



Energy Act 2004

2004 CHAPTER 20

PART 3

ENERGY REGULATION

CHAPTER 3

SPECIAL ADMINISTRATION REGIME FOR ENERGY LICENSEES

Energy administration orders

154 Energy administration orders

- (1) In this Chapter “energy administration order” means an order which—
 - (a) is made by the court in relation to a protected energy company; and
 - (b) directs that, while the order is in force, the affairs, business and property of the company are to be managed by a person appointed by the court.
- (2) The person appointed in relation to a company for the purposes of an energy administration order is referred to in this Chapter as the energy administrator of the company.
- (3) The energy administrator of a company must manage its affairs, business and property, and exercise and perform all his powers and duties as such, so as to achieve the objective set out in section 155.
- (4) In relation to an energy administration order applying to a non-GB company, references in this section to the affairs, business and property of the company are references only to its affairs and business so far as carried on in Great Britain and to its property in Great Britain.
- (5) In this Chapter—

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“protected energy company” means a company which is the holder of a relevant licence; and

“relevant licence” means—

- (a) a licence granted under section 6(1)(b) or (c) of the 1989 Act (transmission and distribution licences for electricity); or
- (b) a licence granted under section 7 of the Gas Act 1986 (licensing of gas transporters).

Modifications etc. (not altering text)

- C1** Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1, 184](#) (with [rules 3, 187](#))

Commencement Information

- II** S. 154 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)

155 Objective of an energy administration

- (1) The objective of an energy administration is to secure—
 - (a) that the company’s system is and continues to be maintained and developed as an efficient and economical system; and
 - (b) that it becomes unnecessary, by one or both of the following means, for the energy administration order to remain in force for that purpose.
- (2) Those means are—
 - (a) the rescue as a going concern of the company subject to the energy administration order; and
 - (b) transfers falling within subsection (3).
- (3) A transfer falls within this subsection if it is a transfer as a going concern—
 - (a) to another company, or
 - (b) as respects different parts of the undertaking of the company subject to the energy administration order, to two or more different companies,
 of so much of that undertaking as it is appropriate to transfer for the purpose of achieving the objective of the energy administration.
- (4) The means by which transfers falling within subsection (3) may be effected include, in particular—
 - (a) a transfer of the undertaking of the company subject to the energy administration order, or of a part of its undertaking, to a wholly-owned subsidiary of that company; and
 - (b) a transfer to a company of securities of a wholly-owned subsidiary to which there has been a transfer falling within paragraph (a).
- (5) The objective of an energy administration may be achieved by transfers falling within subsection (3) to the extent only that—
 - (a) the rescue as a going concern of the company subject to the energy administration order is not reasonably practicable or is not reasonably practicable without such transfers;

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the rescue of that company as a going concern will not achieve that objective or will not do so without such transfers;
 - (c) such transfers would produce a result for the company’s creditors as a whole that is better than the result that would be produced without them; or
 - (d) such transfers would, without prejudicing the interests of those creditors as a whole, produce a result for the company’s members as a whole that is better than the result that would be produced without them.
- (6) In this section “the company’s system”, in relation to an energy administration, means—
- (a) the system of electricity distribution or of electricity transmission, or
 - (b) the pipe-line system for the conveyance of gas,
- which the company subject to the energy administration order has been maintaining as the holder of a relevant licence.
- (7) In this section “efficient and economical”, in relation to a system for electricity distribution or electricity transmission, includes co-ordinated.

