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STATUTORY INSTRUMENTS

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**2023 No. 712**

**The Relevant Licensee Nuclear Company  
Administration (England and Wales) Rules 2023**

**PART 7**

**Claims by and Distributions to Creditors**

**CHAPTER 1**

**Machinery of Proving a Debt**

**Proving a debt**

**44.**—(1) A person claiming to be a creditor of the relevant licensee nuclear company and wishing to recover the debt in whole or part must submit a claim in writing to the nuclear administrator, unless paragraph (6) applies or an order of the court provides otherwise.

(2) A creditor who claims for a debt is referred to as “proving” for that debt and a document by which a creditor seeks to establish a claim is the creditor’s “proof”.

(3) A proof must—

- (a) be made out and dated by, or under the direction of, the creditor and be authenticated by the creditor or a person authorised on the creditor’s behalf;
- (b) state the following matters—
  - (i) the creditor’s name and address;
  - (ii) if the creditor is a company, its registered number;
  - (iii) the total amount of the creditor’s claim (including any value added tax) as at the date on which the relevant licensee nuclear company entered relevant licensee nuclear company administration, less any payments made after that date in respect of the claim, any deduction under rule 54 and any adjustment by way of set off in accordance with rule 55;
  - (iv) whether or not the claim includes outstanding uncapitalised interest;
  - (v) particulars of how and when the debt was incurred by the relevant licensee nuclear company;
  - (vi) particulars of any security held, the date on which it was given and the value which the creditor puts on it;
  - (vii) details of any reservation of title in respect of goods to which the debt refers;
  - (viii) the name, address and authority of the person authenticating the proof (if a person other than the creditor).

(4) The proof must specify details of any document by reference to which the debt can be substantiated, but the document need not be delivered with the proof unless the nuclear administrator has requested it.

(5) The nuclear administrator may call for the creditor to produce any document or other evidence which the nuclear administrator considers is necessary to substantiate the whole or any part of a claim.

(6) A creditor is deemed to have proved for the purposes of determination and payment of a dividend but not otherwise where—

- (a) the debt is a small debt,
- (b) a notice has been delivered to the creditor under rule 69 which complies with rule 70, and
- (c) the creditor has not advised the nuclear administrator that the debt is incorrect or not owed.

(7) For the purposes of this Part, “small debt” means a debt, being the total amount owed to a creditor, which does not exceed £1,000 (which amount is prescribed for the purposes of paragraph 13A of Schedule 8 to the 1986 Act<sup>(1)</sup>).

### **Provable debts**

**45.**—(1) In relevant licensee nuclear company administration proceedings all claims by creditors are provable as debts against the relevant licensee nuclear company, whether they are present or future, certain or contingent, ascertained or sounding only in damages, subject to the following.

(2) Any obligation arising under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002<sup>(2)</sup> is not provable.

(3) The following are not provable except at a time when all other claims of creditors in the relevant licensee nuclear company administration proceedings (other than any of a kind mentioned in this paragraph) have been paid in full, with interest under rule 58—

- (a) any claim arising by virtue of section 382(1)(a) of the Financial Services and Markets Act 2000<sup>(3)</sup>, not being a claim also arising by virtue of section 382(1)(b) of that Act;
- (b) any claim which by virtue of the 1986 Act or any other enactment is a claim the payment of which is to be postponed.

(4) Nothing in this rule prejudices any enactment or rule of law under which a particular kind of debt is not provable, whether on grounds of public policy or otherwise.

### **Costs of proving**

**46.** Unless the court otherwise orders—

- (a) every creditor bears the cost of proving the creditor’s own debt, including costs incurred in providing documents or evidence under rule 44(5), and
- (b) costs incurred by the nuclear administrator in estimating the value of a debt under rule 53 are payable out of the assets as an expense of the relevant licensee nuclear company administration.

### **Nuclear administrator to allow inspection of proofs**

**47.** The nuclear administrator must, so long as proofs delivered to the nuclear administrator are in the possession of the nuclear administrator, allow them to be inspected, at all reasonable times on any business day, by any of the following persons—

- (a) any creditor who has delivered a proof, unless the creditor’s proof has been—
  - (i) wholly rejected for purposes of dividend or otherwise, or

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<sup>(1)</sup> Paragraph 13A was inserted into Schedule 8 by the Small Business, Enterprise and Employment Act 2015, section 131.

