, where revised proposals have been sent out relating to the ending of the housing administration by a creditors' voluntary liquidation, within 8 days from the date on which the revised proposals are delivered.

(4) A request under this rule must include—

- (a) a list of the creditors concurring with the request, showing the amounts of their respective debts in the housing administration; and
- (b) from each creditor concurring, written confirmation of that creditor's concurrence,

but sub-paragraph (a) does not apply if the requesting creditor's debt is alone sufficient without the concurrence of other creditors.

(5) Where a decision has been requested under this rule, the provisions of rule 15.19, as modified by rule 3.29, of the Insolvency (England and Wales) Rules 2016 in relation to the expenses of the decision apply.

(6) A decision requested under this rule must be reached within 21 days of the housing administrator's receipt of the notice requesting the decision procedure.

Decision making

3.29.—(1) Where the housing administrator seeks a decision from the creditors on any issue and subject to paragraph (3), Chapters 2, 3, 6, 7, 8, 9 and 11 of Part 15 and Part 16 of the Insolvency (England and Wales) Rules 2016 apply, as they apply to administration, with the modifications set out in paragraph (2).

(2) The provisions applied by paragraph (1) are subject to the following modifications—

- (a) for "administration", in each place, substitute "housing administration";

- (b) for “administrator”, in each place, substitute “housing administrator”;
- (c) for “company”, in each place, substitute “registered provider”;
- (d) for “convener”, in each place, substitute “housing administrator”;
- (e) “officer” includes a charity trustee if the registered provider is a charitable incorporated organisation;
- (f) the following is substituted for rule 15.21—

“**15.21.** The chair of the meeting must be either the housing administrator or a person nominated by the housing administrator to be chair.”;

- (g) in rule 15.8, the reference to rule 14.31(1) is a reference to rule 5.28(1) of these Rules;
- (h) in rule 15.31, the reference to rule 14.24 is a reference to rule 5.24 of these Rules; and
- (i) in rule 16.6 the reference to rule 1.58 is a reference to rule 7.37 of these Rules.

(3) In the application of Part 15 of the Insolvency (England and Wales) Rules 2016 to a decision sought by the housing administrator in a housing administration, rules 15.16, 15.24, 15.28(6), 15.29 and 15.30 do not apply.

CHAPTER 7

Limited disclosure of statements of affairs and proposals

Application of Chapter 7

3.30. This Chapter applies to the disclosure of information which would be likely to prejudice the conduct of the housing administration or might reasonably be expected to lead to violence against any person.

Orders limiting disclosure of statement of affairs etc

3.31.—(1) If the housing administrator thinks that the circumstances in rule 3.30 apply in relation to the disclosure of—

- (a) the whole or part of the statement of the registered provider’s affairs;
- (b) any of the matters specified in rule 3.8; or
- (c) a statement of concurrence provided in accordance with rule 3.4;

the housing administrator may apply to the court for an order in relation to the particular document or a specified part of it.

(2) The court may order that the whole of or a specified part of a document referred to in paragraph (1) must not be delivered to the relevant registry or, in the case of the statement of proposals, to creditors or members of the registered provider.

(3) The housing administrator must as soon as reasonably practicable deliver to the relevant registry—

- (a) a copy of the order;
- (b) the statement of affairs or the statement of proposals to the extent provided by the order;
- (c) any statement of concurrence to the extent provided by the order; and
- (d) if the order relates to the statement of proposals, an indication of the nature of the matter in relation to which the order was made.

(4) If the order relates to the statement of proposals, the housing administrator must as soon as reasonably practicable also deliver to the creditors and members of the registered provider—

- (a) the statement of proposals to the extent provided by the order; and

- (b) an indication of the nature of the matter in relation to which the order was made.

Order for disclosure

3.32.—(1) A creditor may apply to the court for an order that the housing administrator disclose the following in relation to which an order has been made under rule 3.31(2)—

- (a) a statement of affairs;
- (b) a specified part of it; or
- (c) a part of a statement of proposals.

