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STATUTORY INSTRUMENTS

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**2005 No. 2483**

The Energy Administration Rules 2005

PART 4

MEETINGS AND REPORTS

CHAPTER 1

*Creditors' meetings*

**Creditors' meetings generally**

**21.**—(1) This Rule applies to creditors' meetings summoned by the energy administrator under paragraph 62 of Schedule B1 to the 1986 Act.

(2) Notice of a creditors' meeting shall be in Form EA13.

(3) In fixing the venue for the meeting, the energy administrator shall have regard to the convenience of creditors and the meeting shall be summoned for commencement between 10.00 and 16.00 hours on a business day, unless the court otherwise directs.

(4) Subject to paragraphs (6) and (7) below and Rule 23, at least 14 days' notice of the meeting shall be given to all creditors who are known to the energy administrator and had claims against the protected energy company at the date when the protected energy company entered energy administration unless that creditor has subsequently been paid in full; and the notice shall—

- (a) specify the purpose of the meeting;
- (b) contain a statement of the effect of Rule 24 (entitlement to vote); and
- (c) contain the forms of proxy.

(5) If within 30 minutes from the time fixed for the commencement of the meeting there is no person present to act as chairman, the meeting stands adjourned to the same time and place in the following week or, if that day is not a business day, to the business day immediately following.

(6) The meeting may be adjourned once, if the chairman thinks fit, but not for more than 14 days from the date on which it was fixed to commence, subject to the direction of the court.

(7) If a meeting is adjourned the energy administrator shall as soon as reasonably practicable notify the creditors of the venue of the adjourned meeting.

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**Commencement Information**

**II** Rule 21 in force at 1.10.2005, see [rule 1](#)

**The chairman at meetings**

**22.**—(1) At any meeting of creditors summoned by the energy administrator, either he shall be chairman, or a person nominated by him in writing to act in his place.

*Status: Point in time view as at 01/10/2005.*

*Changes to legislation: There are currently no known outstanding effects for the The Energy Administration Rules 2005, PART 4. (See end of Document for details)*

- (2) A person so nominated must be either—
- (a) one who is qualified to act as an insolvency practitioner in relation to the protected energy company, or
  - (b) an employee of the energy administrator or his firm who is experienced in insolvency matters.

#### Commencement Information

**I2** Rule 22 in force at 1.10.2005, see [rule 1](#)

### Creditors' meeting for nomination of alternative liquidator

**23.**—(1) Where under Rule 20(2)(k) or 31(2)(g), the energy administrator has proposed that the protected energy company enter creditors' voluntary liquidation once the energy administration has ended, the energy administrator shall, in the circumstances detailed in paragraph (2), call a meeting of creditors for the purpose of nominating a person other than the person named as proposed liquidator in the energy administrator's proposals or revised proposals.

(2) The energy administrator shall call a meeting of creditors where such a meeting is requested by creditors of the protected energy company whose debts amount to at least 25 per cent of the total debts of the protected energy company.

(3) The request for a creditors' meeting for the purpose set out in paragraph (1) shall be in Form EA14. A request for such a meeting shall be made within 21 days of the date on which the energy administrator's statement of proposals is sent out, or where revised proposals have been sent out and a proposed revision relates to the ending of the energy administration by a creditors' voluntary liquidation, within 21 days from the date on which the revised statement of proposals is sent out.

(4) A request under this Rule shall include—

- (a) a list of creditors concurring with the request, showing the amounts of their respective debts in the energy administration; and
- (b) from each creditor concurring, written confirmation of his concurrence,

but sub-paragraph (a) does not apply if the requesting creditor's debt is alone sufficient without the concurrence of other creditors.

(5) A meeting requested under this Rule shall be held within 21 days of the energy administrator's receipt of the notice requesting the meeting.

#### Commencement Information

**I3** Rule 23 in force at 1.10.2005, see [rule 1](#)

### Entitlement to vote

**24.**—(1) Subject as follows, at a meeting of creditors in energy administration proceedings a person is entitled to vote only if—

- (a) he has given to the energy administrator, not later than 12.00 hours on the business day before the day fixed for the meeting, details in writing of the debt which he claims to be due to him from the protected energy company;
- (b) the claim has been duly admitted under the following provisions of this Rule; and

(c) there has been lodged with the energy administrator any proxy which he intends to be used on his behalf,

and details of the debt must include any calculation for the purposes of Rules 26 to 28.

(2) The chairman of the meeting may allow a creditor to vote, notwithstanding that he has failed to comply with paragraph (1)(a), if satisfied that the failure was due to circumstances beyond the creditor's control.

(3) The chairman of the meeting may call for any document or other evidence to be produced to him, where he thinks it necessary for the purpose of substantiating the whole or any part of the claim.

(4) Votes are calculated according to the amount of a creditor's claim as at the date on which the protected energy company entered energy administration, less any payments that have been made to him after that date in respect of his claim and any adjustment by way of set-off in accordance with Rule 53 as if that Rule were applied on the date that the votes are counted.

(5) A creditor shall not vote in respect of a debt for an unliquidated amount, or any debt whose value is not ascertained, except where the chairman agrees to put upon the debt an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.