<sup>(2)</sup> 2002 c. 29.

<sup>(3)</sup> 2000 c. 8. Section 382(1) was amended by the Financial Services Act 2012, Schedule 9, paragraph 21.

- (ii) withdrawn;
- (b) any contributory of the relevant licensee nuclear company;
- (c) any person acting on behalf of either of the above.

#### **Appointment of new nuclear administrator: proofs**

**48.**—(1) If a new nuclear administrator is appointed in place of another, the former nuclear administrator must as soon as reasonably practicable deliver to the new nuclear administrator all proofs which the former nuclear administrator has received, together with a list of them.

(2) As soon as reasonably practicable following receipt of the list and all of the proofs listed by it, the list must be authenticated by the new nuclear administrator and returned to the former nuclear administrator.

#### **Admission and rejection of proofs for dividend**

**49.**—(1) The nuclear administrator may admit or reject a proof for dividend, in whole or in part.

(2) If the nuclear administrator rejects a proof in whole or in part, the nuclear administrator must deliver to the creditor a statement of the nuclear administrator's reasons for doing so, as soon as reasonably practicable.

#### **Appeal against decision on proof**

**50.**—(1) If a creditor is dissatisfied with the nuclear administrator's decision with respect to the creditor's proof (including any decision on whether the debt is preferential), the creditor may apply to the court for the decision to be reversed or varied.

(2) A member or any other creditor may, if dissatisfied with the nuclear administrator's decision admitting or rejecting the whole or any part of a proof, apply to court for the decision to be reversed or varied.

(3) An application to court—

- (a) under paragraph (1) must be made within the period of 21 days of the creditor receiving the statement delivered under rule 49(2);
- (b) under paragraph (2) must be made within the period of 21 days of the member or other creditor (as the case may be) becoming aware of the nuclear administrator's decision.

(4) Where an application is made to the court under this rule, the court must fix a venue for the application to be heard.

(5) The applicant must send notice of the venue fixed under paragraph (4) to—

- (a) the nuclear administrator;
- (b) if the applicant is not the creditor who delivered the proof in question, that creditor.

(6) The nuclear administrator must, on receipt of the notice, file the relevant proof with the court, together (if appropriate) with a copy of the statement sent under rule 49(2).

(7) Where the application is made by a member, the court must not disallow the proof (in whole or in part) unless the member shows that there is (or would be but for the amount claimed in the proof), or that it is likely that there will be (or would be but for the amount claimed in the proof), a surplus of assets to which the relevant licensee nuclear company would be entitled.

(8) After the application has been heard and determined, the proof must, unless it has been wholly disallowed, be returned by the court to the nuclear administrator.

(9) The nuclear administrator is not personally liable for costs incurred by any person in respect of an application under this rule unless the court otherwise orders.

### **Withdrawal or variation of proof**

**51.**—(1) A creditor may withdraw a proof at any time by delivering a written notice to the nuclear administrator.

(2) The amount claimed by a creditor’s proof may be varied at any time by agreement between the creditor and the nuclear administrator.

### **Exclusion of proof by the court**

**52.**—(1) The court may exclude a proof or reduce the amount claimed—

- (a) on the nuclear administrator’s application, where the nuclear administrator thinks that the proof has been improperly admitted, or ought to be reduced;
- (b) on the application of a creditor or member, if the nuclear administrator declines to interfere in the matter.

(2) Where application is made to the court under this rule, the court must fix a venue for the application to be heard, notice of which must be sent by the applicant—

- (a) in the case of an application by the nuclear administrator, to the creditor who submitted the proof;
- (b) in the case of an application by a creditor or member, to the nuclear administrator and to the creditor who submitted the proof (if that creditor is not the applicant).

## **CHAPTER 2**

### **Quantification of Claims**

#### **Estimate of value of debt**

**53.**—(1) The nuclear administrator must estimate the value of any debt which, by reason of its being subject to any contingency or for any other reason, does not have a certain value.