(2) The application must be supported by a witness statement.

(3) The applicant must deliver to the housing administrator notice of the application at least three business days before the hearing.

(4) In an order for disclosure, the court may include conditions as to confidentiality, duration, and the scope of the order in the event of any change of circumstances or such other matters as it thinks just.

Rescission or amendment of order for limited disclosure

3.33.—(1) If there is a material change in circumstances rendering an order for limited disclosure under rule 3.31(2) wholly or partly unnecessary, the housing administrator must, as soon as reasonably practicable after the change, apply to the court for the order to be rescinded or amended.

(2) If the court makes such an order, the housing administrator must as soon as reasonably practicable deliver to the relevant registry—

- (a) a copy of the order; and
- (b) the statement of affairs or the statement of proposals to the extent provided by the order;

(3) If the order relates to the statement of proposals, the housing administrator must as soon as reasonably practicable also deliver to the creditors and members the statement of proposals to the extent allowed by the order.

Publication etc. of statement of affairs and statement of proposals

3.34.—(1) CPR Part 31 does not apply to an application under rule 3.31, 3.32 or 3.33.

(2) If, after the housing administrator has sent a statement of proposals under paragraph 49(4) of Schedule B1, a statement of affairs is delivered to the relevant registry in accordance with rule 3.33(2) as the result of the rescission or amendment of an order, the housing administrator must deliver to the creditors a copy or summary of the statement of affairs as delivered to the relevant registry.

(3) The housing administrator is taken to comply with the requirements for delivery to members of the registered provider in rule 3.31(4) or 3.33(3) if the housing administrator publishes the required notice.

(4) The required notice must—

- (a) be advertised in such manner as the housing administrator thinks fit;
- (b) state that members can request in writing—
 - (i) a copy of the statement of proposals to the extent provided by the order, and
 - (ii) an indication of the nature of the matter in relation to which the order was made; and
- (c) state the address to which such a written request is to be made;

- (d) be published as soon as reasonably practicable after the housing administrator has delivered the statement of proposals to the extent provided by the order to the registered provider's creditors.

CHAPTER 8

Disposal of Charged Property

Disposal of charged property

3.35.—(1) This rule applies where the housing administrator applies to the court under paragraph 71 or 72 of Schedule B1 for authority to dispose of—

- (a) property which is subject to a security other than a floating charge; or
- (b) goods in the possession of the registered provider under a hire-purchase agreement.

(2) The court must fix a venue for the hearing of the application.

(3) As soon as reasonably practicable after the court has done so, the housing administrator must deliver notice of the venue to the holder of the security or the owner of the goods.

(4) If an order is made under paragraph 71 or 72 of Schedule B1, the court must deliver two sealed copies to the housing administrator.

(5) The housing administrator must deliver—

- (a) one of the sealed copies to the holder of the security or the owner of the goods; and
- (b) a copy of the sealed order to the relevant registry.

CHAPTER 9

Expenses of the Housing Administration

Expenses

3.36.—(1) All fees, costs, charges and other expenses incurred in the course of the housing administration are to be treated as expenses of the housing administration.

(2) The expenses associated with the prescribed part must be paid out of the prescribed part.

(3) The cost of the security required by section 390(3) of the Act for the proper performance of a housing administrator's functions is an expense of the housing administration.

(4) For the purposes of paragraph 99(3) of Schedule B1, the former housing administrator's remuneration and expenses comprise all the items in rule 3.37.

