
STATUTORY INSTRUMENTS

2018 No. 719

The Housing Administration (England and Wales) Rules 2018

PART 5

CLAIMS BY AND DISTRIBUTIONS TO CREDITORS

CHAPTER 2

Creditors' claims in housing administration

Mutual dealings and set-off

5.24.—(1) This rule applies where the housing administrator intends to make a distribution and has delivered a notice under rule 5.26.

(2) An account must be taken as at the date of the notice of what is due from the registered provider and a creditor to each other in respect of their mutual dealings and the sums due from the one must be set off against the sums due from the other.

(3) If there is a balance owed to the creditor then only that balance is provable in the housing administration.

(4) If there is a balance owed to the registered provider that must be paid to the housing administrator as part of the assets.

(5) However if all or part of the balance owed to the registered provider results from a contingent or prospective debt owed by the creditor then the balance (or that part of it which results from the contingent or prospective debt) must be paid in full (without being discounted under rule 5.41) if and when that debt becomes due and payable.

(6) In this rule—

“obligation” means an obligation however arising, whether by virtue of an agreement, rule of law or otherwise; and

“mutual dealings” means mutual credits, mutual debts or other mutual dealings between the registered provider and a creditor proving or claiming to prove for a debt in the housing administration but does not include any of the following—

- (a) a debt arising out of an obligation incurred after the registered provider entered housing administration;
- (b) a debt arising out of an obligation incurred at a time when the creditor had notice that an application for a housing administration order was pending;
- (c) a debt which has been acquired by a creditor by assignment or otherwise, under an agreement between the creditor and another party where that agreement was entered into—
 - (i) after the registered provider entered housing administration, or
 - (ii) at a time when the creditor had notice that an application for a housing administration order was pending.

- (7) A sum must be treated as being due to or from the registered provider for the purposes of paragraph (2) whether—
- (a) it is payable at present or in the future;
 - (b) the obligation by virtue of which it is payable is certain or contingent; or
 - (c) its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion.
- (8) For the purposes of this rule—
- (a) rule 5.14 applies to an obligation which, by reason of its being subject to a contingency or for any other reason, does not bear a certain value;
 - (b) rules 5.21 to 5.23 apply to sums due to the registered provider which—
 - (i) are payable in a currency other than sterling,
 - (ii) are of a periodical nature, or
 - (iii) bear interest; and
 - (c) rule 5.41 applies to a sum due to or from the registered provider which is payable in the future.