(2) The nuclear administrator may revise any estimate previously made under paragraph (1), if the nuclear administrator thinks fit by reference to any change of circumstances or to information becoming available.

(3) The nuclear administrator must inform the creditor as to the estimate under paragraph (1) and any revision of it under paragraph (2).

(4) Where the value of a debt is estimated under this rule, the amount provable in the relevant licensee nuclear company administration in the case of that debt is that of the estimate for the time being.

#### **Discounts**

**54.** All trade and other discounts which would have been available to the relevant licensee nuclear company but for the relevant licensee nuclear company administration must be deducted from the claim, except a discount for immediate, early or cash settlement.

#### **Mutual credits and set off**

**55.**—(1) This rule applies where the nuclear administrator has delivered a notice under rule 69 (notice of a proposed distribution).

(2) In this rule, “mutual dealings” means mutual credits, mutual debts or other mutual dealings between the relevant licensee nuclear company and a creditor proving or claiming to prove for a debt in the relevant licensee nuclear company administration but does not include any of the following—

- (a) any debt arising out of an obligation incurred after the relevant licensee nuclear company entered relevant licensee nuclear company 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 relevant licensee nuclear company was pending,
    - (iii) an application for an administration order under the 1986 Act was pending,
    - (iv) an application for an RLNC 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 relevant licensee nuclear company 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 RLNC 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 relevant licensee nuclear company entered relevant licensee nuclear company 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 relevant licensee nuclear company 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 53 applies for the purposes of this rule to any obligation to or from the relevant licensee nuclear company which, by virtue of its being subject to any contingency or for any other reason, does not bear a certain value.
- (6) Rules 56 to 58 apply for the purposes of this rule in relation to any sums due to the relevant licensee nuclear company which—
- (a) are payable in a currency other than sterling,
  - (b) are of a periodical nature, or
  - (c) bear interest.
- (7) Rule 82 applies for the purposes of this rule to any sum due to or from the relevant licensee nuclear company which is payable in the future.

(8) Only the balance (if any) of the account owed to the creditor is provable in the relevant licensee nuclear company administration.

(9) Alternatively the balance (if any) owed to the relevant licensee nuclear company must be paid to the nuclear 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.

### **Debt in foreign currency**

**56.**—(1) A proof for a debt incurred or payable in a currency other than sterling must state the amount of the debt in that currency.

(2) The nuclear administrator must convert all such debts into sterling at a single rate for each currency determined by the nuclear administrator by reference to the exchange rates prevailing on the date on which the relevant licensee nuclear company entered relevant licensee nuclear company administration.

(3) On the next occasion when the nuclear administrator communicates with the creditors the nuclear administrator must advise them of any rate so determined.

(4) A creditor who considers that the rate determined by the nuclear administrator is unreasonable may apply to the court.

(5) If, on hearing the application, the court finds that the rate is unreasonable it may itself determine the rate.

### **Payments of a periodical nature**

**57.**—(1) In the case of rent and other payments of a periodical nature, the creditor may prove for any amounts due and unpaid up to the date on which the relevant licensee nuclear company entered relevant licensee nuclear company administration.

(2) Where at that date any payment was accruing due, the creditor may prove for so much as would have been due at that date, if accruing from day to day.

### **Interest**

**58.**—(1) Where a debt proved in the relevant licensee nuclear company administration bears interest, that interest is provable as part of the debt except in so far as it is payable in respect of any period after the relevant date.

(2) In the circumstances set out in this rule, the creditor’s claim may include interest on the debt for periods before the relevant date although not previously reserved or agreed.

(3) If the debt is due by virtue of a written instrument, and payable at a certain time, interest may be claimed for the period from that time to the relevant date.

(4) If the debt is due otherwise, interest may only be claimed if, before the relevant date, demand for payment of the debt was made in writing by or on behalf of the creditor, and notice was given that interest would be payable from the date of the demand to the date of payment.

(5) Interest under paragraph (4) may only be claimed for the period from the date of the demand to the relevant date and, for the purposes of the 1986 Act and these Rules, must be charged at a rate not exceeding that mentioned in paragraph (6).