Modifications etc. (not altering text)

- C1** Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

- I2** S. 155 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

156 Applications for energy administration orders

- (1) An application for an energy administration order in relation to a company may be made only—
- (a) by the Secretary of State; or
 - (b) with the consent of the Secretary of State, by GEMA.
- (2) The applicant for an energy administration order in relation to a company must give notice of the application to—
- (a) every person who has appointed an administrative receiver of the company;
 - (b) every person who is or may be entitled to appoint an administrative receiver of the company;
 - (c) every person who is or may be entitled to make an appointment in relation to the company under paragraph 14 of Schedule B1 to the 1986 Act (appointment of administrators by holders of floating charges); and
 - (d) such other persons as may be prescribed by energy administration rules.
- (3) The notice must be given as soon as reasonably practicable after the making of the application.
- (4) In this section “administrative receiver” means—
- (a) an administrative receiver within the meaning given by section 251 of the 1986 Act for the purposes of Parts 1 to 7 of that Act; or
 - (b) a person whose functions in relation to a non-GB company—
 - (i) are equivalent to those of an administrative receiver; and

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) relate only to the affairs and business of the company so far as carried on in Great Britain and to its property in Great Britain.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1, 184](#) (with [rules 3, 187](#))

Commencement Information

I3 S. 156 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)

157 Powers of court

- (1) On hearing an application for an energy administration order, the court has the following powers—
- (a) it may make the order;
 - (b) it may dismiss the application;
 - (c) it may adjourn the hearing conditionally or unconditionally;
 - (d) it may make an interim order;
 - (e) it may treat the application as a winding-up petition and make any order the court could make under section 125 of the 1986 Act (power of court on hearing winding-up petition);
 - (f) it may make any other order which the court thinks appropriate.
- (2) The court may make an energy administration order in relation to a company only if it is satisfied—
- (a) that the company is unable to pay its debts;
 - (b) that it is likely to be unable to pay its debts; or
 - (c) that, on a petition by the Secretary of State under section 124A of the 1986 Act (petition for winding up on grounds of public interest), it would be just and equitable (disregarding the objective of the energy administration) to wind up the company in the public interest.
- (3) The court must not make an energy administration order in relation to a company on the ground set out in subsection (2)(c) unless the Secretary of State has certified to the court that the case is one in which he considers (disregarding the objective of the energy administration) that it would be appropriate for him to petition under section 124A of the 1986 Act.
- (4) The court has no power to make an energy administration order in relation to a company which—
- (a) is in administration under Schedule B1 to the 1986 Act; or
 - (b) has gone into liquidation (within the meaning of section 247(2) of that Act).
- (5) An energy administration order comes into force—
- (a) at the time appointed by the court; or
 - (b) if no time is so appointed, when the order is made.
- (6) An interim order under subsection (1)(d) may, in particular—
- (a) restrict the exercise of a power of the company or of its directors; or

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) make provision conferring a discretion on a person qualified to act as an insolvency practitioner in relation to the company.
- (7) Where the company in relation to which an application is made is a non-GB company, the reference in subsection (6)(a) to restricting the exercise of a power of the company or of its directors is a reference only to restricting the exercise of such a power—
 - (a) within Great Britain; or
 - (b) in relation to the company’s affairs or business so far as carried on in Great Britain, or to its property in Great Britain.
- (8) For the purposes of this section a company is unable to pay its debts if—
 - (a) it is a company which is deemed to be so unable under section 123 of the 1986 Act (definition of inability to pay debts); or
 - (b) 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), or which would be so deemed if it were an unregistered company for the purposes of those sections.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1, 184](#) (with [rules 3, 187](#))

Commencement Information

I4 S. 157 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)

158 Energy administrators

- (1) The energy administrator of a company—
 - (a) is an officer of the court; and
 - (b) in exercising and performing his powers and duties in relation to the company, is the company’s agent.
- (2) The management by the energy administrator of a company of any affairs, business or property of the company must be carried out for the purpose of achieving the objective of the energy administration as quickly and as efficiently as is reasonably practicable.
- (3) The energy administrator of a company must exercise and perform his powers and duties in the manner which, so far as it is consistent with the objective of the energy administration to do so, best protects—
 - (a) the interests of the creditors of the company as a whole; and
 - (b) subject to those interests, the interests of the members of the company as a whole.
- (4) A person is not to be the energy administrator of a company unless he is a person qualified to act as an insolvency practitioner in relation to the company.
- (5) Where the court makes an appointment in a case in which two or more persons will be the energy administrator of a company after the appointment, the appointment must set out—
 - (a) which (if any) of the powers and duties of an energy administrator are to be exercisable or performed only by those persons acting jointly;

