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## STATUTORY INSTRUMENTS

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# 2013 No. 1046

## The Energy Supply Company Administration Rules 2013

### PART 3

#### Process of energy supply company administration

##### Energy administrator's proposals

**20.**—(1) The energy administrator must, under paragraph 49 of Schedule B1 to the 1986 Act, make a statement and deliver it to the registrar of companies.

(2) The statement must include, in addition to those matters set out in paragraph 49 of Schedule B1 to the 1986 Act—

- (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 energy supply company;
- (c) details relating to the energy administrator's appointment, including the date of appointment and whether the application was made by the Secretary of State or GEMA and, where there are joint energy administrators, details of the matters set out in section 158(5) of the 2004 Act;
- (d) the names of the directors and secretary of the energy supply company and details of any shareholdings in the energy supply company they may have;
- (e) an account of the circumstances giving rise to the appointment of the energy administrator;
- (f) if a statement of the energy supply company's affairs has been submitted, a copy or summary of it, with the energy administrator's comments, if any;
- (g) if an order limiting the disclosure of the statement of affairs (under Rule 17) has been made, a statement of that fact, as well as—
  - (i) details of who provided the statement of affairs;
  - (ii) the date of the order of limited disclosure; and
  - (iii) the details or summary of the details that are not subject to that order;
- (h) if a full statement of affairs is not provided, the names, addresses and debts of the creditors including details of any security held;
- (i) if no statement of affairs has been submitted, details of the financial position of the energy supply company at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the energy supply company entered energy supply company administration), a list of the energy supply company's creditors including their names, addresses and details of their debts, including any security held, and an explanation as to why there is no statement of affairs;
- (j) (except where the energy administrator proposes a voluntary arrangement in relation to the energy supply company and subject to paragraph (5))—
  - (i) to the best of the energy administrator's knowledge and belief—

- (aa) an estimate of the value of the prescribed part (whether or not the energy administrator proposes to make an application to court under section 176A(5) of the 1986 Act <sup>M1</sup> or section 176A(3) of the 1986 Act applies); and
    - (bb) an estimate of the value of the energy supply company's net property; and
    - (ii) whether, and if so, why, the energy administrator proposes to make an application to court under section 176A(5) of the 1986 Act;
  - (k) a statement complying with paragraph (3) of any pre-energy supply company administration costs charged or incurred by the energy administrator or, to the energy administrator's knowledge, by any other person qualified to act as an insolvency practitioner;
  - (l) a statement (which must comply with paragraph (4) where that paragraph applies) of how it is envisaged the objective of the energy supply company administration will be achieved and how it is proposed that the energy supply company administration shall end;
  - (m) the manner in which the affairs and business of the energy supply company—
    - (i) have, since the date of the energy administrator's appointment, been managed and financed, including, where any assets have been disposed of, the reasons for such disposals and the terms upon which such disposals were made; and
    - (ii) will continue to be managed and financed; and
  - (n) such other information (if any) as the energy administrator thinks necessary.
- (3) A statement of pre-energy supply company administration costs complies with this paragraph if it includes—
- (a) details of any agreement under which the fees were charged and expenses incurred, including the parties to the agreement and the date on which the agreement was made;
  - (b) details of the work done for which the fees were charged and expenses incurred;
  - (c) an explanation of why the work was done before the energy supply company entered energy supply company administration and how it would further the achievement of the objective of the energy supply company administration;
  - (d) a statement of the amount of the pre-energy supply company administration costs, setting out separately—
    - (i) the fees charged by the energy administrator;
    - (ii) the expenses incurred by the energy administrator;
    - (iii) the fees charged (to the energy administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately); and
    - (iv) the expenses incurred (to the energy administrator's knowledge) by any other person qualified to act as an insolvency practitioner (and, if more than one, by each separately);
  - (e) a statement of the amounts of pre-energy supply company administration costs which have already been paid (set out separately as under sub-paragraph (d));
  - (f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person (set out separately as under sub-paragraph (d));
  - (g) a statement of the amounts of unpaid pre-energy supply company administration costs (set out separately as under paragraph (d)); and

(h) a statement that the payment of unpaid pre-energy supply company administration costs as an expense of the energy supply company administration is subject to approval under Rule 37.

(4) This paragraph applies where it is proposed that the energy supply company administration will end by the energy supply company moving to a creditors' voluntary liquidation; and in that case, the statement required by paragraph (2)(l) must include—

- (a) details of the proposed liquidator;
- (b) where applicable, the declaration required by section 231 of the 1986 Act; and
- (c) a statement that the creditors may nominate a different person as liquidator in accordance with paragraph 83(7) of Schedule B1 to the Insolvency Act 1986 and Rule 81(2).

(5) Nothing in paragraph (2)(j) is to be taken as requiring any such estimate to include any information, the disclosure of which could seriously prejudice the commercial interests of the energy supply company. If such information is excluded from the calculation the estimate must be accompanied by a statement to that effect.

(6) Where the court orders, upon an application by the energy administrator under paragraph 107 of Schedule B1 to the 1986 Act, an extension of the period of time in paragraph 49(5) of Schedule B1 to the 1986 Act, the energy administrator must as soon as reasonably practicable after the making of the order—

- (a) notify in Form ESCA8 every creditor of the energy supply company and every member of the energy supply company of whose address (in either case) the energy administrator is aware; and
- (b) deliver a copy of the information to the registrar of companies.

(7) Where the energy administrator wishes to publish a notice under paragraph 49(6) of Schedule B1 to the 1986 Act, the notice must be advertised in such manner as the energy administrator thinks fit.

(8) In addition to the standard contents, the notice under paragraph (7) must state—

- (a) that members can write for a copy of the statement of proposals for achieving the purpose of energy supply company administration; and
- (b) the address to which to write.

(9) This notice must be published as soon as reasonably practicable after the energy administrator sends the statement of proposals to the energy supply company's creditors but no later than 8 weeks (or such other period as may be agreed by the creditors or as the court may order) from the date that the energy supply company entered energy supply company administration.

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**Marginal Citations**

**M1** 1986 c. 45; section 176A inserted by the Enterprise Act 2002 (c. 40), section 252.

**Changes to legislation:**

There are currently no known outstanding effects for the The Energy Supply Company Administration Rules 2013, Section 20.