(6) The rate of interest to be claimed under paragraphs (3) and (4) is the rate specified in section 17 of the Judgments Act 1838(4) on the relevant date.

(7) Any surplus remaining after payment of the debts proved must, before being applied for any other purpose, be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the relevant date.

(8) All interest payable under paragraph (7) ranks equally whether or not the debts on which it is payable rank equally.

(9) The rate of interest payable under paragraph (7) is whichever is the greater of the rate specified under paragraph (6) and the rate applicable to the debt apart from the relevant licensee nuclear company administration.

(10) In this rule, “relevant date” means the date on which the relevant licensee nuclear company entered relevant licensee nuclear company administration.

### **Debt payable at future time**

**59.** A creditor may prove for a debt of which payment was not yet due on the date when the relevant licensee nuclear company entered relevant licensee nuclear company administration, subject to rule 82 (adjustment of dividend where payment made before time).

### **Voluntary surrender of security**

**60.** A creditor who voluntarily surrenders a security may prove for the whole of the creditor’s debt as if it were unsecured.

### **Value of security**

**61.—(1)** A secured creditor may, with the agreement of the nuclear administrator or the permission of the court, at any time alter the value which the secured creditor’s proof puts upon the secured creditor’s security.

(2) Where the secured creditor has voted in respect of the unsecured balance of the secured creditor’s debt and where revaluation is with the agreement of the nuclear administrator, the nuclear administrator must deliver a notice of the revaluation to the creditors within five business days after the office-holder’s agreement.

### **Surrender for non-disclosure**

**62.—(1)** If a secured creditor fails to disclose a security in the secured creditor’s proof, the secured creditor must surrender that security for the general benefit of creditors, unless the court, on application by the secured creditor, relieves the secured creditor from the effect of this rule on the grounds that the omission was inadvertent or the result of honest mistake.

(2) If the court grants that relief, it may require or allow the creditor’s proof to be amended, on such terms as may be just.

### **Redemption by nuclear administrator**

**63.—(1)** The nuclear administrator may at any time deliver a notice to a creditor whose debt is secured that the nuclear administrator proposes, at the expiration of 28 days from the date of the notice, to redeem the security at the value put upon it in the creditor’s proof.

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(4) 1838 c. 110. Section 17 was amended by S.I. 1993/564, 1998/2940; there are other amendments but none is relevant.

(2) The creditor may, within 21 days of the date of delivery of the notice (or such longer period as the nuclear administrator may allow), alter the value of the creditor's security in accordance with rule 61.

(3) If the creditor alters the value of the security in accordance with rule 61, the nuclear administrator may only redeem at the new value.

(4) If the nuclear administrator redeems the security, the cost of transferring it is payable as an expense out of the relevant licensee nuclear company's assets.

(5) A secured creditor may at any time deliver a notice to the nuclear administrator requiring the nuclear administrator to elect whether or not to redeem the security at the value then placed on it.

(6) The nuclear administrator has three months from the date of delivery of a notice under paragraph (5) in which to redeem the security or elect not to redeem the security.

### **Test of security's value**

**64.**—(1) Paragraph (2) applies if the nuclear administrator is dissatisfied with the value which a secured creditor puts on the creditor's security, whether in the creditor's proof or by way of revaluation under rule 61.

(2) The nuclear administrator may require any property comprised in the security to be offered for sale.

(3) The terms of the sale must be such as may be agreed between the nuclear administrator and the secured creditor, or as the court may direct.

(4) If the sale is by auction, the nuclear administrator on behalf of the relevant licensee nuclear company, and the creditor on the creditor's own behalf, may appear and bid.

(5) This rule does not apply if the value of the security has been altered with the court's permission.

### **Realisation of security by creditor**

**65.** If a creditor who has valued the creditor's security subsequently realises it, whether or not at the instance of the nuclear administrator—

- (a) the net amount realised must be treated in all respects, including in relation to any valuation in a proof, as an amended valuation made by the creditor, and
- (b) the creditor may prove for the balance of the creditor's debt.

## **CHAPTER 3**

### **Distributions**

#### **Distribution to creditors generally**

**66.**—(1) This Chapter applies where the nuclear administrator makes, or proposes to make, a distribution to any class of creditors other than secured creditors.

