



# Enterprise and Regulatory Reform Act 2013

## 2013 CHAPTER 24

### PART 6

#### MISCELLANEOUS AND GENERAL

##### *Insolvency: protection of essential supplies*

#### **92 Power to add to supplies protected under Insolvency Act 1986**

- (1) The Secretary of State may by order amend section 233 of the Insolvency Act 1986 so as to add to the supplies mentioned in subsection (3) of that section any of the following—
  - (a) a supply of gas, electricity, water or communication services by a specified description of person;
  - (b) a supply of a specified description of goods or services by a specified description of person where the supply is for the purpose of enabling or facilitating anything to be done by electronic means.
- (2) The Secretary of State may by order amend section 372 of that Act of 1986 so as to add to the supplies mentioned in subsection (4) of that section any of the following—
  - (a) a supply of gas, electricity, water or communication services by a specified description of person;
  - (b) a supply of a specified description of goods or services by a specified description of person where the supply is for the purpose of enabling or facilitating anything to be done by electronic means.
- (3) The power to make an order under this section includes power to make incidental, supplementary, consequential, transitional or saving provision, including doing so by amending any enactment.
- (4) An order under this section must be made by statutory instrument.

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*Changes to legislation:* There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Cross Heading: Insolvency: protection of essential supplies. (See end of Document for details)

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- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) In this section—
- “enactment” includes—
- (a) an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978),
  - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament, and
  - (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales; and
- “specified” means specified in the order.

### **93 Corporate insolvency: power to give further protection to essential supplies**

- (1) The Secretary of State may by order make provision for insolvency-related terms of a contract for the supply of essential goods or services to a company to cease to have effect where—
- (a) the company enters administration or a voluntary arrangement under Part 1 of the Insolvency Act 1986 takes effect in relation to it, and
  - (b) any conditions specified in the order are met.
- (2) The order must include provision for securing that, where an insolvency-related term of a contract ceases to have effect under the order, the contract may be terminated by the supplier if—
- (a) an insolvency office-holder consents to the termination,
  - (b) a court grants permission for the termination, or
  - (c) any charges in respect of the supply that are incurred after the company enters administration or the voluntary arrangement takes effect are not paid within the period of 28 days beginning with the day on which payment is due.
- (3) The order must include provision for securing that, where an insolvency-related term of a contract ceases to have effect under the order, the supplier may terminate the supply unless an insolvency office-holder personally guarantees the payment of any charges in respect of the continuation of the supply.
- (4) The order may provide for exceptions to the right of a supplier to terminate a supply under provision made by virtue of subsection (3).
- (5) The order must (in addition to the provision mentioned in subsections (2) and (3)) include such other provision as the Secretary of State considers appropriate for securing that the interests of suppliers are protected.
- (6) A contract for the supply of essential goods or services is a contract for a supply mentioned in section 233(3) of the Insolvency Act 1986.
- (7) An insolvency-related term of a contract for the supply of essential goods or services to a company is a provision of the contract under which—
- (a) the contract or the supply would terminate, or any other thing would take place, because the company enters administration or the voluntary arrangement takes effect,

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- (b) the supplier would be entitled to terminate the contract or the supply, or to do any other thing, because the company enters administration or the voluntary arrangement takes effect, or
  - (c) the supplier would be entitled to terminate the contract or the supply because of an event that occurred before the company enters administration or the voluntary arrangement takes effect.
- (8) In this section, “insolvency office-holder” means—
- (a) in a case where a company enters administration, the administrator;
  - (b) in the case where a voluntary arrangement under Part 1 of the Insolvency Act 1986 takes effect in relation to a company, the supervisor of the voluntary arrangement.

#### **94 Individual insolvency: power to give further protection to essential supplies**

- (1) The Secretary of State may by order make provision for insolvency-related terms of a contract for the supply of essential goods or services to an individual to cease to have effect where—
- (a) a voluntary arrangement proposed by the individual is approved under Part 8 of the Insolvency Act 1986, and
  - (b) any conditions specified in the order are met.
- (2) The order must include a condition that ensures that an insolvency-related term of a contract for the supply of essential goods or services to an individual does not cease to have effect unless the supply is for the purpose of a business that is or has been carried on by the individual or with which the individual has or had another connection of a kind specified in the order.
- (3) The order must include provision for securing that, where an insolvency-related term of a contract ceases to have effect under the order, the contract may be terminated by the supplier if—
- (a) the supervisor of the voluntary arrangement consents to the termination,
  - (b) a court grants permission for the termination, or
  - (c) any charges in respect of the supply that are incurred after the voluntary arrangement proposed by the individual is approved are not paid within the period of 28 days beginning with the day on which payment is due.
- (4) The order must include provision for securing that, where an insolvency-related term of a contract ceases to have effect under the order, the supplier may terminate the supply unless the supervisor of the voluntary arrangement personally guarantees the payment of any charges in respect of the continuation of the supply.
- (5) The order may provide for exceptions to the right of a supplier to terminate a supply under provision made by virtue of subsection (4).
- (6) The order must (in addition to the provision mentioned in subsections (3) and (4)) include such other provision as the Secretary of State considers appropriate for securing that the interests of suppliers are protected.
- (7) A contract for the supply of essential goods or services is a contract for a supply mentioned in section 372(4) of the Insolvency Act 1986.
- (8) An insolvency-related term of a contract for the supply of essential goods or services to an individual is a provision of the contract under which—

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- (a) the contract or the supply would terminate, or any other thing would take place, because the voluntary arrangement proposed by the individual is approved,
- (b) the supplier would be entitled to terminate the contract or the supply, or to do any other thing, because the voluntary arrangement proposed by the individual is approved, or
- (c) the supplier would be entitled to terminate the contract or the supply because of an event that occurred before the voluntary arrangement proposed by the individual is approved.

## **95 Sections 93 and 94: supplemental**

- (1) The power to make an order under section 93 or 94 includes—
  - (a) power to make different provision for different cases;
  - (b) power to provide for a person to exercise a discretion in a matter;
  - (c) power to make incidental, supplementary, consequential, transitional or saving provision;
  - (d) power to make any provision that may be made by the order by amending the Insolvency Act 1986 or any other enactment.
- (2) An order under either of those sections may not be made so as to have effect in relation to contracts entered into before the order come into force.
- (3) An order under either of those sections must be made by statutory instrument.
- (4) A statutory instrument containing an order under either of those sections may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) In this section, “enactment” has the same meaning as in section 92.

**Changes to legislation:**

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