



# Enterprise and Regulatory Reform Act 2013

## 2013 CHAPTER 24

### PART 6

#### MISCELLANEOUS AND GENERAL

##### *Insolvency: protection of essential supplies*

#### **93 Corporate insolvency: power to give further protection to essential supplies**

- (1) The Secretary of State may by order make provision for insolvency-related terms of a contract for the supply of essential goods or services to a company to cease to have effect where—
  - (a) the company enters administration or a voluntary arrangement under Part 1 of the Insolvency Act 1986 takes effect in relation to it, and
  - (b) any conditions specified in the order are met.
- (2) The order must include provision for securing that, where an insolvency-related term of a contract ceases to have effect under the order, the contract may be terminated by the supplier if—
  - (a) an insolvency office-holder consents to the termination,
  - (b) a court grants permission for the termination, or
  - (c) any charges in respect of the supply that are incurred after the company enters administration or the voluntary arrangement takes effect are not paid within the period of 28 days beginning with the day on which payment is due.
- (3) The order must include provision for securing that, where an insolvency-related term of a contract ceases to have effect under the order, the supplier may terminate the supply unless an insolvency office-holder personally guarantees the payment of any charges in respect of the continuation of the supply.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The order may provide for exceptions to the right of a supplier to terminate a supply under provision made by virtue of subsection (3).
- (5) The order must (in addition to the provision mentioned in subsections (2) and (3)) include such other provision as the Secretary of State considers appropriate for securing that the interests of suppliers are protected.
- (6) A contract for the supply of essential goods or services is a contract for a supply mentioned in section 233(3) of the Insolvency Act 1986.
- (7) An insolvency-related term of a contract for the supply of essential goods or services to a company 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 company enters administration or the voluntary arrangement takes effect,
  - (b) the supplier would be entitled to terminate the contract or the supply, or to do any other thing, because the company enters administration or the voluntary arrangement takes effect, or
  - (c) the supplier would be entitled to terminate the contract or the supply because of an event that occurred before the company enters administration or the voluntary arrangement takes effect.
- (8) In this section, “insolvency office-holder” means—
  - (a) in a case where a company enters administration, the administrator;
  - (b) in the case where a voluntary arrangement under Part 1 of the Insolvency Act 1986 takes effect in relation to a company, the supervisor of the voluntary arrangement.