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STATUTORY INSTRUMENTS

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**2018 No. 719**

**The Housing Administration (England and Wales) Rules 2018**

**PART 1**

**Introductory provisions**

**Citation and commencement**

**1.1.** These Rules may be cited as the Housing Administration (England and Wales) Rules 2018 and come into force on 5th July 2018.

**Application**

**1.2.** These Rules apply in relation to registered providers in respect of which the courts of England and Wales have jurisdiction to make a housing administration order under Chapter 5 of Part 4 of the Housing and Planning Act 2016.

**Interpretation**

**1.3.—(1)** In these Rules, unless otherwise stated, a reference to a Part, a Chapter or a Schedule is to a Part or Chapter of, or Schedule to, these Rules.

(2) In these Rules, unless the context otherwise requires, the following definitions apply—

“the Act” means the Insolvency Act 1986, and—

(a) a reference to a numbered section without mention of another Act is to that section of the Act, and

(b) a reference to Schedule B1(1) is to that Schedule to the Act;

“the Companies Act” means the Companies Act 2006(2);

“the Housing and Planning Act” means the Housing and Planning Act 2016;

“application for a housing administration order” and “application for housing administration” mean an application made to the court for a housing administration order;

“attendance” and “attend”: a person attends, or is in attendance at, a meeting where that person is present or attends remotely in accordance with section 246A(3) of the Act or Chapter 5 or 6 of Part 3, and includes a person who participates in a virtual meeting, whether that person attends the meeting or virtual meeting in person, by proxy, or by corporate representative (in accordance with section 434B(4) of the Act);

“authenticate” means to authenticate in accordance with rule 7.3;

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(1) Schedule B1 was inserted by section 248 of the Enterprise Act 2002 (c. 40).

(2) 2006 c. 46.

(3) Section 246A was inserted by article 3 of S.I. 2010/18.

(4) Section 434B was inserted by paragraph 105 of Schedule 1 to S.I. 2008/948 and was amended by paragraph 57 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

“authorised deposit-taker” means a person with permission under Part 4A of the Financial Services and Markets Act 2000<sup>(5)</sup>

“business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales;

“consumer” means an individual acting for purposes that are wholly or mainly outside that individual’s trade, business, craft or profession;

“contributory” has the same meaning as in section 79 of the Act;

“the court” means a court having jurisdiction to wind up the registered provider;

“CPR” means the Civil Procedure Rules 1998<sup>(6)</sup>;

“debt”, “small debt” and “provable debt” have the meanings given in rule 5.1;

“deliver” and “delivery” are to be interpreted in accordance with Chapter 5 of Part 7;

“deliver to the creditors” and similar expressions in these Rules and in the Act are to be interpreted in accordance with rule 7.45;

“district judge” has the meaning given in rule 4.41(5);

“document” includes a written notice or statement or anything else in writing capable of being delivered to a recipient;

“enforcement agent” means a person authorised by section 63(2) of the Tribunals, Courts and Enforcement Act 2007 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<sup>(7)</sup>;

“estate” and “insolvent estate” mean the assets of the registered provider;

“file with the court” means deliver to the court for filing and such references are to be read as including “submit” and “submission” to the court;

“the Gazette” means the London Gazette;

“Gazette notice” means a notice which is, has been or is to be gazetted;

“to gazette” means to advertise once in the Gazette;

“hearing centre” means a hearing centre of the county court;

“housing administration proceedings” means the court proceedings and administration following the application of a housing administration order;

“identification details” and similar references to information identifying persons and proceedings are to be interpreted in accordance with rule 7.4;

“Insolvency and Companies Court Judge” has the meaning given in rule 4.41(5);

“insolvency proceedings” means proceedings in respect of Parts 1 to 11 of the Act;

“IP number” means the number assigned to a housing administrator or liquidator as an insolvency practitioner by the Secretary of State;

“judge”, except in rule 4.41, means an Insolvency and Companies Court Judge of the High Court, whether sitting in the High Court or a District Registry of the High Court or a district judge;

“meeting”, in relation to a registered provider or a registered provider’s creditors, means either a physical meeting or a virtual meeting;

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<sup>(5)</sup> 2000 c. 8. Part 4A was inserted by section 11(2) of the Financial Services Act 2012 (c. 21).

<sup>(6)</sup> S.I. 1998/3132.

<sup>(7)</sup> 2003 c. 39.

“petitioner” includes a person who has been substituted as such or has been given carriage of the petition;

“physical meeting” means a meeting at which persons are invited to be present together at the same place (whether or not it is possible to attend the meeting without being present at that place);

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

“pre-administration costs” means fees charged, and expenses incurred by the housing administrator, or another person qualified to act as an insolvency practitioner in relation to the registered provider, before the registered provider entered housing administration but with a view to it doing so, and “unpaid pre-administration costs” means pre-administration costs which had not been paid when the registered provider entered housing administration;

“prescribed part” has the same meaning as in section 176A(2)(a) of the Act<sup>(8)</sup> and the Insolvency Act 1986 (Prescribed Part) Order 2003<sup>(9)</sup>;

“progress report” means a report which complies with rule 3.14;

“provable” means a debt which a creditor can prove in accordance with rule 5.3;

“prove” and “proof” have the following meaning—

- (a) a creditor who claims for a debt in writing is referred to as proving that debt,
- (b) the document by which the creditor makes the claim is referred to as that creditor’s proof, and
- (c) for the purpose of voting, or objecting to a deemed consent, the requirements for a proof are satisfied by the chair having been notified by the creditor in writing of a debt;

“qualified to act as an insolvency practitioner” in relation to a registered provider has the meaning given by Part 13 of the Act;

“relevant officer” has the same meaning as in section 100(7) of the Housing and Planning Act;

“relevant registry” means—

- (a) in relation to a company, the registrar of companies,
- (b) in relation to a registered society, the Financial Conduct Authority,
- (c) in relation to a charitable incorporated organisation, the Charity Commission;

“serve” and “service” are to be interpreted in respect of a particular document by reference to the requirements of Schedule 2;

“solicitor” means a solicitor of the Senior Courts and includes any other person who, for the purpose of the Legal Services Act 2007<sup>(10)</sup> 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;

“standard fee for copies” means 15 pence per A4 or A5 page or 30 pence per A3 page;

“statement of proposals” means a statement made by a housing administrator under paragraph 49 of Schedule B1<sup>(11)</sup>, as modified in relation to a registered provider, setting out proposals for achieving the purpose of a housing administration;

“venue” in relation to any proceedings, attendance before the court, decision procedure or meeting means the time, date and place or platform for the proceedings, attendance, decision procedure or meeting;

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<sup>(8)</sup> Section 176A was inserted by section 252 of the Enterprise Act 2002.

<sup>(9)</sup> S.I. 2003/2097.

<sup>(10)</sup> 2007 c. 29.

<sup>(11)</sup> Paragraph 49 was amended by paragraph 10 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

“virtual meeting” means a meeting where persons who are not invited to be physically present together may participate in the meeting including communicating directly with all the other participants in the meeting and voting (either directly or via a proxy-holder); and

“witness statement” means a witness statement made in accordance with Part 32 of the CPR.

(3) The date on which a registered provider enters housing administration is the date on which a housing administration order was made in respect of that provider.

(4) A fee or remuneration is charged when the work to which it relates is done.

### **Punishment of Offences**

1.4. Schedule 1 sets out the punishments for certain contraventions of these Rules.

### **Review**

1.5.—(1) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of these Rules,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Rules,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate, and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means the period of five years beginning with the day on which these Rules come into force.