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the circumstances (if any) in which powers and duties of an energy administrator are to be exercisable, or may be performed, by one of the persons appointed to be the energy administrator, or by particular appointees, acting alone; and
- (c) the circumstances (if any) in which things done in relation to one of the persons appointed to be the energy administrator, or in relation to particular appointees, are to be treated as done in relation to all of them.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

I5 S. 158 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

159 Conduct of administration, transfer schemes etc.

- (1) Schedule 20 (which applies the provisions of Schedule B1 to the 1986 Act about ordinary administration orders and certain other enactments to energy administration orders) has effect.
- (2) Schedule 21 (which makes provision for transfer schemes to achieve the objective of an energy administration) has effect.
- (3) The power to make rules conferred by section 411 of the 1986 Act (company insolvency rules) shall apply for the purpose of giving effect to this Chapter as it applies for the purpose of giving effect to Parts 1 to 7 of that Act and, accordingly, as if references in that section to those Parts included references to this Chapter.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

I6 S. 159 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

Restrictions on other insolvency procedures

160 Restrictions on winding-up orders

- (1) This section applies where a petition for the winding-up of a protected energy company is presented by a person other than the Secretary of State.
- (2) The court is not to exercise its powers on a winding-up petition unless—
 - (a) notice of the petition has been served both on the Secretary of State and on GEMA; and
 - (b) a period of at least fourteen days has elapsed since the service of the last of those notices to be served.

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) If an application for an energy administration order in relation to the company is made to the court in accordance with section 156(1) before a winding-up order is made on the petition, the court may exercise its powers under section 157, instead of exercising its powers on a winding-up petition.
- (4) References in this section to the court's powers on a winding-up petition are references to—
 - (a) its powers under section 125 of the 1986 Act (other than its power of adjournment); and
 - (b) its powers under section 135 of that Act.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1, 184](#) (with [rules 3, 187](#))

Commencement Information

I7 S. 160 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)

161 Restrictions on voluntary winding up

- (1) A protected energy company has no power to pass a resolution for voluntary winding up without the permission of the court.
- (2) Such permission may be granted only on an application made by the company.
- (3) The court is not to grant permission on such an application unless—
 - (a) notice of the application has been served both on the Secretary of State and on GEMA; and
 - (b) a period of at least fourteen 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 court in accordance with section 156(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 157, instead of granting permission.
- (5) In this section “a resolution for voluntary winding up” has the same meaning as in the 1986 Act.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1, 184](#) (with [rules 3, 187](#))

Commencement Information

I8 S. 161 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

162 Restrictions on making of ordinary administration orders

- (1) This section applies where an ordinary administration application is made in relation to a protected energy company by a person other than the Secretary of State.
- (2) The 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 court, on hearing the application, must not exercise its powers under paragraph 13 of Schedule B1 to the 1986 Act (other than its power of adjournment) unless—
 - (a) notice of the application has been served both on the Secretary of State and on GEMA;
 - (b) a period of at least fourteen 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 44 of Schedule B1 to the 1986 Act (interim moratorium) does not prevent, or require the permission of the 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 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 12 of Schedule B1 to the 1986 Act.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

I9 S. 162 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

163 Restrictions on administrator appointments by creditors etc.

- (1) No step is to be taken by any person to make an appointment in relation to a company under paragraph 14 or 22 of Schedule B1 to the 1986 Act (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 14 or 22 of Schedule B1 to the 1986 Act takes effect only if each of the conditions mentioned in subsection (3) is met.