Order of priority

3.37.—(1) The expenses of housing administration are payable in the following order of priority, subject to an order of the court under paragraph (2)—

- (a) expenses properly incurred by the housing administrator in performing the housing administrator's functions;
- (b) the cost of any security provided by the housing administrator in accordance with the Act or these rules;
- (c) the costs of the applicant and any person appearing at the hearing of the application for a housing administration order whose costs were allowed by the court;
- (d) any amount payable to a person in respect of assistance in the preparation of a statement of affairs or statement of concurrence;

- (e) any allowance made by order of the court in respect of the costs on an application for release from the obligation to submit a statement of affairs or deliver a statement of concurrence;
 - (f) any necessary disbursements by the housing administrator incurred in the course of the administration;
 - (g) the remuneration or emoluments of any person who has been employed by the housing administrator to perform any services for the registered provider, as required or authorised under the Act or these Rules;
 - (h) the housing administrator's remuneration the basis of which has been fixed under Part 6 and unpaid pre-administration costs approved under rule 6.11;
 - (i) the amount of any tax payable on chargeable gains accruing on the realisation of any asset of the registered provider (irrespective of the person by whom the realisation is effected).
- (2) If the assets are insufficient to satisfy the liabilities, the court may make an order as to the payment out of the assets of the expenses incurred in the housing administration in such order of propriety as it thinks just.

CHAPTER 10

Extension and ending of administration

Application to extend a housing administration and extension by consent

3.38.—(1) This rule applies where a housing administrator makes an application to the court for an order, or delivers a notice to the creditors requesting their consent, to extend the housing administrator's term of office under paragraph 76(2)(4) of Schedule B1.

(2) The application or the notice must state the reason the housing administrator is seeking an extension.

(3) A copy of the application or notice must also be delivered to the Secretary of State and the Regulator of Social Housing.

(4) A request to the creditors may contain or be accompanied by a notice that if the extension is granted a notice of the extension will be made available for viewing and downloading on a website and that no other notice will be delivered to the creditors.

(5) Where the result of a request to the creditors is to be made available for viewing and downloading on a website, the notice must comply with the requirements for use of a website to deliver documents set out in rule 7.39(2), (3) and (4) with any necessary modifications and rule 7.39(5)(a) applies to determine the time of delivery of the document.

(6) Where the court makes an order extending the housing administrator's term of office, the housing administrator must as soon as reasonably practicable deliver a notice of the order together with the reason for seeking the extension given in the application to the court to—

- (a) the creditors;
- (b) the Secretary of State;
- (c) the Regulator of Social Housing; and
- (d) the relevant registry.

(7) Where the housing administrator's term of office has been extended with the consent of creditors, the housing administrator must as soon as reasonably practicable deliver a notice of the extension to the persons mentioned in paragraph (6), except where paragraph (4) applies.

(4) Paragraph 76 was amended by section 127 of the Small Business, Enterprise and Employment Act 2015.

(8) The notices which paragraph 78(5)(b) of Schedule B1 require to be delivered must also identify the proceedings.

Notice of automatic end of administration

3.39.—(1) This rule applies where—

- (a) the appointment of a housing administrator has ceased to have effect, and
- (b) the housing administrator is not required by any other rule to give notice of that fact.

(2) The former housing administrator must, as soon as reasonably practicable, and in any event within five business days of the date on which the appointment has ceased, not including that date, deliver to the relevant registry, the Secretary of State and the Regulator of Social Housing, and file with the court a notice accompanied by a final progress report.

(3) The notice must be headed “Notice of automatic end of housing administration” and identify the registered provider immediately below the heading.

(4) The notice must contain—

- (a) identification details for the proceedings;
- (b) the former housing administrator’s name and address;
- (c) a statement that that person had been appointed housing administrator of the registered provider;
- (d) the date of the appointment;
- (e) the name of the person who made the housing administration application;
- (f) a statement that the appointment has ceased to have effect;
- (g) the date on which the appointment ceased to have effect; and
- (h) a statement that a copy of the final progress report accompanies the notice.

(5) The notice must be authenticated by the housing administrator and dated.

