



2011 CHAPTER 6

PART 2

SPECIAL ADMINISTRATION REGIME  
FOR PROTECTED ENERGY COMPANIES

*Financial support for company in administration*

**Grant and loans**

**28.**—(1) This section applies where an energy administration order has been made in relation to a company.

(2) The Department may make grants or loans to the company of such amounts as appear to the Department appropriate to pay or lend for achieving the objective of the energy administration.

(3) A grant or loan under this section may be made in whatever manner, and on whatever terms, the Department considers appropriate.

(4) The terms on which a grant may be made under this section include, in particular, terms requiring the whole or a part of the grant to be repaid to the Department if there is a contravention of the other terms on which the grant is made.

(5) The terms on which a loan may be made under this section include, in particular, terms requiring—

- (a) the loan to be repaid at such times and by such methods, and
- (b) interest to be paid on the loan at such rates and at such times,

as the Department may from time to time direct.

(6) The consent of the Department of Finance and Personnel is required—

- (a) for the making of a grant or loan under this section; and
- (b) for the giving by the Department of a direction under subsection (5).

### **Indemnities**

**29.—**(1) This section applies where an energy administration order has been made in relation to a company.

(2) The Department may agree to indemnify persons in respect of one or both of the following—

- (a) liabilities incurred in connection with the exercise and performance by the energy administrator of the powers and duties of an energy administrator; and
- (b) loss or damage sustained in that connection.

(3) The agreement may be made in whatever manner, and on whatever terms, the Department considers appropriate.

(4) If sums are paid by the Department in consequence of an indemnity agreed to under this section, the company must pay to the Department—

- (a) such amounts in or towards the repayment to the Department of those sums as the Department may direct; and
- (b) interest, at such rates as the Department may direct, on amounts outstanding under this subsection.

(5) Payments to the Department under subsection (4) must be made at such times and in such manner as the Department may determine.

(6) Subsection (4) does not apply in the case of a sum paid by the Department for indemnifying a person in respect of a liability to the company in relation to which the energy administration order was made.

(7) The consent of the Department of Finance and Personnel is required—

- (a) for the doing of anything by the Department under subsection (2);
- (b) for the giving by the Department of any direction under subsection (4); and
- (c) for the making of a determination under subsection (5).

(8) The power of the Department to agree to indemnify persons—

- (a) is confined to a power to agree to indemnify persons in respect of liabilities, loss and damage incurred or sustained by them as relevant persons; but
- (b) includes power to agree to indemnify persons (whether or not they are identified or identifiable at the time of the agreement) who subsequently become relevant persons.

(9) A person is a relevant person for the purposes of this section if that person is—

- (a) the energy administrator;

- (b) an employee of the energy administrator;
  - (c) a member or employee of a firm of which the energy administrator is a member;
  - (d) a member or employee of a firm of which the energy administrator is an employee;
  - (e) a member of a firm of which the energy administrator was an employee or member at a time when the order was in force;
  - (f) a body corporate which is the employer of the energy administrator;
  - (g) an officer, employee or member of such a body corporate.
- (10) For the purposes of subsection (9)—
- (a) the references to the energy administrator are to be construed, where two or more persons are appointed to act as the energy administrator, as references to any one or more of them; and
  - (b) the references to a firm of which a person was a member or employee at a particular time include references to a firm which holds itself out to be the successor of a firm of which that person was a member or employee at that time.

### **Guarantees**

**30.—**(1) This section applies where an energy administration order has been made in relation to a company.

(2) The Department may guarantee—

- (a) the repayment of any sum borrowed by the company while the energy administration order is in force;
- (b) the payment of interest on such a sum; and
- (c) the discharge of any other financial obligation of the company in connection with the borrowing of such a sum.

(3) The Department may give a guarantee under this section in such manner, and on such terms, as the Department thinks fit.

(4) As soon as practicable after giving a guarantee under this section, the Department must lay a statement of the guarantee before the Assembly.

(5) If sums are paid out by the Department under a guarantee given under this section, the company must pay the Department—

- (a) such amounts in or towards the repayment to the Department of those sums as the Department may direct; and
- (b) interest, at such rates as the Department may direct, on amounts outstanding under this subsection.

(6) Payments to the Department under subsection (5) must be made at such times, and in such manner, as the Department may from time to time direct.

(7) Where a sum has been paid out by the Department under a guarantee given under this section, the Department must lay a statement relating to that sum before the Assembly—

- (a) as soon as practicable after the end of the financial year in which that sum is paid out; and
- (b) as soon as practicable after the end of each subsequent relevant financial year.

(8) In relation to a sum paid out under a guarantee, a financial year is a relevant financial year for the purposes of subsection (7) unless—

- (a) before the beginning of that year, the whole of that sum has been repaid to the Department under subsection (5); and
- (b) the company in question is not at any time during that year subject to liability to pay interest on amounts that became due under that subsection in respect of that sum.

(9) The consent of the Department of Finance and Personnel is required—

- (a) for the giving of a guarantee under this section; and
- (b) for the giving by the Department of a direction under subsection (5) or (6).