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STATUTORY INSTRUMENTS

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**2005 No. 2483**

The Energy Administration Rules 2005

PART 15

INTERPRETATION AND APPLICATION

**Introductory**

**176.** This Part of the Rules has effect for their interpretation and application; and any definition given in this Part applies except, and in so far as, the context otherwise requires.

**“The court”; “the registrar”**

**177.**—(1) Anything to be done in energy administration proceedings by, to or before the court may be done by, to or before a judge or the registrar.

(2) The registrar may authorise any act of a formal or administrative character which is not by statute his responsibility to be carried out by the chief clerk or any other officer of the court acting on his behalf, in accordance with directions given by the Lord Chancellor.

(3) In energy administration proceedings, “the registrar” means—

- (a) subject to the following paragraph, a Registrar in Bankruptcy of the High Court;
- (b) where the proceedings are in the District Registry of Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne or Preston, the District Registrar.

**“Give notice” etc**

**178.**—(1) A reference in the Rules to giving notice, or to delivering, sending or serving any document, means that the notice or document may be sent by post, unless under a particular Rule personal service is expressly required.

(2) Any form of post may be used, unless under a particular Rule a specified form is expressly required.

(3) Personal service of a document is permissible in all cases.

(4) Notice of the venue fixed for an application may be given by service of the sealed copy of the application under Rule 96(3).

**Notice, etc to solicitors**

**179.** Where in energy administration proceedings a notice or other document is required or authorised to be given to a person, it may, if he has indicated that his solicitor is authorised to accept service on his behalf, be given instead to the solicitor.

### **Notice to joint energy administrators**

**180.** Where two or more persons are acting jointly as the energy administrator in energy administration proceedings, delivery of a document to one of them is to be treated as delivery to them all.

### **“Venue”**

**181.** References to the “venue” for any proceedings or attendance before the court, or for a meeting, are to the time, date and place for the proceedings, attendance or meeting.

### **“Energy administration proceedings”**

**182.** “Energy administration proceedings” means any proceedings under sections 154 to 171 of, and Schedules 20 and 21 to, the 2004 Act or the Rules.

### **“The appropriate fee”**

**183.** “The appropriate fee” means 15 pence per A4 or A5 page and 30 pence per A3 page.

### **“Debt”, “liability”**

**184.—(1)** “Debt”, in relation to the energy administration of a protected energy company, means (subject to the next paragraph) any of the following—

- (a) any debt or liability to which the protected energy company is subject at the date on which it goes into energy administration;
- (b) any debt or liability to which the protected energy company may become subject after that date by reason of any obligation incurred before that date; and
- (c) any interest provable as mentioned in Rule 56(1).

(2) In determining for the purposes of any provision of the 1986 Act, section 154 to 171 of and Schedules 20 and 21 to the 2004 Act, Schedule B1 to the 1986 Act or the Rules, whether any liability in tort is a debt provable in the energy administration, the protected energy company is deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued.

(3) For the purposes of references in any provision of the 1986 Act, section 154 to 171 of and Schedules 20 and 21 to the 2004 Act, Schedule B1 to the 1986 Act or the Rules, to a debt or liability, it is immaterial whether the debt or liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion; and references in any such provision to owing a debt are to be read accordingly.

(4) In any provision of the 1986 Act, section 154 to 171 of and Schedules 20 and 21 to the 2004 Act, Schedule B1 to the 1986 Act or the Rules, except in so far as the context otherwise requires, “liability” means (subject to paragraph (3) above) a liability to pay money or money’s worth, including any liability under an enactment, any liability for breach of trust, any liability in contract, tort or bailment, and any liability arising out of an obligation to make restitution.

### **“Authorised deposit-taker and former authorised deposit-taker”**

**186.—(1)** “Authorised deposit-taker” means a person with permission under Part 4 of the Financial Services and Markets Act to accept deposits.

(2) “Former authorised deposit-taker” means a person who—

- (a) is not an authorised deposit-taker,

- (b) was formerly an authorised institution under the Banking Act 1987<sup>(1)</sup>, or a recognised bank or a licensed institution under the Banking Act 1979<sup>(2)</sup>, and
  - (c) continues to have liability in respect of any deposit for which it had a liability at a time when it was an authorised institution, recognised bank or licensed institution.
- (3) Paragraphs (1) and (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 22 to that Act.

### **Expressions used generally**

**186.**—(1) “Business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of Great Britain under or by virtue of the Banking and Financial Dealings Act 1971<sup>(3)</sup>.

(2) “The Department” means the Department of Trade and Industry.

(3) “File in court” and “file with the court” means deliver to the court for filing.

(4) “The Gazette” means the London Gazette.

(5) “Practice direction” means a direction as to the practice and procedure of any court within the scope of the CPR.

(6) “Prescribed part” has the same meaning as it does in section 176A(2) of the 1986 Act.

### **Application**

**187.** The Rules apply to energy administration proceedings commenced on or after the date on which the Rules come into force. Nothing contained in the Insolvency Rules shall apply to such proceedings commenced on or after that date.

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(1) 1987 c. 22; repealed by S.I. 2001/3649, article 3(1)(d).

(2) 1979 c. 37; repealed by the Banking Act 1987, section 108, Schedule 7, Part 1.

(3) 1971 c. 80.