
STATUTORY INSTRUMENTS

2006 No. 772

The Energy Administration (Scotland) Rules 2006

PART 8

Replacing energy administrator

Grounds for resignation

50.—(1) The energy administrator may give notice of his resignation on grounds of ill health or because—

- (a) he intends ceasing to be in practice as an insolvency practitioner; or
- (b) there is some conflict of interest, or change of personal circumstances, which precludes or makes impracticable the further discharge by him of the duties of energy administrator.

(2) The energy administrator may, with the leave of the court, give notice of his resignation on grounds other than those specified in paragraph (1).

Notice of intention to resign

51. The energy administrator must give to the persons specified below at least 7 days' notice in Form EA20(S) of his intention to resign, or to apply for the court's leave to do so—

- (a) the Secretary of State;
- (b) GEMA;
- (c) if there is a continuing energy administrator of the protected energy company, to him; and
- (d) if there is no such energy administrator, to the protected energy company and its creditors.

Notice of resignation

52. The notice of resignation shall be in Form EA21(S), lodged in court and a copy sent to the registrar of companies. A copy of the notice of resignation shall be sent, not more than 5 business days after it has been lodged in court, to all those to whom notice of intention to resign was sent.

Application to court to remove energy administrator from office

53.—(1) An application to the court to remove an energy administrator from office shall be served upon—

- (a) the energy administrator;
- (b) the Secretary of State;
- (c) GEMA;
- (d) the joint energy administrator (if any); and
- (e) the protected energy company and all the creditors, including any floating charge holders, where there is no joint energy administrator.

(2) An applicant under this Rule shall, within 5 business days of the order being made, send a copy of the order to—

- (a) all those to whom notice of the application was sent; and
- (b) the registrar of companies in Form EA22(S).

Incapacity to act, through death or otherwise

54.—(1) Subject to paragraph (2), where the energy administrator has died, it is the duty of his executors or, where the deceased energy administrator was a partner in a firm, of a partner of that firm to give notice of that fact to the court and to the registrar of companies, specifying the date of death, in Form EA22(S).

(2) Notice of the death may also be given by any person.

(3) Where an energy administrator who has ceased to be qualified to act as an insolvency practitioner in relation to the protected energy company gives notice in accordance with paragraph 89(2) of Schedule B1 to the 1986 Act, he shall also give notice to the registrar of companies.

Application to replace

55.—(1) Where an application is made to the court under paragraph 91 of Schedule B1 to the 1986 Act to appoint a replacement energy administrator, the application shall be accompanied by a Statement of the Proposed Administrator in Form EA1(S).

(2) A copy of the application shall be served, in addition to those persons listed in section 156(2) of the 2004 Act and Rule 5, on the person who made the application for the energy administration order.

(3) Where the court makes an order filling a vacancy in the office of energy administrator, the same provisions shall apply, subject to such modification as may be necessary, in respect of giving notice of, and advertising, the appointment as in the case of the original appointment of an energy administrator.

Joint or concurrent appointments

56.—(1) Where, after an initial appointment has been made, an additional person or persons are to be appointed as joint energy administrator the same rules shall apply in respect of giving notice of and advertising the appointment as in the case of the initial appointment, subject to paragraph (2).

(2) The replacement or additional energy administrator shall send notice of the appointment in Form EA23(S) to the registrar of companies.

Notification and advertisement of appointment of replacement energy administrator

57.—(1) This Rule applies where any person has appointed an energy administrator in accordance with these Rules and a replacement energy administrator is appointed.

(2) The same provisions apply in respect of giving notice of, and advertising, the replacement appointment as in the case of an initial appointment, and all statements, consents and other documents as required shall also be required in this case.

Hand-over of assets to successor energy administrator

58.—(1) This Rule applies where a person appointed as energy administrator (“the succeeding energy administrator”) succeeds a previous energy administrator (“the former energy administrator”).

(2) When the succeeding energy administrator's appointment takes effect, the former energy administrator shall forthwith do all that is required for putting the succeeding energy administrator into possession of the protected energy company's assets.

(3) The former energy administrator shall give to the succeeding energy administrator all such information, relating to the affairs of the protected energy company and the course of the energy administration, as the succeeding energy administrator considers to be reasonably required for the effective discharge by him of his duties as such and shall hand over all books, accounts, statements of affairs, statements of claim and other records and documents in his possession relating to the affairs of the protected energy company and its energy administration.