STATUTORY INSTRUMENTS

2018 No. 719

The Housing Administration (England and Wales) Rules 2018

PART 3

PROCESS OF HOUSING ADMINISTRATION

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.