(2) Where the distribution is to a particular class of creditors, a reference in this Chapter to creditors is, in so far as the context requires, a reference to that class of creditors only.

#### **Debts of insolvent relevant licensee nuclear company to rank equally**

**67.** Debts other than preferential debts rank equally between themselves in the relevant licensee nuclear company administration and, after the preferential debts, must be paid in full unless the assets are insufficient for meeting them, in which case they abate in equal proportions between themselves.



### **Supplementary provisions as to dividend**

**68.**—(1) In the calculation and distribution of a dividend the nuclear administrator must make provision for each of the following—

- (a) any debts which appear to the nuclear administrator to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to tender and establish their proofs;
- (b) any debts which are the subject of claims which have not yet been determined;
- (c) disputed proofs and claims.

(2) A creditor who has not proved the creditor's debt before the declaration of any dividend is not entitled to disturb, by reason that the creditor has not participated in it, the distribution of that dividend or any other dividend declared before the creditor's debt was proved, but—

- (a) when the creditor has proved that debt the creditor is entitled to be paid, out of any money for the time being available for the payment of any further dividend, any dividend which the creditor has failed to receive;
- (b) any dividend payable under sub-paragraph (a) must be paid before the money is applied to the payment of any such further dividend.

(3) No action lies against the nuclear administrator for a dividend, but if the nuclear administrator refuses to pay a dividend the court may, if it thinks just, order the nuclear administrator to pay it and also to pay, out of the nuclear administrator's own money—

- (a) interest on the dividend, at the rate for the time being specified in section 17 of the Judgments Act 1838, from the time when it was withheld, and
- (b) the costs of the proceedings in which the order to pay is made.

### **Notice of proposed distribution**

**69.**—(1) Where the nuclear administrator proposes to make a distribution to creditors or declare a dividend, the nuclear administrator must give notice of this.

(2) The notice must—

- (a) be delivered to all creditors whose addresses are known to the nuclear administrator;
- (b) state whether the proposed distribution or dividend is—
  - (i) to preferential creditors, or
  - (ii) preferential creditors and unsecured creditors;
- (c) state that it is the intention of the nuclear administrator to make a distribution to creditors or declare a dividend (as the case may be) within the period of two months from the last date for proving;
- (d) specify whether the proposed distribution or dividend is interim or final;
- (e) specify the last date by which proofs may be delivered, which must be—
  - (i) the same date for all creditors, and
  - (ii) not less than 21 days from the date of the notice;
- (f) specify the place to which proofs must be delivered;
- (g) include the additional information required by rule 70 where the nuclear administrator intends to treat a small debt as proved for the purposes of paying a dividend;
- (h) where the nuclear administrator proposes to declare a dividend to unsecured creditors, state the value of the prescribed part, unless there is no prescribed part or the court has made an order under section 176A(5) of the 1986 Act.

- (3) Subject to paragraph (4)(b), a copy of the notice—
  - (a) must be gazetted;
  - (b) may be advertised in such other manner as the nuclear administrator thinks fit.
- (4) Where the proposed dividend is only to preferential creditors—
  - (a) the notice need only be delivered to those creditors in whose cases the nuclear administrator has reason to believe that their debts are preferential;
  - (b) the notice need only be gazetted if the nuclear administrator thinks fit.

#### **Further contents of notice to creditors owed small debts, etc.**

**70.**—(1) The nuclear administrator may treat a debt, which is a small debt according to the accounting records or the statement of affairs of the relevant licensee nuclear company, as if it were proved for the purposes of paying a dividend.

(2) Where the nuclear administrator intends to treat such a debt as if it were proved, the notice delivered under rule 69 must also—

- (a) state the amount of the debt which the nuclear administrator believes to be owed to the creditor according to the accounting records or statement of affairs of the relevant licensee nuclear company;
- (b) state that the nuclear administrator will treat the debt which is stated in the notice, being for £1,000 or less, as proved for the purposes of paying a dividend unless the creditor advises the nuclear administrator that the amount of the debt is incorrect or that no debt is owed;
- (c) require the creditor to notify the nuclear administrator by the last date for proving if the amount of the debt is incorrect or if no debt is owed;
- (d) inform the creditor that where the creditor advises the nuclear administrator that the amount of the debt is incorrect the creditor must also submit a proof in order to receive a dividend.

