
STATUTORY INSTRUMENTS

2023 No. 712

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

PART 2

Application for an RLNC administration order

Form of application

- 5.**—(1) An application for an RLNC administration order must—
- (a) be headed “Relevant licensee nuclear company administration application”;
 - (b) include, immediately below the heading, the full name, registered address, registered number and any other trading names of the relevant licensee nuclear company;
 - (c) state by whom it is made and the applicant’s address for service.
- (2) Where the application is made by the Gas and Electricity Markets Authority, it must contain a statement that it is made with the consent of the Secretary of State.
- (3) The application must contain a statement of the following—
- (a) the nominal capital of the relevant licensee nuclear company, the number of shares into which the capital is divided and the nominal value of each share;
 - (b) the amount of capital paid up or treated as paid up of the relevant licensee nuclear company;
 - (c) the name and address of the proposed nuclear administrator;
 - (d) that—
 - (i) the applicant believes, for the reasons set out in the witness statement in support of the application, that the relevant licensee nuclear company is, or is likely to become, unable to pay its debts, or
 - (ii) the Secretary of State has certified that it would be appropriate to present a petition for the winding up the relevant licensee nuclear company under section 124A of the 1986 Act⁽¹⁾;
 - (e) that the applicant requests the court—
 - (i) to make an RLNC administration order in relation to the relevant licensee nuclear company,
 - (ii) to appoint the proposed person to be the nuclear administrator, and
 - (iii) to make such ancillary order as the applicant may request, and such other order as the court thinks appropriate.
- (4) The application must be—

(1) Section 124A was inserted by the Companies Act 1989 (c. 40), sections 60(3) and 213(2). It was amended by S.I. 2001/3649 and the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), Schedule 2, paragraph 27.

- (a) authenticated by the applicant, or the applicant's solicitor, and
- (b) dated.

Proposed nuclear administrator's statement and consent to act

6.—(1) References in this Part to a “statement and consent to act” are to a statement by a proposed nuclear administrator which complies with the requirements of paragraphs (2) to (4).

- (2) The statement must—
 - (a) be headed “Proposed nuclear administrator's statement and consent to act”;
 - (b) include, immediately below the heading, the full name, registered address, registered number and any other trading names of the relevant licensee nuclear company.
- (3) The statement must contain the following—
 - (a) a certificate that the proposed nuclear administrator is qualified to act as an insolvency practitioner in relation to the relevant licensee nuclear company;
 - (b) the proposed nuclear administrator's IP number;
 - (c) the name of the relevant recognised professional body which is the source of the proposed nuclear administrator's authorisation to act in relation to the relevant licensee nuclear company;
 - (d) a statement that the proposed nuclear administrator consents to act as the nuclear administrator of the relevant licensee nuclear company;
 - (e) a statement whether or not the proposed nuclear administrator has had any prior professional relationship with the relevant licensee nuclear company and, if so, a short summary of that relationship;
 - (f) the name of the applicant;
 - (g) a statement that the proposed nuclear administrator is of the opinion that the objective of the relevant licensee nuclear company administration is reasonably likely to be achieved in the particular case.
- (4) The statement must be authenticated and dated by the proposed nuclear administrator.
- (5) Where a number of persons are proposed to be appointed to act jointly or concurrently as the nuclear administrator each must make a separate statement and consent to act.

Witness statement in support of application

7.—(1) An application for an RLNC administration order must be accompanied by a witness statement which complies with paragraphs (2) and (3).

- (2) The witness statement must state—
 - (a) the nature of the authority of the person making it, and
 - (b) the means of that person's knowledge of the matters to which the witness statement relates.
- (3) The witness statement must set out the following—
 - (a) the financial position of the relevant licensee nuclear company, specifying, to the best of the applicant's knowledge and belief, the relevant licensee nuclear company's assets and liabilities, including contingent and prospective liabilities;
 - (b) details of any security known or believed to be held by creditors of the relevant licensee nuclear company and whether in any case the security is such as to confer power on the holder to appoint an administrative receiver or to appoint an administrator under paragraph 14 of Schedule B1 to the 1986 Act;

- (c) if a monitor under a moratorium under Part A1 of the 1986 Act(2) has been appointed, a statement that this is the case;
- (d) if an administrative receiver has been appointed, a statement that this is the case;
- (e) details of any insolvency proceedings in relation to the relevant licensee nuclear company, including any petition that has been presented for the winding up of the relevant licensee nuclear company, so far as known to the applicant;
- (f) details of any notice served in accordance with section 164 of the 2004 Act by any person intending to enforce any security over the relevant licensee nuclear company's assets, so far as within the immediate knowledge of the applicant;
- (g) details of any step taken to enforce any security over the relevant licensee nuclear company's assets, so far as within the immediate knowledge of the applicant;
- (h) details of any application for permission of the court to pass a resolution for the voluntary winding up of the relevant licensee nuclear company, so far as within the immediate knowledge of the applicant;
- (i) where it is intended to appoint a number of persons as nuclear administrators, details of the matters set out in section 158(5) of the 2004 Act regarding the exercise of the powers and duties of the nuclear administrator;
- (j) any other matters which, in the opinion of those intending to make the application for an RLNC administration order, will assist the court in deciding whether to make such an order, so far as within the knowledge or belief of the applicant.

Filing of application

- 8.—**(1) An application for an RLNC administration order must be commenced in the High Court.
- (2) The application must be filed with the court together with—
- (a) the witness statement in support (see rule 7);
 - (b) the proposed nuclear administrator's statement and consent to act (see rule 6).
- (3) An application filed with the court in hard copy must be accompanied by a sufficient number of copies of the application and the witness statement for service in accordance with rule 9.
- (4) The court must fix a venue for the hearing of the application.
- (5) Each copy of the application filed with the court must—
- (a) have applied to it the seal of the court;
 - (b) be endorsed with—
 - (i) the date and time of filing;
 - (ii) the venue fixed by the court;
 - (c) be delivered by the court to the applicant.
- (6) After the application has been filed and until an order is made, it is the duty of the applicant to file with the court notice of the existence of any insolvency proceedings in relation to the relevant licensee nuclear company, as soon as the applicant becomes aware of them.

