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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 8

*General*

**Principal court rules and practice to apply**

**129.**—(1) The CPR and the practice and procedure of the High Court (including any practice direction) apply to energy administration proceedings with any necessary modifications, except so far as inconsistent with the Rules.

(2) All energy administration proceedings shall be allocated to the multi-track for which CPR Part 29 (the multi-track) makes provision; accordingly those provisions of the CPR which provide for allocation questionnaires and track allocation will not apply.

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**Commencement Information**

**I1** Rule 129 in force at 1.10.2005, see [rule 1](#)

**Right of audience**

**130.** Rights of audience in energy administration proceedings are the same as obtain in insolvency proceedings.

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**Commencement Information**

**I2** Rule 130 in force at 1.10.2005, see [rule 1](#)

**Right of attendance**

**131.**—(1) Subject as follows, in energy administration proceedings, any person stating himself in writing, in records kept by the court for that purpose, to be a creditor or member of the protected energy company is entitled, at his own cost, to attend in court or in chambers at any stage of the proceedings.

(2) Attendance may be by the person himself, or his solicitor.

(3) A person so entitled may request the court in writing to give him notice of any step in the energy administration proceedings; and, subject to his paying the costs involved and keeping the court informed as to his address, the court shall comply with the request.

(4) If the court is satisfied that the exercise by a person of his rights under this Rule has given rise to costs for the assets of the protected energy company which would not otherwise have been incurred and ought not, in the circumstances, to fall on that estate, it may direct that the costs be paid by the person concerned, to an amount specified.

The rights of that person under this Rule shall be in abeyance so long as those costs are not paid.

(5) The court may appoint one or more persons to represent the creditors or the members of a protected energy company, or any class of them, to have the rights conferred by this Rule, instead of the rights being exercised by any or all of them individually.

If two or more persons are appointed under this paragraph to represent the same interest, they must (if at all) instruct the same solicitor.

**Commencement Information**

**I3** Rule 131 in force at 1.10.2005, see [rule 1](#)

**Energy administrator’s solicitor**

**132.** Where in energy administration proceedings the attendance of the energy administrator’s solicitor is required, whether in court or in chambers, the energy administrator himself need not attend, unless directed by the court.

**Commencement Information**

**I4** Rule 132 in force at 1.10.2005, see [rule 1](#)

**Formal defects**

**133.** No energy administration proceedings shall be invalidated by any formal defect or by any irregularity, unless the court before which objection is made considers that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the court.

**Commencement Information**

**I5** Rule 133 in force at 1.10.2005, see [rule 1](#)

**Restriction on concurrent proceedings and remedies**

**134.** Where in energy administration proceedings the court makes an order staying any action, execution or other legal process against the property of a protected energy company, service of the order may be effected by sending a sealed copy of the order to whatever is the address for service of the claimant or other party having the carriage of the proceedings to be stayed.

**Commencement Information**

**I6** Rule 134 in force at 1.10.2005, see [rule 1](#)

## Affidavits

**135.**—(1) Subject to the following paragraphs of this Rule, the practice and procedure of the High Court with regard to affidavits, their form and contents, and the procedure governing their use, are to apply to all energy administration proceedings.

(2) Where in energy administration proceedings, an affidavit is made by the energy administrator he shall state the capacity in which he makes it, the position which he holds and the address at which he works.

(3) A creditor's affidavit of debt may be sworn before his own solicitor.

(4) Any officer of the court duly authorised in that behalf, may take affidavits and declarations.

(5) Subject to paragraph (6), where the Rules provide for the use of an affidavit, a witness statement verified by a statement of truth may be used as an alternative.

(6) Paragraph (5) does not apply to Rules 149 and 150.

(7) Where paragraph (5) applies, any form prescribed by Rule 160 shall be modified accordingly.

### Commencement Information

**I7** Rule 135 in force at 1.10.2005, see [rule 1](#)

## Security in court

**136.**—(1) Where security has to be given to the court (otherwise than in relation to costs), it may be given by guarantee, bond or the payment of money into court.

(2) A person proposing to give a bond as security shall give notice to the party in whose favour the security is required, and to the court, naming those who are to be sureties to the bond.

(3) The court shall forthwith give notice to the parties concerned of a venue for the execution of the bond and the making of any objection to the sureties.

(4) The sureties shall make an affidavit of their sufficiency (unless dispensed with by the party in whose favour the security is required) and shall, if required by the court, attend the court to be cross-examined.

### Commencement Information

**I8** Rule 136 in force at 1.10.2005, see [rule 1](#)

## Payment into court

**137.** The CPR relating to payment into and out of court of money lodged in court as security for costs apply to money lodged in court under the Rules.

### Commencement Information

**I9** Rule 137 in force at 1.10.2005, see [rule 1](#)

## Further information and disclosure

**138.**—(1) Any party to energy administration proceedings may apply to the court for an order—

(a) that any other party—

- (i) clarify any matter which is in dispute in the proceedings, or
  - (ii) give additional information in relation to any such matter, in accordance with CPR Part 18 (further information); or
  - (b) to obtain disclosure from any other party in accordance with CPR Part 31 (disclosure and inspection of documents).
- (2) An application under this Rule may be made without notice being served on any other party.

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**Commencement Information**

**I10** Rule 138 in force at 1.10.2005, see [rule 1](#)

**Office copies of documents**

**139.**—(1) Any person who has under the Rules the right to inspect the court file of energy administration proceedings may require the court to provide him with an office copy of any document from the file.

(2) A person’s right under this Rule may be exercised on his behalf by his solicitor.

(3) An office copy provided by the court under this Rule shall be in such form as the registrar thinks appropriate, and shall bear the court’s seal.

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**Commencement Information**

**I11** Rule 139 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 8.