(3) The information required by paragraph (2)(a) may take the form of a list of small debts which the nuclear administrator intends to treat as proved which includes the debt owed to the particular creditor to whom the notice is being delivered.

#### **Sole or final dividend**

**71.**—(1) Where it is intended that the distribution is to be a sole or final dividend, the nuclear administrator must, after the last date for proving set out in the notice under rule 69—

- (a) pay any sums payable in accordance with the provisions of paragraph 99 of Schedule B1 to the 1986 Act,
- (b) pay any sums (including any debts or liabilities and the nuclear administrator's own remuneration and expenses) which would, if the nuclear administrator were to cease to be the nuclear administrator of the relevant licensee nuclear company, be payable out of the property of which the nuclear administrator had custody or control in accordance with the provisions of paragraph 99 of Schedule B1 to the 1986 Act, and
- (c) declare and distribute that dividend without regard to the claim of any person in respect of a debt not already proved.

(2) The reference in paragraph (1)(c) to debts that have not been proved does not include small debts treated as proved by the nuclear administrator.

(3) The court may, on the application of any person, postpone the date specified in the notice as the last date for proving.

### **Admission or rejection of proofs following last date for proving**

**72.**—(1) Unless the nuclear administrator has already dealt with them, the nuclear administrator must within 14 days of the last date for proving set out in the notice under rule 69—

- (a) admit or reject, in whole or in part, proofs delivered to the nuclear administrator, or
- (b) make such provision in respect of them as the nuclear administrator thinks fit.

(2) The nuclear administrator is not obliged to deal with a proof delivered after the last date for proving, but may do so, if the nuclear administrator thinks fit.

(3) In the declaration of a dividend a payment must not be made more than once in respect of the same debt.

### **Postponement or cancellation of dividend**

**73.**—(1) If paragraph (2) applies, the nuclear administrator may postpone or cancel a dividend.

(2) This paragraph applies if, in the two-month period referred to in rule 69(2)(c) an application is made to the court for the nuclear administrator's decision on a proof to be reversed or varied, or for a proof to be excluded, or for a reduction of the amount claimed.

(3) Where the dividend is postponed or cancelled a new notice under rule 69 will be required if the dividend is paid subsequently.

### **Declaration of dividend**

**74.**—(1) The nuclear administrator must proceed to declare the dividend of which the nuclear administrator gave notice under rule 69 within the two-month period referred to in rule 69(2)(c), unless—

- (a) the dividend is postponed or cancelled in accordance with rule 73, or
- (b) paragraph (2) applies.

(2) The nuclear administrator must not declare a dividend so long as there is pending any application to the court to—

- (a) reverse or vary a decision of the nuclear administrator on a proof,
- (b) exclude a proof, or
- (c) reduce the amount claimed.

(3) The court may give permission for the nuclear administrator to declare a dividend even where paragraph (2) applies.

(4) Where the court gives permission under paragraph (3), the nuclear administrator must make such provision in respect of the proof in question as the court directs.

### **Notice of declaration of a dividend**

**75.**—(1) Where the nuclear administrator declares a dividend, the nuclear administrator must deliver notice to all creditors who have proved their debts.

(2) The notice must include the following relating to the relevant licensee nuclear company administration—

- (a) the amounts raised from the sale of assets, indicating, so far as is practicable, amounts raised by the sale of particular assets;
- (b) payments made by the nuclear administrator when acting as such;

- (c) where the nuclear administrator proposed to make a distribution to unsecured creditors, the value of the prescribed part, unless there is no prescribed part or the court has made an order under section 176A(5) of the 1986 Act;
- (d) provision (if any) made for unsettled claims, and funds (if any) retained for particular purposes;
- (e) the total amount to be distributed and the rate of dividend;
- (f) whether, and if so when, any further dividend is expected to be declared.

#### **Payments of dividends and related matters**

76.—(1) The dividend may be distributed simultaneously with the notice declaring it.

