
STATUTORY INSTRUMENTS

2020 No. 629

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

PART 6

Expenses of the SMCL administration

Expenses

45.—(1) All fees, costs, charges and other expenses incurred in the course of the SMCL administration are to be regarded as expenses of the SMCL administration.

(2) The expenses associated with the prescribed part must be paid out of the prescribed part.

(3) The cost of the security required by section 390(3) of the 1986 Act for the proper performance of the SMCL administrator's functions is an expense of the SMCL administration.

Priority of expenses of SMCL administration

46.—(1) The expenses of the SMCL administration are payable in the following order of priority—

- (a) expenses properly incurred by the SMCL administrator in performing the SMCL administrator's functions in the SMCL administration, except for those expenses referred to in sub-paragraph (g);
- (b) the cost of any security provided by the SMCL administrator in accordance with the 1986 Act or these Rules;
- (c) the costs of the applicant for the SMCL administration order and any person appearing on the hearing of the application whose costs were allowed by the court;
- (d) any amount payable to a person in respect of assistance in the preparation of a statement of affairs or statement of concurrence;
- (e) any allowance made, by the order of the court, towards costs on an application for release from the obligation to submit a statement of affairs or statement of concurrence;
- (f) any necessary disbursements by the SMCL administrator in the course of the SMCL administration (but not including any payment of corporation tax in circumstances referred to in sub-paragraph (i));
- (g) the remuneration of any person who has been employed by the SMCL administrator to perform any services for the SMCL, as required or authorised under the 1986 Act, the 2004 Act, the 2018 Act or these Rules;
- (h) the remuneration of the SMCL administrator fixed by the court under Part 8 of these Rules and unpaid pre-smart meter communication licensee administration costs approved under Rule 47;

- (i) the amount of any corporation tax on chargeable gains accruing on the realisation of any asset of the SMCL (irrespective of the person by whom the realisation is effected).
- (2) The priorities laid down by paragraph (1) are subject to paragraph (3) and subject to the power of the court to make orders under paragraph (5) where the assets are insufficient to satisfy the liabilities.
- (3) Where there is a former SMCL administrator, the items in paragraph 99 of Schedule B1 to the 1986 Act⁽¹⁾ are payable in priority to the expenses in this Rule.
- (4) For the purposes of paragraph 99(3) of Schedule B1 to the 1986 Act, the former SMCL administrator's remuneration and expenses shall comprise all those items set out in paragraph (1)(a) to (h) of this Rule.
- (5) The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the expenses incurred in the SMCL administration in such order of priority as the court thinks just.

Pre-smart meter communication licensee administration costs

47. Where the SMCL administrator has made a statement of pre-smart meter communication licensee administration costs under Rule 21(2)(k), the SMCL administrator (where the costs consist of fees charged or expenses incurred by the SMCL administrator) or other insolvency practitioner (where the costs consist of fees charged or expenses incurred by that practitioner) must, before paying such costs, apply to the court for a determination of whether and to what extent the unpaid pre-smart meter communication licensee administration costs are approved for payment.

(1) Paragraph 99 was amended by the Deregulation Act 2015 (c.20), Schedule 6, paragraph 27.