
STATUTORY INSTRUMENTS

2020 No. 629

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

PART 7

Claims by and distributions to creditors

CHAPTER 2

Quantification of claims

Mutual credits and set off

59.—(1) This Rule applies where the SMCL administrator has delivered a notice under Rule 73 (notice of a proposed distribution).

(2) In this Rule “mutual dealings” means mutual credits, mutual debts or other mutual dealings between the SMCL and a creditor proving or claiming to prove for a debt in the SMCL administration but does not include—

- (a) any debt arising out of an obligation incurred after the SMCL entered SMCL administration;
- (b) any debt arising out of an obligation incurred at a time when the creditor had notice that—
 - (i) an application under section 161 of the 2004 Act (permission to pass resolution for voluntary winding up) was pending;
 - (ii) a petition for the winding up of the SMCL was pending;
 - (iii) an application for an administration order under the 1986 Act was pending;
 - (iv) an application for an SMCL administration order was pending; or
 - (v) any person had given notice of intention to appoint an administrator under the 1986 Act;
- (c) any debt which has been acquired by a creditor by assignment or otherwise, pursuant to an agreement between the creditor and any other party where that agreement was entered into—
 - (i) at a time when the creditor had notice that an application under section 161 of the 2004 Act was pending;
 - (ii) at a time when the creditor had notice that a petition for the winding up of the SMCL was pending;
 - (iii) at a time when the creditor had notice that an application for an administration order under the 1986 Act was pending;
 - (iv) at a time when the creditor had notice that an application for an SMCL administration order was pending;

(v) at a time when the creditor had notice that any person had given notice of intention to appoint an administrator under the 1986 Act; or

(vi) after the SMCL entered SMCL administration.

(3) An account must be taken as at the date of the notice referred to in paragraph (1) of what is due from each party to the other in respect of the mutual dealings and the sums due from one party must be set off against the sums due from the other.

(4) A sum must be treated as being due to or from the SMCL for the purposes of paragraph (3) whether—

(a) it is payable at present or in the future;

(b) the obligation by virtue of which it is payable is certain or contingent; or

(c) its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.

(5) Rule 57 applies for the purposes of this Rule to any obligation to or from the SMCL which, by virtue of its being subject to any contingency or for any other reason, does not bear a certain value.

(6) Rules 60 to 62 apply for the purposes of this Rule in relation to any sums due to the SMCL which—

(a) are payable in a currency other than sterling;

(b) are of a periodical nature; or

(c) bear interest.

(7) Rule 86 applies for the purposes of this Rule to any sum due to or from the SMCL which is payable in the future.

(8) Only the balance (if any) of the account owed to the creditor is provable in the SMCL administration.

(9) Alternatively the balance (if any) owed to the SMCL must be paid to the SMCL administrator as part of the assets except where all or part of the balance results from a contingent or prospective debt owed by the creditor and in such a case the balance (or that part of it which results from the contingent or prospective debt) must be paid if and when the debt becomes due and payable.

(10) In this Rule “obligation” means an obligation however arising, whether by virtue of an agreement, rule of law or otherwise.