
STATUTORY INSTRUMENTS

2015 No. 989

The Insolvency (Protection of Essential Supplies) Order 2015

Individual Insolvency: Insolvency-related terms of a contract

5. After section 372 of the Insolvency Act 1986 insert—

“372A Further protection of essential supplies

(1) An insolvency-related term of a contract for the supply of essential goods or services to an individual ceases to have effect if—

- (a) a voluntary arrangement proposed by the individual is approved under Part 8, and
- (b) the supply is for the purpose of a business which is or has been carried on by the individual, by a firm or partnership of which the individual is or was a member, or by an agent or manager for the individual or for such a firm or partnership.

(2) An insolvency-related term of a contract does not cease to have effect by virtue of subsection (1) to the extent that—

- (a) it provides for the contract or the supply to terminate, or any other thing to take place, because the individual becomes subject to an insolvency procedure other than a voluntary arrangement;
- (b) it entitles a supplier to terminate the contract or the supply, or do any other thing, because the individual becomes subject to an insolvency procedure other than a voluntary arrangement; or
- (c) it entitles a supplier to terminate the contract or the supply because of an event that occurs, or may occur, after the voluntary arrangement proposed by the individual is approved.

(3) Where an insolvency-related term of a contract ceases to have effect under this section the supplier may—

- (a) terminate the contract, if the condition in subsection (4) is met;
- (b) terminate the supply, if the condition in subsection (5) is met.

(4) The condition in this subsection is that—

- (a) the supervisor of the voluntary arrangement consents to the termination of the contract,
- (b) the court grants permission for the termination of the contract, or
- (c) any charges in respect of the supply that are incurred after the voluntary arrangement is approved are not paid within the period of 28 days beginning with the day on which payment is due.

The court may grant permission under paragraph (b) only if satisfied that the continuation of the contract would cause the supplier hardship.

(5) The condition in this subsection is that—

- (a) the supplier gives written notice to the supervisor of the voluntary arrangement that the supply will be terminated unless the supervisor personally guarantees

the payment of any charges in respect of the continuation of the supply after the arrangement was approved, and

(b) the supervisor does not give that guarantee within the period of 14 days beginning with the day the notice is received.

(6) For the purposes of securing that the interests of suppliers are protected, where—

(a) an insolvency-related term of a contract (the “original term”) ceases to have effect by virtue of subsection (1), and

(b) a subsequent voluntary arrangement proposed by the individual is approved,

the contract is treated for the purposes of subsections (1) to (5) as if, immediately before the subsequent voluntary arrangement proposed by the individual is approved, it included an insolvency-related term identical to the original term.

(7) A contract for the supply of essential goods or services is a contract for a supply mentioned in section 372(4).

(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—

(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.

(9) Subsection (1) does not have effect in relation to a contract entered into before 1st October 2015.”