(2) Payment of the dividend may be made by post, or arrangements may be made with any creditor for it to be paid to the creditor in another way, or held for the creditor's collection.

#### **Notice of no dividend, or no further dividend**

77.—(1) If the nuclear administrator delivers notice to creditors that the nuclear administrator is unable to declare any dividend or any further dividend (as the case may be), the notice must contain a statement to the effect either—

- (a) that no funds have been realised, or
- (b) that the funds realised have already been distributed or used or allocated for paying the expenses of relevant licensee nuclear company administration.

(2) The information required by paragraph (2) may be included in a progress report (see rule 26).

#### **Proof altered after payment of dividend**

78.—(1) Paragraph (2) applies if, after payment of a dividend, the amount claimed by a creditor in the creditor's proof is increased.

(2) Where this paragraph applies, the creditor is not entitled to disturb the distribution of the dividend but is entitled to be paid, out of any money for the time being available for the payment of any further dividend, any dividend which the creditor has failed to receive.

(3) Any dividend payable under paragraph (2) must be paid before the money there referred to is applied to the payment of any such further dividend.

(4) If, after a creditor's proof has been admitted, the proof is withdrawn or excluded, or the amount is reduced, the creditor is liable to repay to the nuclear administrator, for the credit of the relevant licensee nuclear company administration, any amount overpaid by way of dividend.

#### **Secured creditors**

79.—(1) Paragraphs (2) to (4) apply where a creditor alters the value of the creditor's security at a time when a dividend has been declared.

(2) If the alteration results in a reduction of the creditor's unsecured claim ranking for dividend, the creditor must as soon as reasonably practicable repay to the nuclear administrator, for the credit of the relevant licensee nuclear company administration, any amount received by the creditor as dividend in excess of that to which the creditor would be entitled having regard to the alteration of the value of the security.

(3) If the alteration results in an increase of the creditor's unsecured claim, the creditor is entitled to receive from the nuclear administrator, out of any money for the time being available for the

payment of a further dividend, before any such further dividend is paid, any dividend which the creditor has failed to receive, having regard to the alteration of the value of the security.

(4) The creditor is not entitled to disturb any dividend declared, whether or not distributed, before the date of the alteration.

### **Disqualification from dividend**

**80.** If a creditor contravenes any provision of the 1986 Act or these Rules relating to the valuation of securities, the court may, on the application of the nuclear administrator, order that the creditor be wholly or partly disqualified from participation in any dividend.

### **Assignment of right to dividend**

**81.—**(1) If a person entitled to a dividend (a “relevant person”) delivers notice to the nuclear administrator that the relevant person wishes the dividend to be paid to another person, or that the relevant person has assigned the entitlement to another person, the nuclear administrator must pay the dividend to that other person accordingly.

(2) A notice under paragraph (1) must specify the name and address of the person to whom payment is to be made.

### **Adjustment where dividend paid before time**

**82.—**(1) Where a creditor has proved for a debt of which payment is not due at the date of the declaration of a dividend, the creditor is entitled to the dividend equally with other creditors, but subject as follows.

(2) For the purpose of dividend (and no other purpose), the amount of the creditor’s admitted proof (or, if a distribution has previously been made to the creditor, the amount remaining outstanding in respect of the creditor’s admitted proof) is to be reduced by applying the following formula—

$$x / 1.05n$$

where—

- (a) “x” is the value of the admitted proof, and
- (b) “n” is the period beginning with the date on which the relevant licensee nuclear company entered relevant licensee nuclear company administration and ending with the date on which the payment of the creditor’s debt would otherwise be due expressed in years (part of a year being expressed as a decimal fraction of a year).

### **Division of unsold assets**

**83.—**(1) The nuclear administrator may divide qualifying property in its existing form amongst the creditors of the relevant licensee nuclear company—

- (a) according to its estimated value, and
- (b) with the permission of the creditors.

(2) In paragraph (1), “qualifying property” is any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

- (3) The nuclear administrator must—
  - (a) in the receipts and payments account included in the progress report under rule 26, state the estimated value of the property divided amongst the creditors of the relevant licensee nuclear company under paragraph (1) during the period to which the report relates, and
  - (b) as a note to the account, provide details of the basis of the valuation.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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