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Those conditions are—
- (a) that a copy of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the 1986 Act (documents to be filed or lodged for appointment of administrator) has been served both on the Secretary of State and on GEMA;
 - (b) that a period of fourteen days has elapsed since the service of the last of those copies to be served;
 - (c) that there is no outstanding application to the 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 44 of Schedule B1 to the 1986 Act (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for an energy administration order at any time before the appointment takes effect.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with rules 3, 187)

Commencement Information

I10 S. 163 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

164 Restrictions on enforcement of security

- (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 his intention to do so has been served both on the Secretary of State and on GEMA; and
 - (b) a period of at least fourteen 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-GB company, the reference in subsection (1) to the property of the company is a reference only to its property in Great Britain.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with rules 3, 187)

Commencement Information

I11 S. 164 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Financial support for companies in administration

165 Grants and loans

- (1) This section applies where an energy administration order has been made in relation to a company.
- (2) The Secretary of State may make grants or loans to the company of such amounts as it appears to him 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 Secretary of State 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 Secretary of State 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 Secretary of State may from time to time direct.
- (6) The consent of the Treasury is required—
 - (a) for the making of a grant or loan under this section; and
 - (b) for the giving by the Secretary of State of a direction under subsection (5).
- (7) The Secretary of State must pay sums received by him by virtue of this section into the Consolidated Fund.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1, 184](#) (with [rules 3, 187](#))

Commencement Information

I12 S. 165 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)

166 Indemnities

- (1) This section applies where an energy administration order has been made in relation to a company.
- (2) The Secretary of State 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 his powers and duties; and
 - (b) loss or damage sustained in that connection.
- (3) The agreement may be made in whatever manner, and on whatever terms, the Secretary of State considers appropriate.

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) If sums are paid by the Secretary of State in consequence of an indemnity agreed to under this section, the company must pay him—
 - (a) such amounts in or towards the repayment to him of those sums as he may direct; and
 - (b) interest, at such rates as he may direct, on amounts outstanding under this subsection.
- (5) Payments to the Secretary of State under subsection (4) must be made at such times and in such manner as he may determine.
- (6) Subsection (4) does not apply in the case of a sum paid by the Secretary of State 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 Treasury is required—
 - (a) for the doing of anything by the Secretary of State under subsection (2);
 - (b) for the giving by him of any direction under subsection (4); and
 - (c) for the making of a determination under subsection (5).
- (8) The power of the Secretary of State 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 he 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 he was a member or employee at that time.
- (11) The Secretary of State must pay sums received by him by virtue of subsection (4) into the Consolidated Fund.

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C1** Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), [rules 1, 184](#) (with [rules 3, 187](#))

Commencement Information

- I13** S. 166 in force at 5.10.2004 by [S.I. 2004/2575](#), [art. 2\(1\)](#), [Sch. 1](#)

167 Guarantees where energy administration order is made

- (1) This section applies where an energy administration order has been made in relation to a company.
- (2) The Secretary of State 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 Secretary of State may give a guarantee under this section in such manner, and on such terms, as he thinks fit.
- (4) As soon as practicable after giving a guarantee under this section, the Secretary of State must lay a statement of the guarantee before Parliament.
- (5) If sums are paid out by the Secretary of State under a guarantee given under this section, the company must pay him—
 - (a) such amounts in or towards the repayment to him of those sums as he may direct; and
 - (b) interest, at such rates as he may direct, on amounts outstanding under this subsection.
- (6) Payments to the Secretary of State under subsection (5) must be made at such times, and in such manner, as he may from time to time direct.
- (7) Where a sum has been paid out by the Secretary of State under a guarantee given under this section, he must lay a statement relating to that sum before Parliament—
 - (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 Secretary of State 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 Treasury is required—
 - (a) for the giving of a guarantee under this section; and

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) for the giving by the Secretary of State of a direction under subsection (5) or (6).
- (10) The Secretary of State must pay sums received by him by virtue of subsection (5) into the Consolidated Fund.

