
STATUTORY INSTRUMENTS

2005 No. 2483

The Energy Administration Rules 2005

PART 11

COURT PROCEDURE AND PRACTICE

CHAPTER 1

Applications

Preliminary

92. This Chapter applies to any application made to the court in energy administration proceedings, except an application for an energy administration order.

Commencement Information

I1 Rule 92 in force at 1.10.2005, see [rule 1](#)

Interpretation

93.—(1) In this Chapter, except in so far as the context otherwise requires—

“originating application” means an application to the court which is not an application in pending proceedings before the court; and

“ordinary application” means any other application to the court.

(2) Every application shall be in the form appropriate to the application concerned.

Commencement Information

I2 Rule 93 in force at 1.10.2005, see [rule 1](#)

Form and contents of application

94.—(1) Each application shall be in writing and shall state—

(a) the names of the parties;

(b) the nature of the relief or order applied for or the directions sought from the court;

(c) the names and addresses of the persons (if any) on whom it is intended to serve the application or that no person is intended to be served;

(d) where the 1986 Act, Schedule B1 to the 1986 Act or the Rules require that notice of the application is to be given to specified persons, the names and addresses of all those persons (so far as known to the applicant); and

(e) the applicant's address for service.

(2) An originating application shall set out the grounds on which the applicant claims to be entitled to the relief or order sought.

(3) The application must be signed by the applicant if he is acting in person or, when he is not so acting, by or on behalf of his solicitor.

Commencement Information

I3 Rule 94 in force at 1.10.2005, see [rule 1](#)

Application under section 176A(5) of the 1986 Act to disapply section 176A of the 1986 Act

95.—(1) An application under section 176A(5) of the 1986 Act⁽¹⁾ shall be accompanied by an affidavit prepared and sworn by the energy administrator.

(2) The affidavit shall state—

- (a) that the application arises in the course of an energy administration;
- (b) a summary of the financial position of the protected energy company;
- (c) the information substantiating the energy administrator's view that the cost of making a distribution to unsecured creditors would be disproportionate to the benefits; and
- (d) whether any other insolvency practitioner is acting in relation to the protected energy company and if so his address.

Commencement Information

I4 Rule 95 in force at 1.10.2005, see [rule 1](#)

Filing and service of application

96.—(1) The application shall be filed in court, accompanied by one copy and a number of additional copies equal to the number of persons who are to be served with the application.

(2) Subject as follows in this Rule and in the next, or unless the Rule under which the application is brought provides otherwise, or the court otherwise orders, upon the presentation of the documents mentioned in paragraph (1), the court shall fix a venue for the application to be heard.

(3) Unless the court otherwise directs, the applicant shall serve a sealed copy of the application, endorsed with the venue of the hearing, on the respondent named in the application (or on each respondent if more than one).

(4) The court may give any of the following directions—

- (a) that the application be served upon persons other than those specified by the relevant provision of the 1986 Act, Schedule B1 to the 1986 Act or the Rules;
- (b) that the giving of notice to any person may be dispensed with;
- (c) that notice be given in some way other than that specified in paragraph (3).

(5) Unless the provision of the 1986 Act, Schedule B1 to the 1986 Act or the Rules under which the application is made provides otherwise, and subject to the next paragraph, the application must be served at least 14 days before the date fixed for the hearing.

(1) [1986 c. 45](#); section 176A inserted by the Enterprise Act [2002 c. 40](#), section 252.

(6) Where the case is one of urgency, the court may (without prejudice to its general power to extend or abridge time limits)—

- (a) hear the application immediately, either with or without notice to, or the attendance of, other parties, or
- (b) authorise a shorter period of service than that provided for by paragraph (5);

and any such application may be heard on terms providing for the filing or service of documents, or the carrying out of other formalities, as the court thinks fit.

Commencement Information

I5 Rule 96 in force at 1.10.2005, see [rule 1](#)

Notice of application under section 176A(5) of the 1986 Act

97. An application under section 176A(5) of the 1986 Act may be made without the application being served upon or notice being given to any other party.

