



Energy Act 2004

2004 CHAPTER 20

PART 3

ENERGY REGULATION

CHAPTER 3

SPECIAL ADMINISTRATION REGIME FOR ENERGY LICENSEES

Restrictions on other insolvency procedures

160 Restrictions on winding-up orders

- (1) This section applies where a petition for the winding-up of a protected energy company is presented by a person other than the Secretary of State.
- (2) The court is not to exercise its powers on a winding-up petition unless—
 - (a) notice of the petition has been served both on the Secretary of State and on GEMA; and
 - (b) a period of at least fourteen days has elapsed since the service of the last of those notices to be served.
- (3) If an application for an energy administration order in relation to the company is made to the court in accordance with section 156(1) before a winding-up order is made on the petition, the court may exercise its powers under section 157, instead of exercising its powers on a winding-up petition.
- (4) References in this section to the court's powers on a winding-up petition are references to—
 - (a) its powers under section 125 of the 1986 Act (other than its power of adjournment); and
 - (b) its powers under section 135 of that Act.

Changes to legislation: Energy Act 2004, Cross Heading: Restrictions on other insolvency procedures is up to date with all changes known to be in force on or before 19 April 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

Modifications etc. (not altering text)

- C1 Pt. 3 Ch. 3: power to modify conferred (31.3.2022 for specified purposes, 1.6.2022 in so far as not already in force) by [Nuclear Energy \(Financing\) Act 2022 \(c. 15\)](#), **ss. 38**, [44\(1\)\(c\)\(2\)\(c\)](#)
- C2 Pt. 3 Ch. 3 power to apply and modify conferred (26.12.2023) by [Energy Act 2023 \(c. 52\)](#), **ss. 48**, [334\(3\)\(a\)](#)
- C3 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1](#), **184** (with [rules 3](#), [187](#))
- C4 Ss. 156-167 applied (with modifications) (18.12.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 96(1)-(4)**, [121\(3\)](#)
- C5 Ss. 154-171 modified (7.6.2013) by [The Energy Supply Company Administration Rules 2013 \(S.I. 2013/1046\)](#), [rules 1](#), **205(2)-(4)** (with [rules 3](#), [208](#))
- C6 Ss. 156-167 applied (with modifications) (23.7.2018) by [Smart Meters Act 2018 \(c. 14\)](#), **ss. 4(1)-(4)**, [14\(5\)](#)
- C7 Ss. 154-171 modified (E.W.) (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), [rules 1](#), **3(2)-(4)** (with [rule 4\(1\)](#))
- C8 Ss. 156-167 applied (with modifications) (31.3.2022 for specified purposes, 1.6.2022 in so far as not already in force) by [Nuclear Energy \(Financing\) Act 2022 \(c. 15\)](#), **ss. 33(1)-(5)**, [44\(1\)\(c\)\(2\)\(c\)](#)
- C9 Ss. 156-167 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), [s. 334\(2\)\(l\)](#), **Sch. 18 para. 50**
- C10 Ss. 156-167 applied (with modifications) (26.12.2023) by [Energy Act 2023 \(c. 52\)](#), **ss. 44**, [334\(3\)\(a\)](#)

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- II S. 160 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), **Sch. 1**

161 Restrictions on voluntary winding up

- (1) A protected energy company has no power to pass a resolution for voluntary winding up without the permission of the court.
- (2) Such permission may be granted only on an application made by the company.
- (3) The court is not to grant permission on such an application unless—
 - (a) notice of the application has been served both on the Secretary of State and on GEMA; and
 - (b) a period of at least fourteen days has elapsed since the service of the last of those notices to be served.
- (4) If an application for an energy administration order in relation to the company is made to the court in accordance with section 156(1) after an application for permission under this section has been made and before it is granted, the court may exercise its powers under section 157, instead of granting permission.
- (5) In this section “a resolution for voluntary winding up” has the same meaning as in the 1986 Act.

Modifications etc. (not altering text)

- C3 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1](#), **184** (with [rules 3](#), [187](#))
- C4 Ss. 156-167 applied (with modifications) (18.12.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 96(1)-(4)**, [121\(3\)](#)

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- C5 Ss. 154-171 modified (7.6.2013) by [The Energy Supply Company Administration Rules 2013 \(S.I. 2013/1046\)](#), rules 1, **205(2)-(4)** (with rules 3, 208)
- C6 Ss. 156-167 applied (with modifications) (23.7.2018) by [Smart Meters Act 2018 \(c. 14\)](#), **ss. 4(1)-(4)**, 14(5)
- C7 Ss. 154-171 modified (E.W.) (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), rules 1, **3(2)-(4)** (with rule 4(1))
- C8 Ss. 156-167 applied (with modifications) (31.3.2022 for specified purposes, 1.6.2022 in so far as not already in force) by [Nuclear Energy \(Financing\) Act 2022 \(c. 15\)](#), **ss. 33(1)-(5)**, 44(1)(c)(2)(c)
- C9 Ss. 156-167 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(1), **Sch. 18 para. 50**
- C10 Ss. 156-167 applied (with modifications) (26.12.2023) by [Energy Act 2023 \(c. 52\)](#), **ss. 44**, 334(3)(a)

Commencement Information

- I2 S. 161 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

162 Restrictions on making of ordinary administration orders

- (1) This section applies where an ordinary administration application is made in relation to a protected energy company by a person other than the Secretary of State.
- (2) The court must dismiss the application if—
 - (a) an energy administration order is in force in relation to the company; or
 - (b) an energy administration order has been made in relation to the company but is not yet in force.
- (3) Where subsection (2) does not apply, the court, on hearing the application, must not exercise its powers under paragraph 13 of Schedule B1 to the 1986 Act (other than its power of adjournment) unless—
 - (a) notice of the application has been served both on the Secretary of State and on GEMA;
 - (b) a period of at least fourteen days has elapsed since the service of the last of those notices to be served; and
 - (c) there is no application for an energy administration order that is outstanding.
- (4) Paragraph 44 of Schedule B1 to the 1986 Act (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for an energy administration order.
- (5) Upon the making of an energy administration order in relation to a protected energy company, the court must dismiss any ordinary administration application made in relation to that company which is outstanding.
- (6) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the 1986 Act.

