
STATUTORY INSTRUMENTS

2023 No. 712

**The Relevant Licensee Nuclear Company
Administration (England and Wales) Rules 2023**

PART 12

**Examination of Persons in Relevant Licensee
Nuclear Company Administration Proceedings**

Application and interpretation

138.—(1) The rules in this Part apply to applications to the court, made by the nuclear administrator, for an order under section 236 of the 1986 Act (inquiry into company’s dealings).

(2) In this Part—

- (a) “the respondent” means the person in respect of whom an order under section 236 is applied for;
- (b) “section 236” means section 236 of the 1986 Act.

Contents of application

139.—(1) The application must state the following—

- (a) the grounds on which it is made;
- (b) the name of the respondent;
- (c) which order or combination of orders referred to in paragraph (2) is sought.

(2) The orders are—

- (a) for the respondent to appear before the court;
- (b) for the respondent to clarify any matter which is in dispute in the proceedings or to give additional information in relation to any such matter (if CPR Part 18 (further information) applies to any such order);
- (c) for the respondent to submit witness statements (if so, particulars must be given of the matters to be included);
- (d) for the respondent to produce books, papers or other records (if so, the items in question must be specified).

(3) The application may be made without notice to the respondent or any other party.

Order for examination, etc.

140.—(1) The court may, whatever the order sought in the application, make any order which it has power to make under section 236.

(2) The court, if it orders the respondent to appear before it, must specify a venue for the respondent’s appearance, which must be not less than 14 days from the date of the order.

- (3) If the respondent is ordered to file with the court a witness statement, the order must specify—
 - (a) the matters which are to be dealt with in the respondent’s witness statement, and
 - (b) the time within which it is to be delivered.
- (4) If the order is to produce books, papers or other records, the time and manner of compliance must be specified.
- (5) The order must be served by the nuclear administrator as soon as reasonably practicable on the respondent, and it must be served personally, unless the court otherwise orders.

Procedure for examination

- 141.**—(1) At any examination of the respondent, the nuclear administrator may attend in person, or be represented by an appropriately qualified legal representative, and may put such questions to the respondent as the court may allow.
- (2) Any creditor who has provided information on which the application was made under section 236 may—
 - (a) attend the examination with the permission of the court, and
 - (b) put questions to the respondent, but only through the nuclear administrator.
 - (3) If the respondent is ordered to clarify any matter or to give additional information, the court must direct the respondent as to the questions which the respondent is required to answer, and as to whether the respondent’s answers (if any) are to be made in a witness statement.
 - (4) The respondent may at the respondent’s own expense employ an appropriately qualified legal representative who may—
 - (a) put to the respondent such questions as the court may allow for the purpose of enabling the respondent to explain or qualify any answers given by the respondent, and
 - (b) make representations on the respondent’s behalf.
 - (5) There must be made in writing such record of the examination as the court thinks proper and such record must be read either to or by the respondent and authenticated by the respondent at a venue fixed by the court.
 - (6) The written record may, in any proceedings (whether under the 1986 Act or otherwise), be used as evidence against the respondent of any statement made by the respondent in the course of the respondent’s examination.

Record of examination

- 142.**—(1) Unless the court otherwise directs, the record of questions put to the respondent, the respondent’s answers, and any witness statement delivered to the court by the respondent in compliance with an order of the court under section 236 are not to be filed with the court.
- (2) The documents listed in paragraph (3) are not open to inspection without the permission of the court, except by the nuclear administrator.
 - (3) The documents are as follows—
 - (a) the written record of the respondent’s examination;
 - (b) copies of questions put to the respondent or proposed to be put to the respondent and answers to questions given by the respondent;
 - (c) any witness statement by the respondent;
 - (d) any document on the court file that shows the grounds for the application for the order.

(4) The court may from time to time give directions as to the custody and inspection of any documents to which this rule applies, and as to the provision of copies of, or extracts from, such documents.

Cost of proceedings under section 236

143.—(1) Where the court has ordered an examination of a person under section 236, and it appears to it that the examination was made necessary because information had been unjustifiably refused by the respondent, it may order that the costs of the examination be paid by the respondent.

(2) Where the court makes an order against a person under section 237(1) or (2) of the 1986 Act (court's enforcement powers under section 236), the costs of the application for the order may be ordered by the court to be paid by the respondent.

(3) The nuclear administrator's costs must, unless the court otherwise orders, be paid out of the assets of the relevant licensee nuclear company (subject to paragraphs (1) and (2)).

(4) A person summoned to attend for examination under this Part must be tendered a reasonable sum for travelling expenses incurred in connection with that person's attendance but any other costs falling on that person are at the court's discretion.