
EXPLANATORY NOTE

(This note is not part of the Order)

These Rules set out the procedure for the conduct of energy administration proceedings. Energy administration is a special insolvency regime specifically created for the companies that run and operate the gas and electricity networks in Great Britain.

The framework for the energy administration regime is set out in Chapter 3 of Part 3 of the Energy Act 2004 (c. 20) (the “2004 Act”). Only certain types of energy companies, known as “protected energy companies”, can enter energy administration and these are defined in section 154(5) of the 2004 Act. A protected energy company is one which holds either a licence under section 6(1)(b) or (c) of the Electricity Act 1989 (c. 29), or a licence under section 7 of the Gas Act 1986 (c. 44).

The energy administration process is commenced by an application to court for an energy administration order. Such an application can be made by either the Secretary of State or, with the consent of the Secretary of State, by the Gas and Electricity Markets Authority.

An insolvency practitioner appointed to manage the affairs, business and property of the protected energy company is defined in section 154(2) of the 2004 Act as an energy administrator.

These Rules are based upon the provisions of the existing Insolvency Rules 1986 (S.I. 1986/1925) but are a stand alone set of rules applicable only to energy administration proceedings.

Part 1 of these Rules contains the construction and interpretation provisions.

Part 2 of these Rules sets out the procedure to be followed to initiate energy administration proceedings, including the information required for an energy administration order application and how much and to whom notice of such an application needs to be given.

Part 3 of these Rules details the initial steps to be taken in energy administration proceedings. These include the notification and advertisement of an energy administrator’s appointment and the preparation of a statement of the protected energy company’s affairs. Part 3 also sets out the information that must be given to creditors in the energy administrator’s proposals.

Part 4 of these Rules governs the conduct of creditors' and company meetings called by an energy administrator during energy administration proceedings.

Part 5 of these Rules contains provisions relating to an application to court for an order for authority to dispose of property of the protected energy company which is subject to a security.

Part 6 of these Rules details the priority of the expenses of an energy administration.

Part 7 of these Rules contain provision relating to distributions to creditors of the protected energy company. In particular, this Part details the procedure to be followed to prove a debt in the energy administration proceedings as well as the way in which such debts will be quantified.

Part 8 of these Rules contains details of how the remuneration of an energy administrator will be fixed by the court.

Part 9 of these Rules sets out the arrangements for ending an energy administration. There are specific provisions detailing the ending of an energy administration by court order, as well as the process by which an energy administration moves into either a creditors' voluntary liquidation or dissolution of the protected energy company.

Part 10 of these Rules sets out the requirements and procedures for replacing an energy administrator and includes provisions relating to the resignation of an energy administrator and the removal of an energy administrator from office by court order.

Status: This is the original version (as it was originally made).

Part 11 of these Rules contains general provisions detailing the court procedure and practice for energy administration proceedings. In particular this Part sets out the general requirements for court applications made during an energy administration, the cost assessment procedure for energy administration proceedings and the appeals process to be used in energy administration proceedings.

Part 12 of these Rules contains provisions for the use of proxies at creditors' or members' meetings held during an energy administration, including the rights of inspection of such proxies and the procedure to be followed where a proxy-holder has a financial interest in the outcome of a resolution to be voted on at the meeting.

Part 13 of these Rules sets out the provision for the examination of persons where an application to court has been made by an energy administrator under section 236 of the Insolvency Act 1986 (c. 45). Section 236 of the Insolvency Act 1986 allows an energy administrator to apply to court for an order requiring certain persons to appear before the court to be questioned by the energy administrator about the protected energy company.

Part 14 of these Rules contains miscellaneous provisions, including provisions relating to the punishment of contraventions of these Rules.

Part 15 of these Rules contains further interpretation and application provisions.

Schedule 1 to these Rules contains the forms that are to be used in energy administration proceedings. The forms in this Schedule are based upon the forms contained in Schedule 4 to the Insolvency Rules 1986, but have been modified for the purposes of energy administration.

Schedule 2 to these Rules contains specific details of the punishment of offences under these Rules.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.