(6) No vote shall be cast by virtue of a claim more than once on any resolution put to the meeting.

**Commencement Information**

**I4** Rule 24 in force at 1.10.2005, see [rule 1](#)

**Admission and rejection of claims**

**25.**—(1) At any creditors' meeting the chairman has power to admit or reject a creditor's claim for the purpose of his entitlement to vote; and the power is exercisable with respect to the whole or any part of the claim.

(2) The chairman's decision under this Rule, or in respect of any matter arising under Rule 24, is subject to appeal to the court by any creditor.

(3) If the chairman is in doubt whether a claim should be admitted or rejected, he shall mark it as objected to and allow the creditor to vote, subject to his vote being subsequently declared invalid if the objection to the claim is sustained.

(4) If on appeal the chairman's decision is reversed or varied, or a creditor's vote is declared invalid, the court may order that another meeting be summoned, or make such other order as it thinks fit.

(5) Neither the energy administrator nor any person nominated by him to be chairman is personally liable for costs incurred by any person in respect of an appeal to the court under this Rule, unless the court makes an order to that effect.

**Commencement Information**

**I5** Rule 25 in force at 1.10.2005, see [rule 1](#)

**Secured creditors**

**26.** At a meeting of creditors a secured creditor is entitled to vote only in respect of the balance (if any) of his debt after deducting the value of his security as estimated by him.

*Status: Point in time view as at 01/10/2005.*

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#### Commencement Information

**I6** Rule 26 in force at 1.10.2005, see [rule 1](#)

#### Holders of negotiable instruments

**27.** A creditor shall not vote in respect of a debt on, or secured by, a current bill of exchange or promissory note, unless he is willing—

- (a) to treat the liability to him on the bill or note of every person who is liable on it antecedently to the protected energy company, and against whom a bankruptcy order has not been made (or, in the case of a company, which has not gone into liquidation), as a security in his hands, and
- (b) to estimate the value of the security and, for the purpose of his entitlement to vote, to deduct it from his claim.

#### Commencement Information

**I7** Rule 27 in force at 1.10.2005, see [rule 1](#)

#### Hire-purchase, conditional sale and chattel leasing agreements

**28.—(1)** Subject as follows, an owner of goods under a hire-purchase or chattel leasing agreement, or a seller of goods under a conditional sale agreement, is entitled to vote in respect of the amount of the debt due and payable to him by the protected energy company on the date that the protected energy company entered energy administration.

(2) In calculating the amount of any debt for this purpose, no account shall be taken of any amount attributable to the exercise of any right under the relevant agreement, so far as the right has become exercisable solely by virtue of the making of an energy administration application or any matter arising as a consequence, or of the protected energy company entering energy administration.

#### Commencement Information

**I8** Rule 28 in force at 1.10.2005, see [rule 1](#)

#### Resolutions

**29.—(1)** Subject as follows, at a creditors' meeting in energy administration proceedings, a resolution is passed when a majority (in value) of those present and voting, in person or by proxy, have voted in favour of it.

(2) Any resolution is invalid if those voting against it include more than half in value of the creditors to whom notice of the meeting was sent and who are not, to the best of the chairman's belief, persons connected with the protected energy company.

(3) In the case of a resolution for the nomination of a person to act as liquidator once the energy administration has ended—

- (a) subject to paragraph (4), if on any vote there are two persons put forward by creditors for nomination as liquidator, the person who obtains the most support is nominated as liquidator;

- (b) if there are three or more persons put forward by creditors for nomination as liquidator, and one of them has a clear majority over both or all the others together, that one is nominated as liquidator; and
  - (c) in any other case, the chairman of the meeting shall continue to take votes (disregarding at each vote any person who has withdrawn and, if no person has withdrawn, the person who obtained the least support last time), until a clear majority is obtained for any one person.
- (4) The support referred to in paragraph (3)(a) must represent a majority in value of all those present (in person or by proxy) at the meeting and entitled to vote.
- (5) Where, on such a resolution no person is nominated as liquidator, the person named as proposed liquidator in the energy administrator’s proposals or revised proposals shall be the liquidator once the energy administration has ended.
- (6) The chairman may at any time put to the meeting a resolution for the joint appointment of any two or more persons put forward by creditors for nomination as liquidator.
- (7) In this Rule, “connected with the protected energy company” has the same meaning as the phrase “connected with a company” in section 249 of the 1986 Act.

**Commencement Information**

**I9** Rule 29 in force at 1.10.2005, see [rule 1](#)

**Minutes**

- 30.**—(1) The chairman of the meeting shall cause minutes of its proceedings to be entered in the protected energy company’s minute book.
- (2) The minutes shall include a list of the names and addresses of creditors who attended (personally or by proxy).