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

I14 S. 167 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

Licence modifications relating to energy administration

168 Modifications of particular or standard conditions

- (1) Where the Secretary of State considers it appropriate to do so in connection with the provision made by this Chapter, he may make—
- (a) modifications of the conditions of a gas or electricity licence held by a particular person;
- (b) modifications of the standard conditions of such licences of any type.
- (2) The power to make modifications under this section includes power to make incidental, consequential or transitional modifications.
- (3) Before making a modification under this section, the Secretary of State must consult—
- (a) the holder of any licence being modified; and
- (b) such other persons as he considers appropriate.
- (4) Subsection (3) may be satisfied by consultation that took place wholly or partly before the commencement of this section.
- (5) The Secretary of State must publish every modification made by him under this section.
- (6) The publication must be in such manner as the Secretary of State considers appropriate.
- (7) A modification under subsection (1)(a) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the 1989 Act or Part 1 of the Gas Act 1986 (c. 44).
- (8) Where the Secretary of State makes modifications under subsection (1)(b) of the standard conditions of licences of any type, GEMA must—
- (a) make (as nearly as may be) the same modifications of those standard conditions for the purposes of their incorporation in licences of that type granted after that time; and
- (b) publish the modifications in such manner as it considers appropriate.
- (9) The Secretary of State's powers under this section are exercisable only during the eighteen months beginning with the commencement of this section.

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (10) In section 81(2) of the Utilities Act 2000 (c. 27) (standard conditions of licences under Part 1 of the Gas Act), for “such modifications of the conditions made under Part I of the 1986 Act” substitute “any modifications made under Part 1 of the 1986 Act or under the Energy Act 2004”.
- (11) In this section “gas or electricity licence” means a licence for the purposes of section 5 of the Gas Act 1986 (c. 44) or section 4 of the 1989 Act (prohibition on unlicensed activities).

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

I15 S. 168 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

169 Licence conditions to secure funding of energy administration

- (1) The modifications that may be made under section 168 include, in particular, modifications imposing conditions requiring the holder of the licence—
- (a) so to modify the charges imposed by him for anything done by him in the carrying on of the licensed activities as to raise such amounts as may be determined by or under the conditions; and
 - (b) to pay the amounts so raised to such persons as may be so determined for the purpose of—
 - (i) their applying those amounts in making good any shortfall in the property available for meeting the expenses of an energy administration; or
 - (ii) enabling those persons to secure that those amounts are so applied.
- (2) Those modifications may include modifications imposing on the licence holder an obligation to apply amounts paid to him in pursuance of conditions falling within subsection (1)(a) or (b) in making good any such shortfall.
- (3) For the purposes of this section—
- (a) there is a shortfall in the property available for meeting the costs of an energy administration if, in a case where a company is or has been subject to an energy administration order, the property available (apart from conditions falling within subsection (1) or (2)) for meeting relevant debts is insufficient for meeting them; and
 - (b) amounts are applied in making good that shortfall if they are paid in or towards discharging so much of a relevant debt as cannot be met out of the property otherwise available for meeting relevant debts.
- (4) In this section “relevant debt”, in relation to a case in which a company is or has been subject to an energy administration order, means an obligation—
- (a) to make payments in respect of the expenses or remuneration of any person as the energy administrator of that company;

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) to make a payment in discharge of a debt or liability of that company arising out of a contract entered into at a time when the order was in force by the person who at that time was the energy administrator of that company;
- (c) to repay the whole or a part of a grant made to that company under section 165;
- (d) to repay a loan made to the company under that section, or to pay interest on such a loan;
- (e) to make a payment under section 166(4); or
- (f) to make a payment under section 167(5).

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

I16 S. 169 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

Supplemental provision of Chapter 3 of Part 3

170 Modification of Chapter 3 of Part 3 under Enterprise Act 2002

- (1) The power to modify or apply enactments conferred on the Secretary of State by each of the sections of the Enterprise Act 2002 (c. 40) mentioned in subsection (2) includes power to make such consequential modifications of this Chapter as he considers appropriate in connection with any other provision made under that section.
- (2) Those sections are—
 - (a) sections 248 and 277 (amendments consequential on that Act); and
 - (b) section 254 (power to apply insolvency law to foreign companies).

