
STATUTORY INSTRUMENTS

2006 No. 772

The Energy Administration (Scotland) Rules 2006

PART 7

Ending Energy Administration

Final progress reports

- 44.**—(1) In this Part reference to a progress report is to a report in the form specified in Rule 27.
- (2) The final progress report means a progress report which includes a summary of—
- (a) the energy administrator's original proposals;
 - (b) any major amendments to, or deviations from, those proposals;
 - (c) the steps taken during the energy administration; and
 - (d) the outcome.

Application to court

45.—(1) An application under paragraph 79 of Schedule B1 to the 1986 Act for an order providing for the appointment of an energy administrator of the protected energy company to cease to have effect shall be accompanied by a progress report for the period since the last such report (if any) and a statement indicating what the applicant thinks should be the next steps for the protected energy company (if applicable).

- (2) Subject to paragraph (3), where the applicant applies to the court he shall give to—
- (a) the applicant for the energy administration order (unless the applicant in both cases is the same); and
 - (b) the creditors of the protected energy company,
- at least 7 days' written notice of his intention so to apply.

- (3) Where an applicant other than the energy administrator applies to the court—
- (a) the applicant shall give to the energy administrator at least 7 days' written notice of his intention so to apply; and
 - (b) upon receipt of such written notice the energy administrator shall, before the end of the 7 day notice period, provide the applicant with a progress report for the period since the last progress report (if any) or the date the protected energy company entered energy administration.

(4) Where the application is made other than by the Secretary of State, it shall also state that it is made with the consent of the Secretary of State.

(5) Where the energy administrator applies to court under paragraph 79 of Schedule B1 to the 1986 Act in conjunction with a petition under section 124 of the 1986 Act for an order to wind up the protected energy company, he shall, in addition to the requirements of paragraphs (2) and (4), notify the creditors of whether he intends to seek appointment as liquidator.

Notification by energy administrator of court order

46.—(1) Where the court makes an order to end the energy administration, the energy administrator shall notify the registrar of companies in Form EA16(S), attaching a copy of the court order and a copy of the final progress report.

(2) Where the court makes an order to end the energy administration and the applicant was not the energy administrator then that applicant shall give a copy of the order to the energy administrator.

Moving from energy administration to creditors' voluntary liquidation

47.—(1) A notice pursuant to paragraph 83(3) of Schedule B1 to the 1986 Act shall be in Form EA17(S) and shall be accompanied by a final progress report which includes details of the assets to be dealt with in the liquidation.

(2) As soon as reasonably practicable, the energy administrator shall send a copy of the notice and accompanying documents to—

- (a) all those who received notice of the energy administrator's appointment;
- (b) where the Secretary of State did not receive notice of the energy administrator's appointment, to the Secretary of State; and
- (c) where GEMA did not receive notice of the energy administrator's appointment, to GEMA.

(3) For the purposes of paragraph 83(7) of Schedule B1 to the 1986 Act, a person shall be nominated as liquidator in accordance with the provisions of Rule 14(1)(l) or Rule 26(2)(h) and his appointment takes effect—

- (a) by virtue of the energy administrator's proposals or revised proposals; or
- (b) where a creditors' meeting is held in accordance with Rule 20, as a consequence of such a meeting.

(4) GEMA must notify the Secretary of State before consenting to the energy administrator sending a notice of moving from energy administration to creditors' voluntary liquidation to the registrar of companies.

Moving from energy administration to dissolution

48.—(1) The notice required by paragraph 84(1) of Schedule B1 to the 1986 Act shall be in Form EA18(S) and shall be accompanied by a final progress report.

(2) As soon as reasonably practicable a copy of the notice and accompanying documents shall be sent to—

- (a) all those who received notice of the energy administrator's appointment;
- (b) where the Secretary of State did not receive notice of the energy administrator's appointment, the Secretary of State; and
- (c) where GEMA did not receive notice of the energy administrator's appointment, to GEMA.

(3) Where the court makes an order under paragraph 84(7) of Schedule B1 to the 1986 Act it shall, where the applicant is not the energy administrator, give a copy of the order to the energy administrator.

(4) The notice required by paragraph 84(8) of Schedule B1 to the 1986 Act shall be in Form EA19(S).

(5) GEMA must notify the Secretary of State before directing the energy administrator to send a notice of moving from energy administration to dissolution to the registrar of companies.

Provision of information to the Secretary of State

49. Where the energy administration ends pursuant to paragraphs 79, 83 or 84 of Schedule B1 to the 1986 Act, the energy administrator shall, within 5 business days from the date of the end of the energy administration, provide the Secretary of State with the following information–

- (a) a breakdown of the relevant debts (within the meaning of section 169(4) of the 2004 Act) of the protected energy company, which remain outstanding; and
- (b) details of any shortfall (within the meaning of section 169(3)(a) of the 2004 Act) in the property of the protected energy company available for meeting those relevant debts.