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## STATUTORY INSTRUMENTS

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# 2006 No. 3336

## The Water and Sewerage Services (Northern Ireland) Order 2006

### PART III

#### APPOINTMENT AND REGULATION OF UNDERTAKERS

##### CHAPTER II

##### ENFORCEMENT AND INSOLVENCY

##### *Special administration orders*

#### **Special administration orders made on application of Department or Authority**

**42.—**(1) If, on an application made to the High Court—

- (a) by the Department; or
- (b) with the consent of the Department, by the Authority,

that Court is satisfied in relation to any company which holds an appointment under Chapter I that any one or more of the grounds specified in paragraph (2) is satisfied in relation to that company, that Court may make a special administration order in relation to that company.

(2) The grounds mentioned in paragraph (1) are, in relation to any company—

- (a) that there has been, is or is likely to be such a contravention by the company of any principal duty, not being a contravention in respect of which a notice has been served under paragraph (3) of Article 31, as is serious enough to make it inappropriate for the company to continue to hold its appointment;
- (b) that there has been, is or is likely to be such a contravention by the company of the provisions of any enforcement order which—

- (i) is not for the time being the subject-matter of proceedings brought by virtue of Article 33(1); and

- (ii) if it is a provisional enforcement order, has been confirmed,

as is serious enough to make it inappropriate for the company to continue to hold its appointment;

- (c) that the company is or is likely to be unable to pay its debts;
- (d) that, in a case in which DETI has certified that it would be appropriate, but for Article 43, for it to petition for the winding up of the company under Article 104A of the Insolvency (Northern Ireland) Order 1989 (NI 19) (winding-up on grounds of public interest), it would be just and equitable, as mentioned in that Article, for the company to be wound up if it did not hold an appointment under Chapter I; or

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**Changes to legislation:** The Water and Sewerage Services (Northern Ireland) Order 2006, Section 42 is up to date with all changes known to be in force on or before 02 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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- (e) that the company is unable or unwilling adequately to participate in arrangements certified by the Department or the Authority to be necessary by reason of, or in connection with, a proposal for the making by virtue of Article 14(4)(d) of any appointment or variation replacing a company as a relevant undertaker.
- (3) Notice of any application under this Article for a special administration order shall be given forthwith to such persons and in such manner as may be prescribed by rules made under Article 359 of the Insolvency (Northern Ireland) Order 1989 (NI 19); and no such application shall be withdrawn except with the leave of the High Court.
- (4) For the purposes of this Article a company is unable to pay its debts if—
  - (a) it is a limited company which is deemed to be so unable under Article 103 of the Insolvency (Northern Ireland) Order 1989 (NI 19) (definition of inability to pay debts); or
  - (b) it is an unregistered company which is deemed, by virtue of any of Articles 186 to 188 of that Order, to be so unable for the purposes of Article 185 of that Order (winding up of unregistered companies).
- (5) In this Article “principal duty”, in relation to a company, means a requirement imposed on the company by Article 65 or 149.

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#### Commencement Information

- II** [Art. 42](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 293(10A) inserted by [2015 c. 8 \(N.I.\) Sch. 3 para. 2\(b\)](#)