
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure for the conduct of energy administration proceedings in Scotland. 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 (Scotland) Rules 1986 (S.I. 1986/1915) but are a stand alone set of rules applicable only to energy administration proceedings. These Rules apply to protected energy companies which the courts in Scotland have jurisdiction to wind up. There are separate Rules ([The Energy Administration Rules 2005 – 2005 No. 2485](#)) which apply to protected energy companies which the courts in England and Wales have jurisdiction to wind up.

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

Part 2 sets out the procedure to be followed to raise energy administration proceedings and on whom such proceedings must be served.

Part 3 details the initial steps to be taken in energy administration proceedings. These include the notification and advertisement of the 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 makes provision in respect of claims in the energy administration and how they are to be established and quantified, as well as the voting rights that flow from claims which are accepted. It also provides for a criminal offence in respect of false claims by creditors.

Part 6 of these Rules concerns distributions to creditors of the protected energy company and accounting periods. It sets out the order of priority in any distribution and any expenses thereunder. A distribution can only be made if it is consistent with the energy administrator’s powers and duties.

Part 7 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 8 deals with 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). This item of legislation is currently only available in its original format.*

Part 9 of these Rules makes provision in respect of the prescribed part.

Part 10 makes provision 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 11 deals with miscellaneous provisions, including provisions for service of notices, caution and provides the court with power to cure defects in procedure.

The Schedule to the 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 the Insolvency (Scotland) Rules 1986 which deal with ordinary administration, but have been modified for the purposes of energy administration.

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