
STATUTORY INSTRUMENTS

2020 No. 629

**The Smart Meter Communication Licensee
Administration (England and Wales) Rules 2020**

PART 1

Introductory provisions

Citation and commencement

1. These Rules may be cited as the Smart Meter Communication Licensee Administration (England and Wales) Rules 2020 and come into force on 1st August 2020.

Construction and interpretation

2.—(1) In these Rules—

“the 1986 Act” means the Insolvency Act 1986;

“the 2004 Act” means the Energy Act 2004;

“the 2018 Act” means the Smart Meters Act 2018;

“the appropriate fee” means 15 pence per A4 or A5 page and 30 pence per A3 page;

“authenticated” is to be interpreted in accordance with Rule 169;

“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(1);

“contributory” has the same meaning as in section 79 of the 1986 Act(2);

“CPR” means the Civil Procedure Rules 1998(3);

“deliver” and “delivery” are to be interpreted in accordance with Chapter 1 of Part 14;

“district judge of the High Court” means a district judge sitting in an assigned district registry as a district judge of the High Court under section 100 of the Senior Courts Act 1981(4);

“enforcement agent” means a person authorised by section 63(2) of the Tribunals, Courts and Enforcement Act 2007(5) to act as an enforcement agent;

“enforcement officer” means an individual who is authorised to act as an enforcement officer under the Courts Act 2003(6);

(1) 1971 c.80. The Act was amended by the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2). There are other amending Acts and instruments, but none is relevant.

(2) Section 79 was amended by S.I. 2009/1941.

(3) S.I. 1998/3132.

(4) 1981 c.54. Section 100 was substituted by the Constitutional Reform Act 2005 (c.4), Schedule 3, paragraph 2 and amended by the Tribunals, Courts and Enforcement Act 2007 (c.15), Schedule 11, paragraph 2.

(5) 2007 c.15.

(6) 2003 c.39. See Schedule 7 to the Act.

“file with the court” means deliver to the court(7) for filing;

“the Gazette” means the London Gazette;

“gazetted” means advertised once in the London Gazette;

“GEMA” means the Gas and Electricity Markets Authority;

“High Court Judge” means a judge listed in section 4(1) of the Senior Courts Act 1981(8);

“Insolvency and Companies Court Judge” means a person appointed to the office of Insolvency and Companies Court Judge under section 89(1) of the Senior Courts Act 1981(9);

“insolvency proceedings” means any proceedings under the 1986 Act or the Insolvency Rules;

“the Insolvency Rules” means the Insolvency (England and Wales) Rules 2016(10);

“IP number” means the number assigned to a person as an insolvency practitioner by the Secretary of State;

“joint SMCL administrator” means a person appointed to act jointly or concurrently as SMCL administrator of the SMCL;

“practice direction” means a direction as to the practice and procedure of any court within the scope of the CPR;

“prescribed part” has the same meaning as it does in section 176A(2) of the 1986 Act(11);

“pre-smart meter communication licensee administration costs” are—

- (a) fees charged; and
- (b) expenses incurred,

by the SMCL administrator, or another person qualified to act as an insolvency practitioner, before the SMCL entered SMCL administration but with a view to its doing so;

“proving” and “proof”, in relation to a debt, have the meanings given in Rule 48(2);

“proxy” and “the proxy-holder” are to be interpreted in accordance with Rule 143;

“qualified to act as an insolvency practitioner” has the meaning given by Part 13 of the 1986 Act;

“qualifying floating charge” is to be interpreted in accordance with paragraph 14(2) of Schedule B1 to the 1986 Act(12);

“registrar of companies” means the registrar of companies for England and Wales;

“serve” and “service” are to be interpreted in respect of a particular document by reference to Chapter 3 of Part 14;

“SMCL” means a smart meter communication licensee(13);

“SMCL administration” means administration entered into pursuant to the making of an SMCL administration order;

“SMCL administration order” means a smart meter communication licensee administration order(14);

(7) “court” is defined in section 10 of the Smart Meters Act 2018 (c.14).

(8) Section 4(1) was amended by the Courts and Legal Services Act 1990 (c.41), section 72; the Access to Justice Act 1999 (c.22), section 69; the Constitutional Reform Act 2005 (c.4), Schedule 4, paragraph 117; and the Crime and Courts Act 2013 (c.22), Schedule 13, paragraph 14.

(9) Section 89(1) was amended by the Constitutional Reform Act 2005, Schedule 3, paragraph 3 and Schedule 11, paragraph 26.

(10) S.I. 2016/1024, as amended by S.I. 2017/366, S.I. 2017/702, S.I. 2017/1115 and S.I. 2018/130.

(11) Section 176A was inserted by the Enterprise Act 2002 (c.40), section 252 and amended by S.I. 2008/948.

(12) Schedule B1 was inserted by the Enterprise Act 2002 (c.40), Schedule 16 (as amended by S.I. 2003/2096). Rule 2(2) does not apply to references in these Rules to paragraph 14 of Schedule B1 to the 1986 Act because that paragraph has not been modified by Schedule 20 to the 2004 Act.

