



Water Act 1989

1989 CHAPTER 15

PART II

WATER SUPPLY AND SEWERAGE SERVICES

CHAPTER I

APPOINTMENT AND REGULATION OF WATER AND SEWERAGE UNDERTAKERS

Special administration orders

23 Special administration orders in relation to water or sewerage undertakers

- (1) If, on an application made to the High Court by petition presented—
 - (a) by the Secretary of State; or
 - (b) with the consent of the Secretary of State, by the Director,that Court is satisfied in relation to any company which holds an appointment under this Chapter that any one or more of the grounds specified in subsection (4) below is satisfied in relation to that company, that Court may make an order under this section.
- (2) An order under this section is an order directing that, during the period for which the order is in force, the affairs, business and property of the company shall be managed, by a person appointed by the High Court, for the achievement of the purposes of the order and in a manner which protects the respective interests of the members and creditors of the company.
- (3) The purposes of an order made under this section in relation to a company holding an appointment under this Chapter shall be—
 - (a) the transfer to another company, or (as respects different parts of the company's area or different parts of its undertaking) to two or more different companies, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that the functions which have been

Status: This is the original version (as it was originally enacted).

- vested in the company by virtue of its appointment may be properly carried out; and
- (b) the carrying out of those functions pending the making of the transfer and the vesting of those functions in the other company or companies (whether by virtue of the transfer or of an appointment or variation to which section 12 above applies).
- (4) The grounds mentioned in subsection (1) above are, in relation to any company—
- (a) that there has been, is or is likely to be such a contravention by the company of a requirement imposed on the company by section 37 or 67 below, not being a contravention in respect of which a notice has been served under subsection (6) of section 20 above, 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 final order or provisional order under section 20 above, being an order which—
- (i) is not for the time being the subject-matter of proceedings brought by virtue of section 22(1) above; and
- (ii) if it is a provisional 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 the Secretary of State has certified that it would be appropriate, but for section 24 below, for him to petition for the winding up of the company under section 440 of the Companies Act 1985 (petition by the Secretary of State following inspectors' report etc.), it would be just and equitable, as mentioned in that section, for the company to be wound up if it did not hold an appointment under this Chapter; or
- (e) that the company is unable or unwilling adequately to participate in arrangements certified by the Secretary of State or the Director to be necessary by reason of, or in connection with, a proposal for the making by virtue of subsection (2)(c) of section 12 above of any appointment or variation to which that section applies.
- (5) Notice of the petition for an order under this section shall be given forthwith to such persons and in such manner as may be prescribed by rules made under section 411 of the Insolvency Act 1986; and no such petition shall be withdrawn except with the leave of the High Court.
- (6) Subsections (4) and (5) of section 9 of the said Act of 1986 (powers on application for administration order) shall apply on the hearing of the petition for an order under this section in relation to any company as they apply on the hearing of a petition for an administration order.
- (7) Subsections (1), (2) and (4) of section 10 of the said Act of 1986 (effect of petition) shall apply in the case of a petition for an order under this section in relation to any company as if—
- (a) the reference in subsection (1) to an administration order were a reference to an order under this section;
- (b) paragraph (b) of that subsection did require the leave of the court for the taking of any of the steps mentioned in paragraphs (b) and (c) of subsection (2) (appointment of, and exercise of functions by, administrative receiver); and

- (c) the reference in paragraph (c) of subsection (1) to proceedings included a reference to any proceedings under or for the purposes of section 20 above.
- (8) Schedule 6 to this Act shall have effect with respect to orders under this section and Schedule 5 to this Act shall have effect with respect to the making of transitional provision for the purposes of an order under this section.
- (9) In this section and section 24 below—
“business” and “property” have the same meanings as in the Insolvency Act 1986;
“security” has the same meaning as in Parts I to VII of that Act;
and for the purposes of this section a company is unable to pay its debts if it is a limited company which is deemed to be so unable under section 123 of the Insolvency Act 1986 (definition of inability to pay debts) or if it is an unregistered company which is deemed, by virtue of any of sections 222 to 224 of that Act, to be so unable for the purposes of section 221 of that Act (winding up of unregistered companies).