

---

STATUTORY INSTRUMENTS

---

**2013 No. 1046**

**The Energy Supply Company Administration Rules 2013**

**PART 14**

Miscellaneous and general

**Power of Secretary of State to regulate certain matters**

**146.**—(1) The Secretary of State may, subject to the 1986 Act and the 2004 Act, make regulations with respect to any matter provided for in these Rules as relates to the carrying out of the functions of an energy administrator of an energy supply company including, without prejudice to the generality of the foregoing provision, with respect to the following matters arising in an energy supply company administration—

- (a) the preparation and keeping of books, accounts and other records, and their production to such persons as may be authorised or required to inspect them;
  - (b) the auditing of an energy administrator's accounts;
  - (c) the manner in which an energy administrator is to act in relation to the energy supply company's books, papers and other records, and the manner of their disposal by the energy administrator and others;
  - (d) the supply by the energy administrator to creditors and members of the energy supply company of copies of documents relating to the energy supply company administration and the affairs of the energy supply company (on payment, in such cases as may be specified by the regulations, of the specified fee).
- (2) Regulations made pursuant to paragraph (1) may—
- (a) confer discretion on the court;
  - (b) make non-compliance with any of the regulations a criminal offence;
  - (c) make different provision for different cases, including different provision for different areas; and
  - (d) contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State necessary or expedient.

**Costs, expenses, etc**

**147.**—(1) All fees, costs, charges and other expenses incurred in the course of the energy supply company administration proceedings are to be regarded as expenses of the energy supply company administration.

- (2) The costs associated with the prescribed part shall be paid out of the prescribed part.

### **Provable debts**

**148.**—(1) Subject as follows, in energy supply company administration proceedings all claims by creditors are provable as debts against the energy supply company, whether they are present or future, certain or contingent, ascertained or sounding only in damages.

(2) Any obligation arising under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002<sup>(1)</sup> is not provable.

(3) The following are not provable except at a time when all other claims of creditors in the energy supply company administration proceedings (other than any of a kind mentioned in this paragraph) have been paid in full with interest under Rule 57—

- (a) any claim arising by virtue of section 382(1)(a) of the Financial Services and Markets Act 2000<sup>(2)</sup>, not being a claim also arising by virtue of section 382(1)(b) of that Act;
- (b) any claim which by virtue of the 1986 Act or any other enactment is a claim the payment of which is to be postponed.

(4) Nothing in this Rule prejudices any enactment or rule of law under which a particular kind of debt is not provable, whether on grounds of public policy or otherwise.

### **False claim of status as creditor, etc**

**149.** Where these Rules provide for creditors or members of an energy supply company a right to inspect any documents, whether on the court's file or in the hands of an energy administrator or other person, it is an offence for a person, with the intention of obtaining a sight of documents which the person has not under these Rules any right to inspect, falsely to claim a status which would entitle the person to inspect them.

### **Punishment of offences**

**150.**—(1) Schedule 2 to these Rules has effect with respect to the way in which contraventions of these Rules are punishable on conviction.

(2) In relation to an offence under a provision of the Rules specified in the first column of the Schedule (the general nature of the offence being described in the second column), the third column shows whether the offence is punishable on conviction on indictment, or on summary conviction, or either in the one way or the other.

(3) The fourth column shows, in relation to an offence, the maximum punishment by way of fine or imprisonment which may be imposed on a person convicted of the offence in the way specified in relation to it in the third column (that is to say, on indictment or summarily), a reference to a period of years or months being to a term of imprisonment of that duration.

(4) The fifth column shows (in relation to an offence for which there is an entry in that column) that a person convicted of the offence after continued contravention is liable to a daily default fine; that is to say, the person is liable on a second or subsequent conviction of the offence to the fine specified in that column for each day on which the contravention is continued (instead of the penalty specified for the offence in the fourth column of the Schedule).

(5) Section 431 of the 1986 Act (summary proceedings), as it applies to England and Wales, has effect in relation to offences under these Rules as to offences under the 1986 Act.

---

(1) 2002 c. 29.

(2) 2000 c. 8.