
STATUTORY INSTRUMENTS

2023 No. 712

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

PART 7

Claims by and Distributions to Creditors

CHAPTER 1

Machinery of Proving a Debt

Proving a debt

44.—(1) A person claiming to be a creditor of the relevant licensee nuclear company and wishing to recover the debt in whole or part must submit a claim in writing to the nuclear administrator, unless paragraph (6) applies or an order of the court provides otherwise.

(2) A creditor who claims for a debt is referred to as “proving” for that debt and a document by which a creditor seeks to establish a claim is the creditor’s “proof”.

(3) A proof must—

(a) be made out and dated by, or under the direction of, the creditor and be authenticated by the creditor or a person authorised on the creditor’s behalf;

(b) state the following matters—

(i) the creditor’s name and address;

(ii) if the creditor is a company, its registered number;

(iii) the total amount of the creditor’s claim (including any value added tax) as at the date on which the relevant licensee nuclear company entered relevant licensee nuclear company administration, less any payments made after that date in respect of the claim, any deduction under rule 54 and any adjustment by way of set off in accordance with rule 55;

(iv) whether or not the claim includes outstanding uncapitalised interest;

(v) particulars of how and when the debt was incurred by the relevant licensee nuclear company;

(vi) particulars of any security held, the date on which it was given and the value which the creditor puts on it;

(vii) details of any reservation of title in respect of goods to which the debt refers;

(viii) the name, address and authority of the person authenticating the proof (if a person other than the creditor).

(4) The proof must specify details of any document by reference to which the debt can be substantiated, but the document need not be delivered with the proof unless the nuclear administrator has requested it.

(5) The nuclear administrator may call for the creditor to produce any document or other evidence which the nuclear administrator considers is necessary to substantiate the whole or any part of a claim.

(6) A creditor is deemed to have proved for the purposes of determination and payment of a dividend but not otherwise where—

- (a) the debt is a small debt,
- (b) a notice has been delivered to the creditor under rule 69 which complies with rule 70, and
- (c) the creditor has not advised the nuclear administrator that the debt is incorrect or not owed.

(7) For the purposes of this Part, “small debt” means a debt, being the total amount owed to a creditor, which does not exceed £1,000 (which amount is prescribed for the purposes of paragraph 13A of Schedule 8 to the 1986 Act⁽¹⁾).

Provable debts

45.—(1) In relevant licensee nuclear company administration proceedings all claims by creditors are provable as debts against the relevant licensee nuclear company, whether they are present or future, certain or contingent, ascertained or sounding only in damages, subject to the following.

(2) Any obligation arising under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002⁽²⁾ is not provable.

(3) The following are not provable except at a time when all other claims of creditors in the relevant licensee nuclear company administration proceedings (other than any of a kind mentioned in this paragraph) have been paid in full, with interest under rule 58—

- (a) any claim arising by virtue of section 382(1)(a) of the Financial Services and Markets Act 2000⁽³⁾, not being a claim also arising by virtue of section 382(1)(b) of that Act;
- (b) any claim which by virtue of the 1986 Act or any other enactment is a claim the payment of which is to be postponed.

(4) Nothing in this rule prejudices any enactment or rule of law under which a particular kind of debt is not provable, whether on grounds of public policy or otherwise.

Costs of proving

46. Unless the court otherwise orders—

- (a) every creditor bears the cost of proving the creditor’s own debt, including costs incurred in providing documents or evidence under rule 44(5), and
- (b) costs incurred by the nuclear administrator in estimating the value of a debt under rule 53 are payable out of the assets as an expense of the relevant licensee nuclear company administration.

Nuclear administrator to allow inspection of proofs

47. The nuclear administrator must, so long as proofs delivered to the nuclear administrator are in the possession of the nuclear administrator, allow them to be inspected, at all reasonable times on any business day, by any of the following persons—

- (a) any creditor who has delivered a proof, unless the creditor’s proof has been—
 - (i) wholly rejected for purposes of dividend or otherwise, or

⁽¹⁾ Paragraph 13A was inserted into Schedule 8 by the Small Business, Enterprise and Employment Act 2015, section 131.

⁽²⁾ 2002 c. 29.

⁽³⁾ 2000 c. 8. Section 382(1) was amended by the Financial Services Act 2012, Schedule 9, paragraph 21.

- (ii) withdrawn;
- (b) any contributory of the relevant licensee nuclear company;
- (c) any person acting on behalf of either of the above.

Appointment of new nuclear administrator: proofs

48.—(1) If a new nuclear administrator is appointed in place of another, the former nuclear administrator must as soon as reasonably practicable deliver to the new nuclear administrator all proofs which the former nuclear administrator has received, together with a list of them.

(2) As soon as reasonably practicable following receipt of the list and all of the proofs listed by it, the list must be authenticated by the new nuclear administrator and returned to the former nuclear administrator.

Admission and rejection of proofs for dividend

49.—(1) The nuclear administrator may admit or reject a proof for dividend, in whole or in part.

(2) If the nuclear administrator rejects a proof in whole or in part, the nuclear administrator must deliver to the creditor a statement of the nuclear administrator's reasons for doing so, as soon as reasonably practicable.

Appeal against decision on proof

50.—(1) If a creditor is dissatisfied with the nuclear administrator's decision with respect to the creditor's proof (including any decision on whether the debt is preferential), the creditor may apply to the court for the decision to be reversed or varied.

(2) A member or any other creditor may, if dissatisfied with the nuclear administrator's decision admitting or rejecting the whole or any part of a proof, apply to court for the decision to be reversed or varied.

(3) An application to court—

- (a) under paragraph (1) must be made within the period of 21 days of the creditor receiving the statement delivered under rule 49(2);
- (b) under paragraph (2) must be made within the period of 21 days of the member or other creditor (as the case may be) becoming aware of the nuclear administrator's decision.

(4) Where an application is made to the court under this rule, the court must fix a venue for the application to be heard.

(5) The applicant must send notice of the venue fixed under paragraph (4) to—

- (a) the nuclear administrator;
- (b) if the applicant is not the creditor who delivered the proof in question, that creditor.

(6) The nuclear administrator must, on receipt of the notice, file the relevant proof with the court, together (if appropriate) with a copy of the statement sent under rule 49(2).

(7) Where the application is made by a member, the court must not disallow the proof (in whole or in part) unless the member shows that there is (or would be but for the amount claimed in the proof), or that it is likely that there will be (or would be but for the amount claimed in the proof), a surplus of assets to which the relevant licensee nuclear company would be entitled.

(8) After the application has been heard and determined, the proof must, unless it has been wholly disallowed, be returned by the court to the nuclear administrator.

(9) The nuclear administrator is not personally liable for costs incurred by any person in respect of an application under this rule unless the court otherwise orders.

Withdrawal or variation of proof

51.—(1) A creditor may withdraw a proof at any time by delivering a written notice to the nuclear administrator.

(2) The amount claimed by a creditor’s proof may be varied at any time by agreement between the creditor and the nuclear administrator.

Exclusion of proof by the court

52.—(1) The court may exclude a proof or reduce the amount claimed—

- (a) on the nuclear administrator’s application, where the nuclear administrator thinks that the proof has been improperly admitted, or ought to be reduced;
- (b) on the application of a creditor or member, if the nuclear administrator declines to interfere in the matter.

(2) Where application is made to the court under this rule, the court must fix a venue for the application to be heard, notice of which must be sent by the applicant—

- (a) in the case of an application by the nuclear administrator, to the creditor who submitted the proof;
- (b) in the case of an application by a creditor or member, to the nuclear administrator and to the creditor who submitted the proof (if that creditor is not the applicant).