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STATUTORY INSTRUMENTS

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**2013 No. 1046**

**The Energy Supply Company Administration Rules 2013**

**PART 10**

**Replacing energy administrator**

**Grounds for resignation**

**84.**—(1) The energy administrator may give notice of resignation—

- (a) on the grounds of ill health; or
- (b) because the energy administrator intends ceasing to be in practice as an insolvency practitioner; or
- (c) because there is some conflict of interest, or a change in personal circumstances, which precludes or makes impracticable the further discharge by the energy administrator of the duties of energy administrator.

(2) The energy administrator may, with the permission of the court, give notice of the energy administrator's resignation on grounds other than those specified in paragraph (1).

**Notice of intention to resign**

**85.** The energy administrator must in all cases give at least 5 business days' notice in Form ESCA13 of the energy administrator's intention to resign, or to apply for the court's permission to do so, to the following persons—

- (a) the Secretary of State;
- (b) GEMA;
- (c) if there is a continuing energy administrator of the energy supply company, to that continuing energy administrator; and
- (d) if there is no such energy administrator, to the energy supply company and its creditors.

**Notice of resignation**

**86.**—(1) The notice of resignation must be in Form ESCA14.

(2) The notice must be filed with the court, and a copy delivered to the registrar of companies.

(3) A copy of the notice of resignation must be sent by the energy administrator not more than 5 business days after it has been filed with the court to all those to whom notice of intention to resign was sent.

**Application to court to remove energy administrator from office**

**87.**—(1) Any application under paragraph 88 of Schedule B1 to the 1986 Act must state the grounds on which it is requested that the energy administrator should be removed from office.

(2) Service of the notice of the application must be effected on the energy administrator, the Secretary of State, GEMA, the joint energy administrator (if any), and where there is not a joint energy administrator, to the energy supply company and all the creditors, including any floating charge holders, not less than 5 business days before the date fixed for the application to be heard.

(3) Where a court makes an order removing the energy administrator it must give a copy of the order to the applicant who as soon as reasonably practicable must send a copy to the energy administrator.

(4) The applicant must also within 5 business days of the order being made send a copy of the order to all those to whom notice of the application was sent.

(5) A copy of the order must also be delivered to the registrar of companies within the same time period.

#### **Notice of vacation of office when energy administrator ceases to be qualified to act**

**88.** Where the energy administrator who has ceased to be qualified to act as an insolvency practitioner in relation to the energy supply company gives notice in accordance with paragraph 89 of Schedule B1 to the 1986 Act, the energy administrator must also give notice to the registrar of companies.

#### **Energy administrator deceased**

**89.**—(1) Subject as follows, where the energy administrator has died, it is the duty of the energy administrator's personal representatives to give notice of the fact to the court, specifying the date of the death. This does not apply if notice has been given under either paragraph (2) or (3) of this Rule.

(2) If the deceased energy administrator was a partner in or an employee of a firm, notice may be given by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the Secretary of State for the authorisation of insolvency practitioners.

(3) Notice of the death may be given by any person producing to the court the relevant death certificate or a copy of it.

(4) Where a person gives notice under this Rule, that person shall also give notice to the registrar of companies.

#### **Application to replace**

**90.**—(1) Where an application is made to court under paragraph 91(1) of Schedule B1 to the 1986 Act to appoint a replacement energy administrator, the application must be accompanied by a written statement in Form ESCA2 by the person proposed to be the replacement energy administrator.

(2) A copy of the application must be served, in addition to those persons listed in section 156(2) of the 2004 Act and Rule 8(3), on the person who made the application for the esc administration order.

(3) Rule 10 shall apply to the service of an application under paragraph 91(1) of Schedule B1 to the 1986 Act as it applies to service in accordance with Rule 8.

(4) Rules 11, 12 and 13(1) and 13(2) apply to an application under paragraph 91(1) of Schedule B1 to the 1986 Act.

#### **Notification and advertisement of appointment of replacement energy administrator**

**91.** Where a replacement energy administrator is appointed, the same provisions apply in respect of giving notice of, and advertising, the replacement appointment as in the case of the appointment (subject to Rule 93), and all statements, consents etc as are required shall also be required in the case

of the appointment of a replacement. All forms and notices must clearly identify that the appointment is of a replacement energy administrator.

#### **Notification and advertisement of appointment of joint energy administrator**

**92.** Where, after an initial appointment has been made, an additional person or persons are to be appointed as joint energy administrator the same Rules shall apply in respect of giving notice of and advertising the appointment as in the case of the initial appointment, subject to Rule 93.

#### **Notification to registrar of companies**

**93.** The replacement or additional energy administrator must deliver notice of the appointment to the registrar of companies.

#### **Energy administrator's duties on vacating office**

**94.—(1)** Where the energy administrator ceases to be in office as such, in consequence of removal, resignation or cesser of qualification as an insolvency practitioner, the energy administrator is under obligation as soon as reasonably practicable to deliver up to his or her successor the assets (after deduction of any expenses properly incurred and distributions made by the energy administrator) and further to deliver up to that person—

- (a) the records of the energy supply company administration, including correspondence, proofs and other related papers appertaining to the energy supply company administration while it was within the energy administrator's responsibility; and
  - (b) the energy supply company's books, papers and other records.
- (2) It is an offence for the energy administrator to fail to comply with this Rule.