



2011 CHAPTER 6

PART 2

SPECIAL ADMINISTRATION REGIME  
FOR PROTECTED ENERGY COMPANIES

*Restrictions on other insolvency procedures*

**Restrictions on winding-up orders**

**23.—**(1) This section applies where a petition for the winding up of a protected energy company is presented by a person other than the Department.

(2) The High Court is not to exercise its powers on a winding-up petition unless—

- (a) notice of the petition has been served both on the Department and on the Authority; and
- (b) a period of at least 14 days has elapsed since the service of the last of those notices to be served.

(3) If an application for an energy administration order in relation to the company is made to the High Court in accordance with section 19(1) before a winding-up order is made on the petition, the Court may exercise its powers under section 20, instead of exercising its powers on a winding-up petition.

(4) References in this section to the High Court's powers on a winding-up petition are references to—

- (a) its powers under Article 105 of the Insolvency Order (other than its power of adjournment); and
- (b) its powers under Article 115 of that Order.

**Restrictions on voluntary winding up**

**24.—**(1) A protected energy company has no power to pass a resolution for voluntary winding up without the permission of the High Court.

(2) Such permission may be granted only on an application made by the company.

(3) The High Court is not to grant permission on such an application unless—

(a) notice of the application has been served both on the Department and on the Authority; and

(b) a period of at least 14 days has elapsed since the service of the last of those notices to be served.

(4) If an application for an energy administration order in relation to the company is made to the High Court in accordance with section 19(1) after an application for permission under this section has been made and before it is granted, the Court may exercise its powers under section 20 instead of granting permission.

(5) In this section “a resolution for voluntary winding up” has the same meaning as in the Insolvency Order.

**Restrictions on making ordinary administration orders**

**25.—**(1) This section applies where an ordinary administration application is made in relation to a protected energy company by a person other than the Department.

(2) The High Court must dismiss the application if—

(a) an energy administration order is in force in relation to the company; or

(b) an energy administration order has been made in relation to the company but is not yet in force.

(3) Where subsection (2) does not apply, the High Court, on hearing the application, must not exercise its powers under paragraph 14 of Schedule B1 to the Insolvency Order (other than its power of adjournment) unless—

(a) notice of the application has been served both on the Department and on the Authority;

(b) a period of at least 14 days has elapsed since the service of the last of those notices to be served; and

(c) there is no application for an energy administration order that is outstanding.

(4) Paragraph 45 of Schedule B1 to the Insolvency Order (interim moratorium) does not prevent, or require the permission of the High Court for, the making of an application for an energy administration order.

(5) Upon the making of an energy administration order in relation to a protected energy company, the High Court must dismiss any ordinary administration application made in relation to that company which is outstanding.

(6) In this section “ordinary administration application” means an application in accordance with paragraph 13 of Schedule B1 to the Insolvency Order.

**Restrictions on administrator appointments by creditors etc.**

**26.—**(1) No step is to be taken by any person to make an appointment in relation to a company under paragraph 15 or 23 of Schedule B1 to the Insolvency Order (powers of holder of floating charge and of the company itself and of its directors to appoint administrators) if—

- (a) an energy administration order is in force in relation to the company;
- (b) an energy administration order has been made in relation to the company but is not yet in force; or
- (c) an application for such an order is outstanding.

(2) In the case of a protected energy company to which subsection (1) does not apply, an appointment in relation to that company under paragraph 15 or 23 of Schedule B1 to the Insolvency Order takes effect only if each of the conditions mentioned in subsection (3) is met.

(3) Those conditions are—

- (a) that a copy of every document in relation to the appointment that is filed or lodged with the High Court in accordance with paragraph 19 or 30 of Schedule B1 to the Insolvency Order (documents to be filed or lodged for appointment of administrator) has been served both on the Department and on the Authority;
- (b) that a period of 14 days has elapsed since the service of the last of those copies to be served;
- (c) that there is no outstanding application to the High Court for an energy administration order in relation to the company in question; and
- (d) that the making of an application for such an order has not resulted in the making of an energy administration order which is in force or is still to come into force.

(4) Paragraph 45 of Schedule B1 to the Insolvency Order (interim moratorium) does not prevent, or require the permission of the High Court for, the making of an application for an energy administration order at any time before the appointment takes effect.

**Restrictions on enforcement of security**

**27.—(1)** No step to enforce a security over property of a protected energy company is to be taken by any person, unless—

- (a) notice of intention to do so has been served both on the Department and on the Authority; and
- (b) a period of at least 14 days has elapsed since the service of the last of those notices to be served.

(2) In the case of a protected energy company which is a non-NI company, the reference in subsection (1) to the property of the company is a reference only to its property in Northern Ireland.