

SCHEDULES

SCHEDULE 20

CONDUCT OF ENERGY ADMINISTRATION

PART 4

OTHER MODIFICATIONS

General modifications

- 41 (1) Subject to paragraph 42, every reference falling within sub-paragraph (2) which is contained—
- (a) in a provision of the 1986 Act (other than Schedule B1), or
 - (b) in any other enactment passed before this Act,
- shall have effect as including a reference to whatever corresponds to it for the purposes of this paragraph.
- (2) Those references are those (however expressed) which are or include references to—
- (a) an administrator appointed by an administration order;
 - (b) an administration order;
 - (c) an application for an administration order;
 - (d) a company in administration;
 - (e) entering into administration;
 - (f) Schedule B1 or a provision of that Schedule.
- (3) For the purposes of this paragraph—
- (a) an energy administrator corresponds to an administrator appointed by an administration order;
 - (b) an energy administration order corresponds to an administration order;
 - (c) an application for an energy administration order corresponds to an application for an administration order;
 - (d) a company in energy administration corresponds to a company in administration;
 - (e) entering into energy administration corresponds to entering into administration;
 - (f) what corresponds to Schedule B1 or a provision of that Schedule is that Schedule or that provision as applied by Part 1 of this Schedule.
- 42 (1) Paragraph 41, in its application to section 1(3) of the 1986 Act, does not entitle the energy administrator of an unregistered company to make a proposal under Part 1 of that Act (company voluntary arrangements).
- (2) Paragraph 41 does not confer any right under section 7(4) of the 1986 Act (implementation of voluntary arrangements) for a supervisor of voluntary

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arrangements to apply for an energy administration order in relation to a protected energy company.

- (3) Paragraph 41 does not apply to section 359 of the Financial Services and Markets Act 2000 (c. 8) (administration applications by Financial Services Authority).

Modifications of 1986 Act

- 43 In section 5 of the 1986 Act (effect of approval of voluntary arrangements) after subsection (4) insert—

“(5) Where the company is in energy administration, the court shall not make an order or give a direction under subsection (3) unless—

- (a) the court has given the Secretary of State or the Gas and Electricity Markets Authority a reasonable opportunity of making representations to it about the proposed order or direction; and
- (b) the order or direction is consistent with the objective of the energy administration.

(6) In subsection (5) “in energy administration” and “objective of the energy administration” are to be construed in accordance with Schedule B1 to this Act, as applied by Part 1 of Schedule 20 to the Energy Act 2004.”

- 44 (1) Section 6 of that Act (challenge of decisions in relation to voluntary arrangements) is amended as follows.

(2) In subsection (2) for “this section” substitute “subsection (1)”.

(3) After that subsection insert—

“(2A) Subject to this section, where a voluntary arrangement in relation to a company in energy administration is approved at the meetings summoned under section 3, an application to the court may be made—

- (a) by the Secretary of State, or
- (b) with the consent of the Secretary of State, by the Gas and Electricity Markets Authority,

on the ground that the voluntary arrangement is not consistent with the achievement of the objective of the energy administration.”

(4) In subsection (4) after “subsection (1)” insert “or, in the case of an application under subsection (2A), as to the ground mentioned in that subsection”.

(5) After subsection (7) insert—

“(8) In this section “in energy administration” and “objective of the energy administration” are to be construed in accordance with Schedule B1 to this Act, as applied by Part 1 of Schedule 20 to the Energy Act 2004.”

- 45 In section 129(1A) of that Act (commencement of winding up), the reference to paragraph 13(1)(e) of Schedule B1 includes a reference to section 157(1)(e) of this Act.

Power to make further modifications

- 46 (1) The Secretary of State may by order make such modifications of—
- (a) the 1986 Act, or

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- (b) any other enactment passed before this Act that relates to insolvency or makes provision by reference to anything that is or may be done under the 1986 Act,
as he considers appropriate in relation to any provision made by or under this Chapter.
- (2) An order under this paragraph may also make modifications of this Part of this Schedule.
- (3) The power to make an order containing provision authorised by this paragraph is subject to the affirmative resolution procedure.

Interpretation of Part 4 of Schedule

47 In this Part of this Schedule—

“administration order”, “administrator”, “enters administration” and “in administration” are to be construed in accordance with Schedule B1 (disregarding Part 1 of this Schedule);

“enters energy administration” and “in energy administration” are to be construed in accordance with Schedule B1 (as applied by Part 1 of this Schedule);

“Schedule B1” means Schedule B1 to the 1986 Act.