(6) A copy of the notice and accompanying final progress report must be delivered as soon as reasonably practicable to—

- (a) the Secretary of State;
- (b) the Regulator of Social Housing;
- (c) the relevant officers of the registered provider; and
- (d) all other persons to whom notice of the housing administrator’s appointment was delivered.

(7) A former housing administrator who fails to comply with this rule is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine as set out in Schedule 1.

Application for an order ending housing administration

3.40.—(1) An application to the court under paragraph 79 of Schedule B1 for an order ending a housing administration must be accompanied by—

- (a) a progress report for the period since—
 - (i) the last progress report (if any), or
 - (ii) if there has been no previous progress report, the date on which the registered provider entered housing administration; and
- (b) a statement indicating what the housing administrator thinks should be the next steps for the registered provider (if applicable).

- (2) Where an application to the court is made—
- (a) the applicant must, at least five days before the application is filed, deliver notice of the applicant's intention to apply to court to all the creditors; and
 - (b) the application must be accompanied by—
 - (i) a statement that notice has been delivered to the creditors; and
 - (ii) copies of any response from creditors to that notice.

Notice of court order ending housing administration

3.41. Where the court makes an order ending the housing administration, the applicant must as soon as reasonably practicable deliver a copy of the order and of the final progress report to—

- (a) the Secretary of State, unless the Secretary of State was the applicant;
- (b) the Regulator of Social Housing, unless the Regulator of Social Housing was the applicant;
- (c) the housing administrator, unless the housing administrator was the applicant;
- (d) the relevant registry;
- (e) the relevant officers of the registered provider; and
- (f) all other persons to whom notice of the housing administrator's appointment was delivered.

Moving from housing administration to creditors' voluntary winding up

3.42.—(1) This rule applies where the housing administrator delivers to the relevant registry a notice under paragraph 83(3) of Schedule B1 of moving from housing administration to creditors' voluntary winding up.

- (2) The notice must contain—
- (a) identification details for the proceedings;
 - (b) the name of the person who made the housing administration application; and
 - (c) the name and IP number of the proposed liquidator.
- (3) The notice to the relevant registry must be accompanied by a copy of the housing administrator's final progress report.
- (4) A copy of the notice and the final progress report must be sent as soon as reasonably practicable after delivery of the notice to all those persons to whom notice of the housing administrator's appointment was delivered in addition to the creditors (as required by paragraph 83(5)(b) of Schedule B1).
- (5) The person who ceases to be housing administrator on the registration of the notice must inform the person who becomes liquidator of anything which happens after the date of the final progress report and before the registration of the notice which the housing administrator would have included in the final report had it happened before the date of the report.
- (6) For the purposes of paragraph 83(7)(a) of Schedule B1, a person is nominated as liquidator in accordance with rule 3.8(4) or 3.11(1)(f)(iii) and that person's appointment takes effect following registration under paragraph (1) of this rule—
- (a) by virtue of the housing administrator's proposals or revised proposals; or
 - (b) following a decision sought by the housing administrator under rule 3.28(2).
- (7) Where the creditors nominate a different person, the nomination must, where applicable, include the declaration required by section 231 of the Act.

Moving from housing administration to dissolution

3.43.—(1) This rule applies where the housing administrator delivers to the relevant registry a notice under paragraph 84(1) of Schedule B1 of moving from housing administration to dissolution.

(2) The notice must identify the proceedings.

(3) As soon as reasonably practicable after sending the notice, the housing administrator must deliver a copy of the notice to all persons to whom notice of the housing administrator's appointment was delivered (in addition to the creditors mentioned in paragraph 84(5)(b)).

(4) A final progress report must accompany the notice to the relevant registry and also every other copy filed or otherwise delivered.

(5) Where a court makes an order under paragraph 84(7) of Schedule B1 it must, where the applicant is not the housing administrator, deliver a copy of the order to the housing administrator.

(6) The housing administrator must deliver a copy of the order to the relevant registry with the notice required by paragraph 84(8).