Service of application

- 9.—**(1) In paragraphs (2) to (4), references to the application are to a copy of the application delivered by the court to the applicant under rule 8(5)(c) and the witness statement required by rule 7(1).

(2) 1986 c. 45. Part A1 was inserted by section 1(1) of the Corporate Insolvency and Governance Act 2020 (c. 12).

(2) Notification for the purposes of section 156(2) of the 2004 Act must be by service of the application.

(3) In addition to those persons referred to in section 156(2) of the 2004 Act, the applicant must serve the application—

- (a) on the person proposed as nuclear administrator;
- (b) on the relevant licensee nuclear company;
- (c) if an administrative receiver has been appointed, on the administrative receiver;
- (d) if there is pending an administration application under Schedule B1 to the 1986 Act, without the modifications made by Schedule 20 to the 2004 Act, on the applicant;
- (e) if there is pending a petition for the winding up of the relevant licensee nuclear company, on—
 - (i) the petitioner, and
 - (ii) any provisional liquidator;
- (f) if a monitor under a moratorium under Part A1 of the 1986 Act has been appointed, on that person;
- (g) if a supervisor of a voluntary arrangement under Part 1 of the 1986 Act has been appointed, on that person;
- (h) on any creditor who has served notice in accordance with section 164 of the 2004 Act of the creditor's intention to enforce the creditor's security over property of the relevant licensee nuclear company;
- (i) if the applicant is the Secretary of State, on the Gas and Electricity Markets Authority;
- (j) if the applicant is the Gas and Electricity Markets Authority, the Secretary of State.

(4) A certificate of service which complies with the requirements in rule 162 must be filed with the court as soon as reasonably practicable after service, and, in any event, no later than the business day before the hearing of the application.

Notice to officers charged with distress or other legal process

10. The applicant must as soon as reasonably practicable after filing the application deliver a notice of it being made to—

- (a) any enforcement agent, enforcement officer or other officer who to the applicant's knowledge is charged with distress or other legal process against the relevant licensee nuclear company or its property;
- (b) any person who to the applicant's knowledge has distrained against the relevant licensee nuclear company or its property.

The hearing

11.—(1) At the hearing of the relevant licensee nuclear company administration application, any of the following may appear or be represented—

- (a) the person proposed for appointment as nuclear administrator;
- (b) the relevant licensee nuclear company;
- (c) the Secretary of State;
- (d) the Gas and Electricity Markets Authority;
- (e) one or more of the directors of the relevant licensee nuclear company;
- (f) any person that is the holder of a qualifying floating charge;

- (g) if an administrative receiver has been appointed, that person;
 - (h) any person who has applied to the court for an administration order under Schedule B1 to the 1986 Act, without the modifications made by Schedule 20 to the 2004 Act;
 - (i) any person who has presented a petition for the winding up of the relevant licensee nuclear company;
 - (j) if a monitor under a moratorium under Part A1 of the 1986 Act has been appointed, on that person;
 - (k) any supervisor of a voluntary arrangement under Part 1 of the 1986 Act;
 - (l) any creditor who has served notice in accordance with section 164 of the 2004 Act of the creditor's intention to enforce the creditor's security over the property of the relevant licensee nuclear company;
 - (m) with the permission of the court, any other person who appears to have an interest justifying the person's appearance.
- (2) Where the court makes an RLNC administration order, the order must—
- (a) be headed "Relevant licensee nuclear company administration order";
 - (b) include immediately below the heading—
 - (i) the full name, registered address, registered number and any other trading names of the relevant licensee nuclear company;
 - (ii) details of the court where the proceedings are and the relevant court reference number, and
 - (c) set out each matter specified in paragraph (3) and, where applicable, paragraph (4).
- (3) The matters are—
- (a) the name and title of the judge making the order;
 - (b) the address for service of the applicant;
 - (c) details of any other parties, including the relevant licensee nuclear company, appearing and, where applicable, by whom each such party is represented;
 - (d) an order that during the period the order is in force the affairs, business and property of the relevant licensee nuclear company are to be managed by the nuclear administrator;
 - (e) the name of the person appointed as nuclear administrator;
 - (f) an order that the person is appointed as nuclear administrator of the relevant licensee nuclear company;
 - (g) the date of the order, and, if the court so directs, the time;
 - (h) such other provisions, if any, as the court thinks just.
- (4) Where two or more nuclear administrators are appointed the order must also specify—
- (a) which functions, if any, are to be exercised by those persons acting jointly, and
 - (b) which functions, if any, are to be exercised by any or all of those persons.
- (5) If the court makes an RLNC administration order, the costs of the applicant, and of any other persons whose costs are allowed by the court, are payable as an expense of the relevant licensee nuclear company administration.

Notice of relevant licensee nuclear company administration order

12.—(1) If the court makes an RLNC administration order, it must as soon as reasonably practicable deliver two sealed copies of the order to the person who made the application.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (2) The applicant must deliver as soon as reasonably practicable—
 - (a) a sealed copy of the order to the person appointed as nuclear administrator;
 - (b) if joint nuclear administrators have been appointed, a sealed copy to one and a copy of the sealed copy to any other nuclear administrator so appointed.
- (3) If the court makes an order under section 157(1)(d) of the 2004 Act or any other order under section 157(1)(f) of the 2004 Act, it must give directions as to the persons to whom, and how, notice of that order is to be delivered.