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with [rules 3, 187](#))

Commencement Information

I17 S. 170 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

171 Interpretation of Chapter 3 of Part 3

- (1) In this Chapter—
 - “the 1986 Act” means the Insolvency Act 1986 (c. 45);
 - “business”, “member”, “property” and “security” have the same meanings as in the 1986 Act;
 - “company” means—
 - (a) a company formed and registered under the Companies Act 1985 (c. 6);
 - (b) an existing company; or
 - (c) an unregistered company;

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“court”—

- (a) in relation to a company other than a Northern Irish joint stock company, means the court having jurisdiction to wind up the company; and
- (b) in relation to a Northern Irish joint stock company, means the court that would have jurisdiction to wind it up if it were an unregistered company within the meaning of Part 5 of the 1986 Act;

“energy administration order” has the meaning given by section 154(1);

“energy administration rules” means rules made under section 411 of the 1986 Act by virtue of section 159(3) of this Act;

“energy administrator” has the meaning given by section 154(2) and is to be construed in accordance with subsection (2) of this section;

“non-GB company” means an unregistered company incorporated outside Great Britain;

“objective of the energy administration” is to be construed in accordance with section 155;

“protected energy company” has the meaning given by section 154(5);

“relevant licence” has the meaning given by section 154(5);

“unregistered company” means—

- (a) an unregistered company within the meaning of Part 5 of the 1986 Act; or
- (b) a Northern Irish joint stock company.

- (2) In this Chapter references to the energy administrator of a company—
 - (a) include references to a person appointed under paragraph 91 or 103 of Schedule B1 to the 1986 Act, as applied by Part 1 of Schedule 20 to this Act, to be the energy administrator of that company; and
 - (b) where two or more persons are appointed to be the energy administrator of that company, are to be construed in accordance with the provision made under section 158(5).
- (3) References in this Chapter to a person qualified to act as an insolvency practitioner in relation to a company are to be construed in accordance with Part 13 of the 1986 Act (insolvency practitioners and their qualifications); but as if references in that Part to a company included references to a Northern Irish joint stock company.
- (4) For the purposes of this Chapter an application made to the court is outstanding if it—
 - (a) has not yet been granted or dismissed; and
 - (b) has not been withdrawn.
- (5) For the purposes of subsection (4) an application is not to be taken as having been dismissed if an appeal against the dismissal of the application, or a subsequent appeal, is pending.
- (6) An appeal shall be treated as pending for the purposes of subsection (5) if—
 - (a) such an appeal has been brought and has been neither determined nor withdrawn;
 - (b) an application for permission to appeal has been made but has not been determined or withdrawn; or
 - (c) no such appeal has been brought and the period for bringing an appeal is still running.

Status: Point in time view as at 01/10/2005.

Changes to legislation: Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(7) References in this Chapter to Schedule B1 to the 1986 Act, or to a provision of that Schedule (except the references in subsection (2) of this section), are references to that Schedule or that provision without the modifications made by Part 1 of Schedule 20 to this Act.

(8) In this section—

“existing company” has the same meaning as in the Companies Act 1985 (c. 6) (see section 735(1) of that Act);

“Northern Irish joint stock company” means a company registered in Northern Ireland under the Joint Stock Companies Acts (as defined in section 735(3) of the Companies Act 1985).

Modifications etc. (not altering text)

C1 Ss. 154-171 modified (1.10.2005) by [Energy Administration Rules 2005 \(S.I. 2005/2483\)](#), rules 1, **184** (with rules 3, 187)

Commencement Information

I18 S. 171 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), **Sch. 1**

Status:

Point in time view as at 01/10/2005.

Changes to legislation:

Energy Act 2004, Chapter 3 is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.