(13) “smart meter communication licensee” is defined in section 2(5) of the Smart Meters Act 2018 (c.14).

(14) “smart meter communication licensee administration order” is defined in section 2(1) of the Smart Meters Act 2018.

“SMCL administration proceedings” means any proceedings under sections 156 to 167 of, and Schedules 20 and 21 to, the 2004 Act(15), sections 2 to 10 of the 2018 Act or these Rules;

“SMCL administrator” means a smart meter communication administrator(16);

“solicitor” means a solicitor of the Senior Courts and includes any other person who, for the purpose of the Legal Services Act 2007(17) is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act) or is exempt from such authorisation by virtue of section 19 of and Schedule 3 to that Act;

“statement of proposals” has the meaning given in Rule 21;

“statement of truth” means a statement of truth made in accordance with CPR Part 22(18);

“unpaid pre-smart meter communication licensee administration costs” are pre-smart meter communication licensee administration costs which had not been paid when the SMCL entered SMCL administration;

“venue” in relation to any proceedings, attendance before the court, or meeting means the time, date and place for the proceedings, attendance, or meeting or the time and date for a meeting which is held in accordance with section 246A of the 1986 Act(19) without any place being specified for it;

“witness statement” means a witness statement made in accordance with CPR Part 32(20) and verified by a statement of truth.

(2) If a provision of the 1986 Act referred to in these Rules has been modified by Schedule 20 to the 2004 Act (as applied and modified by the 2018 Act), that reference is to that provision of the 1986 Act as so modified.

(3) References to provisions of the 2004 Act are, where those provisions have been applied and modified by the 2018 Act, references to those provisions as so modified.

(4) In these Rules expressions defined in section 10 of the 2018 Act have the meanings given to them in that section.

(5) Where the SMCL is a non-GB company(21), references in these Rules to the affairs, business and property of the SMCL are references only to its affairs and business so far as carried on in Great Britain and to its property in Great Britain.

(6) Where the SMCL is an unregistered company, any requirement to deliver information to the registrar of companies applies only if the company is subject to a requirement imposed by virtue of section 1043 or 1046(1) of the Companies Act 2006(22).

“Debt”, “liability”

3.—(1) “Debt” means (subject to paragraph (2)) any of the following—

(a) any debt or liability to which the SMCL is subject at the date on which it entered SMCL administration;

(15) Section 159 of the 2004 Act was amended by the Energy Act 2011 (c.16), section 97 and the Smart Meters Act 2018, section 5. Section 166 of the 2004 Act was amended by the Energy Act 2011, section 93. Schedule 20 to the 2004 Act was amended by S.I. 2008/948; S.I. 2009/1941; the Financial Services Act 2012 (c.21), Schedule 18, paragraph 101; and the Energy Act 2011, section 101. Schedule 21 to the 2004 Act was amended by S.I. 2011/1043.

(16) “smart meter communication administrator” is defined in section 10 of the Smart Meters Act 2018.

(17) 2007 c.29.

(18) Part 22 was amended by S.I.2001/1769, S.I. 2001/4015 and S.I. 2004/3419.

(19) Section 246A was inserted by S.I. 2010/18. Section 246A was amended by the Small Business, Enterprise and Employment Act 2015 (c.26), Schedule 9, paragraph 54; but those amendments do not apply to proceedings under the Smart Meters Act 2018, as a result of the savings made by S.I. 2017/540.

(20) Part 32 was amended by S.I. 2000/221, S.I. 2001/256, S.I. 2005/2292, S.I. 2007/2204, S.I. 2009/3390, S.I. 2011/88, S.I. 2012/2208 and S.I. 2013/262.

(21) “non-GB company” is defined in section 10(2) of the Smart Meters Act 2018.

(22) 2006 c.46. Section 1043 was amended by S.I. 2017/1212.

- (b) any debt or liability to which the SMCL may become subject after that date by reason of any obligation incurred before that date;
- (c) any interest provable as mentioned in Rule 62(1).

(2) For the purpose of any provision of the 1986 Act, section 154 to 171 of and Schedule 20 and 21 to the 2004 Act, the 2018 Act, or these Rules, any liability in tort is a debt provable in the SMCL administration if either—

- (a) the cause of action has accrued at the date on which the SMCL entered SMCL administration; or
- (b) all the elements necessary to establish the cause of action exist at that date except for actionable damage.

(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, the 2018 Act or these 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 Schedule 20 and 21 to the 2004 Act, or these Rules, except in so far as the context otherwise requires, “liability” means (subject to paragraph (2) 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.

Application

4.—(1) These Rules apply in relation to an SMCL—

- (a) which the courts in England and Wales have jurisdiction to wind up; and
- (b) where SMCL administration proceedings are commenced on or after the date on which these Rules come into force.

(2) Nothing contained in the Insolvency Rules applies to SMCL administration proceedings commenced on or after the date on which these Rules come into force.