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STATUTORY INSTRUMENTS

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**2005 No. 2483**

**The Energy Administration Rules 2005**

**PART 11**

**COURT PROCEDURE AND PRACTICE**

**CHAPTER 5**

*Costs and detailed assessment*

**Application of CPR**

**115.** Subject to provision to inconsistent effect made as follows in this Chapter, CPR Part 43 (scope of costs rules and definitions), Part 44 (general rules about costs), Part 45 (fixed costs), Part 47 (procedure for detailed assessment of costs and default provisions) and Part 48 (costs-special cases) shall apply to energy administration proceedings with any necessary modifications.

**Commencement Information**

**11** Rule 115 in force at 1.10.2005, see [rule 1](#)

**Requirement to assess costs by the detailed procedure**

**116.—(1)** Subject as follows, where the costs, charges or expenses of any person are payable out of the assets of the protected energy company, the amount of those costs, charges or expenses shall be decided by detailed assessment unless agreed between the energy administrator and the person entitled to payment, and in the absence of such agreement the energy administrator may serve notice in writing requiring that person to commence detailed assessment proceedings in accordance with CPR Part 47 (procedure for detailed assessment of costs and default provisions) in the court to which the energy administration proceedings are allocated or, where in relation to a protected energy company there is no such court, in any court having jurisdiction to wind up the protected energy company.

(2) Where the amount of the costs, charges or expenses of any person employed by a energy administrator in energy administration proceedings are required to be decided by detailed assessment or fixed by order of the court this does not preclude the energy administrator from making payments on account to such person on the basis of an undertaking by that person to repay immediately any money which may, when detailed assessment is made, prove to have been overpaid, with interest at the rate specified in section 17 of the Judgments Act 1838(1) on the date payment was made and for the period from the date of payment to that of repayment.

(3) In any proceedings before the court, the court may order costs to be decided by detailed assessment.

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(1) [1838 c. 110](#), as amended by the Civil Procedure Acts Repeal Act 1879, section 2, Schedule 1, Part 1, the Statute Law Revision (No. 2) Act 1888, [S.I. 1993/564](#), article 2, [1998/2940](#), article 3(a), (b) and (c).

**Commencement Information**

**I2** Rule 116 in force at 1.10.2005, see [rule 1](#)

**Procedure where detailed assessment required**

**117.**—(1) Before making a detailed assessment of the costs of any person employed in energy administration proceedings by an energy administrator, the costs officer shall require a certificate of employment, which shall be endorsed on the bill and signed by the energy administrator.

(2) The certificate shall include—

- (a) the name and address of the person employed;
- (b) details of the functions to be carried out under the employment; and
- (c) a note of any special terms of remuneration which have been agreed.

(3) Every person whose costs in energy administration proceedings are required to be decided by detailed assessment shall, on being required in writing to do so by the energy administrator, commence detailed assessment proceedings in accordance with CPR Part 47 (procedure for detailed assessment of costs and default provisions).

(4) If that person does not commence detailed assessment proceedings within 3 months of the requirement under paragraph (3), or within such further time as the court, on application, may permit, the energy administrator may deal with the assets of the protected energy company without regard to any claim by that person, whose claim is forfeited by such failure to commence proceedings.

(5) Where in any such case such a claim lies additionally against an energy administrator in his personal capacity, that claim is also forfeited by such failure to commence proceedings.

**Commencement Information**

**I3** Rule 117 in force at 1.10.2005, see [rule 1](#)

**Costs paid otherwise than out of the assets of the protected energy company**

**118.** Where the amount of costs is decided by detailed assessment under an order of the court directing that the costs are to be paid otherwise than out of the assets of the protected energy company, the costs officer shall note on the final costs certificate by whom, or the manner in which, the costs are to be paid.

**Commencement Information**

**I4** Rule 118 in force at 1.10.2005, see [rule 1](#)

**Award of costs against energy administrator**

**119.** Without prejudice to any provision of the 1986 Act, Schedule B1 to the 1986 Act or the Rules by virtue of which the energy administrator is not in any event to be liable for costs and expenses, where an energy administrator is made a party to any proceedings on the application of another party to the proceedings, he shall not be personally liable for costs unless the court otherwise directs.

**Commencement Information**

**I5** Rule 119 in force at 1.10.2005, see [rule 1](#)

**Application for costs**

**120.**—(1) This Rule applies where a party to, or person affected by, any energy administration proceedings—

- (a) applies to the court for an order allowing his costs, or part of them, incidental to the proceedings, and
- (b) that application is not made at the time of the proceedings.

(2) The person concerned shall serve a sealed copy of his application on the energy administrator.

(3) The energy administrator may appear on the application.

(4) No costs of or incidental to the application shall be allowed to the applicant unless the court is satisfied that the application could not have been made at the time of the proceedings.

**Commencement Information**

**I6** Rule 120 in force at 1.10.2005, see [rule 1](#)

**Costs and expenses of witnesses**

**121.**—(1) Except as directed by the court, no allowance as a witness in any examination or other proceedings before the court shall be made to an officer of the protected energy company to which the energy administration proceedings relate.

(2) A person making any application in energy administration proceedings shall not be regarded as a witness on the hearing of the application, but the costs officer may allow his expenses of travelling and subsistence.

**Commencement Information**

**I7** Rule 121 in force at 1.10.2005, see [rule 1](#)

**Final costs certificate**

**122.**—(1) A final costs certificate of the costs officer is final and conclusive as to all matters which have not been objected to in the manner provided for under the rules of the court.

(2) Where it is proved to the satisfaction of a costs officer that a final costs certificate has been lost or destroyed, he may issue a duplicate.

**Commencement Information**

**I8** Rule 122 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 5.