**Commencement Information**

**I10** Rule 30 in force at 1.10.2005, see [rule 1](#)

**Revision of the energy administrator’s proposals**

- 31.**—(1) The energy administrator shall, as soon as reasonably practicable, under paragraph 54 of Schedule B1 of the 1986 Act, make a statement setting out the proposed revisions to his proposals which he shall attach to Form EA15 and send to all those to whom he is required to send a copy of his revised proposals.
- (2) The statement of revised proposals shall include—
- (a) details of the court where the proceedings are and the relevant court reference number;
  - (b) the full name, registered address, registered number and any other trading names of the protected energy company;
  - (c) details relating to his appointment as energy administrator, including the date of appointment and whether the energy administration application was made by the Secretary of State or by GEMA;
  - (d) the names of the directors and secretary of the protected energy company and details of any shareholdings in the protected energy company they may have;
  - (e) a summary of the initial proposals and the reason(s) for proposing a revision;

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- (f) details of the proposed revision including details of the energy administrator’s assessment of the likely impact of the proposed revision upon creditors generally or upon each class of creditors (as the case may be);
  - (g) where a proposed revision relates to the ending of the energy administration by a creditors' voluntary liquidation and the nomination of a person to be the proposed liquidator of the protected energy company, a statement that, in accordance with paragraph 83(7) of Schedule B1 to the 1986 Act and Rule 78(3), creditors may nominate a different person as the proposed liquidator, provided that the nomination is made at a meeting of creditors called for that purpose; and
  - (h) any other information that the energy administrator thinks necessary.
- (3) Subject to paragraph 54(4) of Schedule B1 to the 1986 Act, within 5 days of sending out the statement in paragraph (1) above, the energy administrator shall send a copy of the statement to every member of the protected energy company.
- (4) When the energy administrator is acting under paragraph 54(4) of Schedule B1 to the 1986 Act, the notice shall be published once in such newspaper as he thinks most appropriate for ensuring that the notice comes to the attention of the protected energy company’s members. The notice shall—
- (a) state the full name of the protected energy company;
  - (b) state the name and address of the energy administrator;
  - (c) specify an address to which members can write for a copy of the statement; and
  - (d) be published as soon as reasonably practicable after the energy administrator sends the statement to creditors.

#### **Commencement Information**

**III** Rule 31 in force at 1.10.2005, see [rule 1](#)

#### **Reports to creditors**

- 32.**—(1) “Progress report” means a report which includes—
- (a) details of the court where the proceedings are and the relevant court reference number;
  - (b) full details of the protected energy company’s name, address of registered office and registered number;
  - (c) full details of the energy administrator’s name and address, date of appointment and name and address of the applicant for the energy administration application, including any changes in office-holder, and, in the case of joint energy administrators, their functions as set out in the statement made for the purposes of section 158(5) of the 2004 Act;
  - (d) details of progress during the period of the report, including a receipts and payments account (as detailed in paragraph (2) below);
  - (e) details of any assets that remain to be realised; and
  - (f) any other relevant information for the creditors.
- (2) A receipts and payments account shall state what assets of the protected energy company have been realised, for what value, and what payments have been made to creditors or others. The account is to be in the form of an abstract showing receipts and payments during the period of the report and where the energy administrator has ceased to act, the receipts and payments account shall include a statement as to the amount paid to unsecured creditors by virtue of the application of section 176A of the 1986 Act (prescribed part).
- (3) The progress report shall cover—

- (a) the period of 6 months commencing on the date that the protected energy company entered energy administration, and every subsequent period of 6 months; and
  - (b) when the energy administrator ceases to act, any period from the date of the previous report, if any, and from the date that the protected energy company entered energy administration if there is no previous report, until the time that the energy administrator ceases to act.
- (4) The energy administrator shall send a copy of the progress report, attached to Form EA16, within 1 month of the end of the period covered by the report, to—
- (a) the Secretary of State;
  - (b) GEMA;
  - (c) the creditors;
  - (d) the court; and
  - (e) the registrar of companies.
- (5) The court may, on the energy administrator’s application, extend the period of 1 month mentioned in paragraph (4) above, or make such other order in respect of the content of the report as it thinks fit.
- (6) If the energy administrator makes default in complying with this Rule, he is liable to a fine and, for continued contravention, to a daily default fine.

**Commencement Information**

**I12** Rule 32 in force at 1.10.2005, see [rule 1](#)

CHAPTER 2

*Company meetings*

**Venue and conduct of company meeting**

**33.**—(1) Where the energy administrator summons a meeting of members of the protected energy company, he shall fix a venue for it having regard to their convenience.

(2) The chairman of the meeting shall be the energy administrator or a person nominated by him in writing to act in his place.

(3) A person so nominated must be either—

- (a) one who is qualified to act as an insolvency practitioner in relation to the protected energy company, or
- (b) an employee of the energy administrator or his firm who is experienced in insolvency matters.

(4) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chairman, the meeting stands adjourned to the same time and place in the following week or, if that day is not a business day, to the business day immediately following.

(5) Subject as above, the meeting shall be summoned and conducted as if it were a general meeting of the protected energy company summoned under the company’s articles of association, and in accordance with the applicable provisions of the Companies Act(1).

(6) The chairman of the meeting shall cause minutes of its proceedings to be entered in the protected energy company’s minute book.

(1) 1985 c. 6.

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**Commencement Information**

**I13** Rule 33 in force at 1.10.2005, see [rule 1](#)



**Status:**

Point in time view as at 01/10/2005.

**Changes to legislation:**

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