
STATUTORY INSTRUMENTS

2020 No. 629

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

PART 9

Ending SMCL administration

Final progress reports

90. In this Part—

“final progress report” means a progress report which includes a summary of—

- (a) the SMCL administrator’s proposals;
- (b) any major amendments to, or deviations from, those proposals;
- (c) the steps taken during the SMCL administration; and
- (d) the outcome; and

“progress report” means a report which complies with Rule [26](#).

Application to court

91.—(1) An application to court under paragraph 79 of Schedule B1 to the 1986 Act⁽¹⁾ for an order ending an SMCL administration must have attached to it—

- (a) a progress report for the period since—
 - (i) the last progress report (if any), or
 - (ii) if there has been no previous progress report, the date on which the SMCL entered SMCL administration; and
- (b) a statement indicating what the applicant thinks should be the next steps for the SMCL (if applicable).

(2) Where such an application is made, the applicant must—

- (a) at least five business days before the application is made, deliver notice of the applicant’s intention to apply to court to—
 - (i) the person who made the application for the SMCL administration order (unless the applicant in both cases is the same); and
 - (ii) the creditors of the SMCL; and
- (b) attach to the application to court a statement that notice has been delivered to the creditors, and copies of any response from creditors to that notice.

⁽¹⁾ Paragraph 79 was amended by the Small Business, Enterprise and Employment Act [2015 \(c.26\)](#), Schedule 9, paragraph 10; 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](#).

- (3) Where such an application is made other than by the SMCL administrator—
- (a) the applicant must also, at least five business days before the application is made, deliver notice to the SMCL administrator of the applicant's intention to apply to court; and
 - (b) upon receipt of such notice the SMCL administrator must, before the end of the five business day notice period, provide the applicant with a progress report for the period since the last progress report (if any) or the date the SMCL entered SMCL administration.
- (4) Where the application is made other than by the Secretary of State, the application must also state that it is made with the consent of the Secretary of State.
- (5) Where the SMCL administrator applies to court under paragraph 79 of Schedule B1 to the 1986 Act in conjunction with a petition under section 124 of the 1986 Act⁽²⁾ for an order to wind up the SMCL, the notice to creditors under paragraph (2)(a)(ii) must also state whether the SMCL administrator intends to seek appointment as liquidator.

Notification by SMCL administrator of court order

- 92.**—(1) Where the court makes an order to end the SMCL administration, it must, where the applicant is not the SMCL administrator, deliver a copy of the order to the SMCL administrator.
- (2) The SMCL administrator must as soon as reasonably practicable deliver a copy of the order and a copy of the final progress report to—
- (a) the registrar of companies;
 - (b) the directors of the SMCL; and
 - (c) the Secretary of State, GEMA and all those persons to whom notice of the SMCL administrator's appointment was delivered.

Moving from SMCL administration to creditors' voluntary liquidation

- 93.**—(1) Where, for the purposes of paragraph 83(3) of Schedule B1 to the 1986 Act, the SMCL administrator delivers to the registrar of companies a notice of moving from SMCL administration to creditors' voluntary liquidation, the notice must include the name and IP number of the proposed liquidator.
- (2) The notice to the registrar of companies must be accompanied by a copy of the SMCL administrator's final progress report (which must include details of the assets to be dealt with in the liquidation).
- (3) As soon as reasonably practicable after delivery of the notice to the registrar of companies, the SMCL administrator must deliver—
- (a) a copy of the notice and final progress report to the Secretary of State, GEMA and all those persons to whom notice of the SMCL administrator's appointment was delivered; and
 - (b) a copy of the final progress report with any other copy of the notice that is sent as required by paragraph 83(5)(b) of Schedule B1 to the 1986 Act.
- (4) For the purposes of paragraph 83(7)(a) of Schedule B1 to the 1986 Act, a person is nominated as liquidator in accordance with Rules [21\(7\)](#) or [25\(3\)\(e\)](#) and that person's appointment takes effect following registration under paragraph (1) of this Rule—
- (a) by virtue of the SMCL administrator's proposals or revised proposals; or

(2) Section 124 was amended by the Criminal Justice Act [1988 \(c.33\)](#), section 62(2); the Companies Act [1989 \(c.40\)](#), section 60(2); the Access to Justice Act [1999 \(c.22\)](#), Schedule 13, paragraph 133; the Insolvency Act [2000 \(c.39\)](#), section 1, Schedule 1, paragraphs 1 and 7; [S.I. 2002/1240](#); the Courts Act [2003 \(c.39\)](#), Schedule 8, paragraph 294; [S.I. 2004/2326](#); the Companies (Audit, Investigations and Community Enterprise) Act [2004 \(c.27\)](#), section 50(3); [S.I. 2006/2078](#); [S.I. 2009/1941](#) and [S.I. 2017/702](#).

- (b) where a creditors' meeting is held in accordance with Rule 30, as a consequence of such a meeting.

(5) GEMA must notify the Secretary of State before consenting to the SMCL administrator delivering a notice of moving from SMCL administration to creditors' voluntary liquidation to the registrar of companies.

Moving from SMCL administration to dissolution

94.—(1) Where, for the purposes of paragraph 84(1) of Schedule B1 to the 1986 Act⁽³⁾, the SMCL administrator delivers to the registrar of companies a notice of moving from SMCL administration to dissolution, the SMCL administrator must attach to that notice a final progress report.

(2) As soon as reasonably practicable after delivering the notice to the registrar of companies, the SMCL administrator must deliver—

- (a) a copy of the notice and final progress report to the Secretary of State, GEMA and all those persons to whom notice of the SMCL administrator's appointment was delivered; and
- (b) a copy of the final progress report with any other copy of the notice that is sent as required by paragraph 84(5)(b) of Schedule B1 to the 1986 Act.

(3) Where a court makes an order under paragraph 84(7) of Schedule B1 to the 1986 Act—

- (a) it must, where the applicant is not the SMCL administrator, deliver a copy of the order to the SMCL administrator; and
- (b) the SMCL administrator must deliver a copy of the order to the registrar of companies with the notice required by paragraph 84(8) of Schedule B1 to the 1986 Act.

(4) GEMA must notify the Secretary of State before directing the SMCL administrator to deliver a notice of moving from SMCL administration to dissolution to the registrar of companies.

Provision of information to the Secretary of State

95. Where the SMCL administration ends pursuant to paragraph 79, 83 or 84 of Schedule B1 to the 1986 Act, the SMCL administrator must, at the same time as delivering the final progress report to the Secretary of State under Rule 92(2), 93(3) or 94(2), provide the Secretary of State with the following information—

- (a) a breakdown of the relevant debts (within the meaning of section 7(4) of the 2018 Act) of the SMCL which remain outstanding; and
- (b) details of any shortfall (within the meaning of section 7(3)(a) of the 2018 Act) in the property of the SMCL available for meeting those relevant debts.

(3) Paragraph 84 was amended by S.I. 2017/702. It was also amended by the Small Business, Enterprise and Employment Act 2015 (c.26), Schedule 9, paragraph 10; 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.