Commencement Information

I6 Rule 97 in force at 1.10.2005, see [rule 1](#)

Other hearings *ex parte*

98.—(1) Where the relevant provisions of the 1986 Act, Schedule B1 to the 1986 Act or the Rules do not require service of the application on, or notice of it to be given to, any person, the court may hear the application *ex parte*.

(2) Where the application is properly made *ex parte*, the court may hear it forthwith, without fixing a venue as required by Rule 96(2).

(3) Alternatively, the court may fix a venue for the application to be heard, in which case Rule 96(2) applies (so far as relevant).

Commencement Information

I7 Rule 98 in force at 1.10.2005, see [rule 1](#)

Hearing of application

99.—(1) Unless allowed or authorised to be made otherwise, every application before the registrar shall, and every application before the judge may, be heard in chambers.

(2) Unless either—

- (a) the judge has given a general or special direction to the contrary, or
- (b) it is not within the registrar’s power to make the order required,

the jurisdiction of the court to hear and determine the application may be exercised by the registrar, and the application shall be made to the registrar in the first instance.

(3) Where the application is made to the registrar he may refer to the judge any matter which he thinks should properly be decided by the judge, and the judge may either dispose of the matter or refer it back to the registrar with such direction as he thinks fit.

(4) Nothing in this Rule precludes an application being made directly to the judge in a proper case.

Commencement Information

I8 Rule 99 in force at 1.10.2005, see [rule 1](#)

Use of affidavit evidence

100.—(1) In any proceedings evidence may be given by affidavit unless by any provision of the Rules it is otherwise provided or the court otherwise directs; but the court may, on the application of any party, order the attendance for cross-examination of the person making the affidavit.

(2) Where, after such an order has been made, the person in question does not attend, his affidavit shall not be used in evidence without the leave of the court.

Commencement Information

I9 Rule 100 in force at 1.10.2005, see [rule 1](#)

Filing and service of affidavits

101.—(1) Unless the provisions of the 1986 Act, Schedule B1 to the 1986 Act or the Rules under which the application is made provide otherwise, or the court otherwise allows—

(a) if the applicant intends to rely at the first hearing on affidavit evidence, he shall file the affidavit or affidavits (if more than one) in court and serve a copy or copies on the respondent, not less than 14 days before the date fixed for the hearing, and

(b) where a respondent to an application intends to oppose it and to rely for that purpose on affidavit evidence, he shall file the affidavit or affidavits (if more than one) in court and serve a copy or copies on the applicant, not less than 7 days before the date fixed for the hearing.

(2) Any affidavit may be sworn by the applicant or by the respondent or by some other person possessing direct knowledge of the subject matter of the application.

Commencement Information

I10 Rule 101 in force at 1.10.2005, see [rule 1](#)

Use of reports

102.—(1) A report may be filed in court instead of an affidavit, unless the application involves other parties or the court otherwise orders, by the energy administrator.

(2) In any case where a report is filed instead of an affidavit, the report shall be treated for the purpose of Rule 101(1) and any hearing before the court as if it were an affidavit.

Commencement Information

I11 Rule 102 in force at 1.10.2005, see [rule 1](#)

Adjournment of hearings; directions

103.—(1) The court may adjourn the hearing of an application on such terms (if any) as it thinks fit.

(2) The court may at any time give such directions as it thinks fit as to—

- (a) service or notice of the application on or to any person, whether in connection with the venue of a resumed hearing or for any other purpose;
- (b) whether particulars of claim and defence are to be delivered and generally as to the procedure on the application;
- (c) the manner in which any evidence is to be adduced at a resumed hearing and in particular (but without prejudice to the generality of this sub-paragraph) as to—
 - (i) the taking of evidence wholly or in part by affidavit or orally;
 - (ii) the cross-examination either before the judge or registrar on the hearing in court or in chambers, of any deponents to affidavits; and
 - (iii) any report to be given by the energy administrator;
- (d) the matters to be dealt with in evidence.

Commencement Information

I12 Rule 103 in force at 1.10.2005, see [rule 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Energy Administration Rules 2005, CHAPTER 1.