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STATUTORY INSTRUMENTS

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**2018 No. 719**

**The Housing Administration (England and Wales) Rules 2018**

**PART 6**

**THE HOUSING ADMINISTRATOR**

**CHAPTER 1**

**Replacing the Housing Administrator**

**Grounds for resignation**

- 6.1.**—(1) The housing administrator may resign—
- (a) on grounds of ill health;
  - (b) because of the intention to cease to practise as an insolvency practitioner; or
  - (c) because the further discharge of the duties of housing administrator is prevented or made impractical by—
    - (i) a conflict of interest; or
    - (ii) a change of personal circumstances.
- (2) The housing administrator may, with the permission of the court, resign on other grounds.

**Notice of intention to resign**

- 6.2.**—(1) The housing administrator must give at least five business days' notice of intention—
- (a) to resign in a case falling within rule 6.1(1); or
  - (b) to apply for the court's permission to resign in a case falling within rule 6.1(2).
- (2) The notice must contain—
- (a) identification details for the proceedings; and
  - (b) the date of appointment of the housing administrator.
- (3) The notice must also contain—
- (a) the date with effect from which the housing administrator intends to resign; or
  - (b) where permission of the court is required under rule 6.1(2), the date on which the housing administrator intends to file with the court an application for permission to resign.
- (4) Notice must be delivered to—
- (a) the Secretary of State;
  - (b) the Regulator of Social Housing;
  - (c) if there is a continuing housing administrator of the registered provider, to that continuing housing administrator; and
  - (d) if there is no such continuing housing administrator, to—

- (i) the registered provider, and
- (ii) all the registered provider's creditors, including any floating charge holders.

(5) The notice must be accompanied by a summary of the housing administrator's receipts and payments.

### **Notice of resignation**

**6.3.**—(1) A resigning housing administrator must, within five business days of delivering the notice under paragraph 87(2) of Schedule B1, deliver a copy of the notice to—

- (a) the relevant registry;
  - (b) all persons to whom notice of intention to resign was delivered under rule 6.2.
- (2) The notice must contain—
- (a) identification details for the proceedings;
  - (b) the date of the appointment of the housing administrator; and
  - (c) the name of the person who made the housing administration application.
- (3) The notice must state—
- (a) the date from which the resignation is to have effect; and
  - (b) where the resignation is with the permission of the court, the date on which permission was given.

### **Application to court to remove housing administrator from office**

**6.4.**—(1) An application for an order under paragraph 88 of Schedule B1 that the housing administrator be removed from office must state the grounds on which the order is requested.

(2) A copy of the application must be delivered, not less than five business days before the date fixed for the hearing—

- (a) to the housing administrator;
  - (b) to the person who made the housing administration application;
  - (c) to any other housing administrator appointed to act jointly or concurrently, and
  - (d) where there is no other housing administrator appointed to act jointly or concurrently, to the registered provider and all the creditors, including any floating charge holders.
- (3) The court must deliver to the applicant a copy of an order removing the housing administrator.
- (4) The applicant must deliver a copy of the order—
- (a) as soon as reasonably practicable, and in any event within five business days of the copy order being delivered to the applicant, to the housing administrator, and
  - (b) within five business days of the copy order being delivered to the applicant, to—
    - (i) all other persons to whom notice of the application was delivered; and
    - (ii) the relevant registry.

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

**6.5.** A housing administrator who has ceased to be qualified to act as an insolvency practitioner in relation to the registered provider and who gives notice in accordance with paragraph 89 of Schedule B1 must also deliver notice to—

- (a) the Secretary of State;

- (b) the Regulator of Social Housing;
- (c) the relevant registry.

### **Deceased housing administrator**

**6.6.**—(1) If the housing administrator dies, notice of the fact and date of death must be filed with the court.

- (2) The notice must be filed as soon as reasonably practicable by one of the following—
  - (a) a surviving joint housing administrator;
  - (b) a member of the deceased housing administrator’s firm (if the deceased was a member or employee of a firm);
  - (c) an officer of the deceased housing administrator’s company (if the deceased was an officer or employee of a company);
  - (d) a personal representative of the deceased housing administrator.

(3) If such a notice has not been filed within the 21 days following the housing administrator’s death then any other person may file the notice.