Modifications etc. (not altering text)

- C3 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with rules 3, 187)
- C4 Ss. 156-167 applied (with modifications) (18.12.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 96(1)-(4)**, 121(3)
- C5 Ss. 154-171 modified (7.6.2013) by [The Energy Supply Company Administration Rules 2013 \(S.I. 2013/1046\)](#), rules 1, **205(2)-(4)** (with rules 3, 208)

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- C6** Ss. 156-167 applied (with modifications) (23.7.2018) by [Smart Meters Act 2018 \(c. 14\), ss. 4\(1\)-\(4\), 14\(5\)](#)
- C7** Ss. 154-171 modified (E.W.) (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\), rules 1, 3\(2\)-\(4\)](#) (with rule 4(1))
- C8** Ss. 156-167 applied (with modifications) (31.3.2022 for specified purposes, 1.6.2022 in so far as not already in force) by [Nuclear Energy \(Financing\) Act 2022 \(c. 15\), ss. 33\(1\)-\(5\), 44\(1\)\(c\)\(2\)\(c\)](#)
- C9** Ss. 156-167 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(1\), Sch. 18 para. 50](#)
- C10** Ss. 156-167 applied (with modifications) (26.12.2023) by [Energy Act 2023 \(c. 52\), ss. 44, 334\(3\)\(a\)](#)

Commencement Information

- I3** S. 162 in force at 5.10.2004 by [S.I. 2004/2575, art. 2\(1\), Sch. 1](#)

163 Restrictions on administrator appointments by creditors etc.

- (1) No step is to be taken by any person to make an appointment in relation to a company under paragraph 14 or 22 of Schedule B1 to the 1986 Act (powers of holder of floating charge and of the company itself and of its directors to appoint administrators) if—
 - (a) an energy administration order is in force in relation to the company;
 - (b) an energy administration order has been made in relation to the company but is not yet in force; or
 - (c) an application for such an order is outstanding.
- (2) In the case of a protected energy company to which subsection (1) does not apply, an appointment in relation to that company under paragraph 14 or 22 of Schedule B1 to the 1986 Act takes effect only if each of the conditions mentioned in subsection (3) is met.
- (3) Those conditions are—
 - (a) that a copy of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the 1986 Act (documents to be filed or lodged for appointment of administrator) has been served both on the Secretary of State and on GEMA;
 - (b) that a period of fourteen days has elapsed since the service of the last of those copies to be served;
 - (c) that there is no outstanding application to the court for an energy administration order in relation to the company in question; and
 - (d) that the making of an application for such an order has not resulted in the making of an energy administration order which is in force or is still to come into force.
- (4) Paragraph 44 of Schedule B1 to the 1986 Act (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for an energy administration order at any time before the appointment takes effect.

Modifications etc. (not altering text)

- C3** Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\), rules 1, 184](#) (with [rules 3, 187](#))
- C4** Ss. 156-167 applied (with modifications) (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 96\(1\)-\(4\), 121\(3\)](#)

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- C7** Ss. 154-171 modified (E.W.) (1.8.2020) by [The Smart Meter Communication Licensee Administration \(England and Wales\) Rules 2020 \(S.I. 2020/629\)](#), rules 1, **3(2)-(4)** (with rule 4(1))
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- C9** Ss. 156-167 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(1), **Sch. 18 para. 50**
- C10** Ss. 156-167 applied (with modifications) (26.12.2023) by [Energy Act 2023 \(c. 52\)](#), **ss. 44**, 334(3)(a)

Commencement Information

- I4** S. 163 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

164 Restrictions on enforcement of security

- (1) No step to enforce a security over property of a protected energy company is to be taken by any person, unless—
 - (a) notice of his intention to do so has been served both on the Secretary of State and on GEMA; and
 - (b) a period of at least fourteen days has elapsed since the service of the last of those notices to be served.
- (2) In the case of a protected energy company which is a non-GB company, the reference in subsection (1) to the property of the company is a reference only to its property in Great Britain.

Modifications etc. (not altering text)

- C3** Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with rules 3, 187)
- C4** Ss. 156-167 applied (with modifications) (18.12.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 96(1)-(4)**, 121(3)
- C5** Ss. 154-171 modified (7.6.2013) by [The Energy Supply Company Administration Rules 2013 \(S.I. 2013/1046\)](#), rules 1, **205(2)-(4)** (with rules 3, 208)
- C6** Ss. 156-167 applied (with modifications) (23.7.2018) by [Smart Meters Act 2018 \(c. 14\)](#), **ss. 4(1)-(4)**, 14(5)
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- C10** Ss. 156-167 applied (with modifications) (26.12.2023) by [Energy Act 2023 \(c. 52\)](#), **ss. 44**, 334(3)(a)

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- I5** S. 164 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

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

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

- s. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)