(4) The person who files the notice must also deliver a notice to the relevant registry which contains—

- (a) identification details for the proceedings;
- (b) the name of the person who made the housing administration application;
- (c) the date of the appointment of the housing administrator; and
- (d) the fact and date of death.

### **Application to replace**

**6.7.**—(1) Where an application to court is made under paragraph 91(1) of Schedule B1 to appoint a replacement housing administrator, the application must be accompanied by the proposed replacement housing administrator’s consent to act.

- (2) A copy of the application must be delivered—
  - (a) to the person who made the application for the housing administration order; and
  - (b) to those persons set out at rule 2.5(3).

(3) Rules 2.9, 2.10 and 2.11 apply to an application made under paragraph 91(1) of Schedule B1 as they apply to an application for a housing administration order.

### **Appointment of a replacement or additional housing administrator**

**6.8.** Where a replacement housing administrator is appointed or an additional housing administrator is appointed to act jointly or concurrently—

- (a) rule 3.1 applies;
- (b) all documents must clearly identify the appointment as of a replacement housing administrator or an additional housing administrator appointed to act jointly or concurrently.

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

**6.9.**—(1) A housing administrator who ceases to be in office as a result of removal, resignation or ceasing to be qualified to act as an insolvency practitioner in relation to the registered provider must as soon as reasonably practicable deliver to the person succeeding as housing administrator—

- (a) the assets (after deduction of any expenses properly incurred and distributions made by the departing housing administrator);
- (b) the records of the housing administration, including correspondence, proofs and other documents relating to the housing administration while it was within the responsibility of the departing housing administrator; and
- (c) the registered provider's records.

(2) A housing administrator who fails to comply with this rule is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine, as set out in Schedule 1.

## CHAPTER 2

### Remuneration and expenses

#### **Basis of remuneration**

**6.10.**—(1) A housing administrator is entitled to receive remuneration for services provided as housing administrator.

(2) The basis of such remuneration is to be fixed by reference to the time properly given by the housing administrator and the housing administrator's staff in attending to matters arising in the housing administration.

(3) The housing administrator's remuneration must, on the housing administrator's application, be fixed by the court.

(4) The housing administrator must give at least 14 days' notice of the application made under paragraph (3) to the following who may appear or be represented—

- (a) the Secretary of State;
- (b) the Regulator of Social Housing; and
- (c) the creditors of the registered provider.

(5) In fixing the remuneration, the court must have regard to the following matters—

- (a) the complexity (or otherwise) of the case;
- (b) any respects in which, in connection with a registered provider's affairs, there falls on the housing administrator any responsibility of an exceptional kind or degree;
- (c) the effectiveness with which the housing administrator appears to be carrying out, or to have carried out, the housing administrator's duties as such; and
- (d) the value and nature of the property with which the housing administrator has had to deal.

(6) Where there are joint housing administrators, it is for them to agree between themselves as to how the remuneration payable should be apportioned and any dispute arising between them may be referred to the court, for settlement by order.

(7) If the housing administrator is a solicitor and employs the housing administrator's own firm, or any partner in it, to act on behalf of the registered provider, profit costs must not be paid unless this is authorised by the court.

### **Pre-administration costs**

**6.11.** Where the housing administrator has made a statement of pre-administration costs under rule 3.8(10)(a), the housing administrator (where the costs consist of fees charged or expenses incurred by the housing administrator) or other insolvency practitioner (where the costs consist of fees charged or expenses incurred by that practitioner) must, before paying such costs, apply to the court for a determination of whether and to what extent the unpaid pre-administration costs are approved for payment.

### **Remuneration of former housing administrator**

**6.12.** If a housing administrator has ceased to act as such for any reason, the housing administrator (or the housing administrator's estate, as the case may be) is to be entitled to any amounts outstanding on the basis of the services which that housing administrator provided in accordance with rule 6.10.

### **Remuneration of new housing administrator**

**6.13.** If a new housing administrator is appointed in place of another housing administrator, any court order in effect under Rule 6.10 immediately before the former housing administrator ceased to hold office continues to apply in respect of the remuneration of the new housing administrator until a further court order is made in accordance with those provisions.