
DRAFT STATUTORY INSTRUMENTS

2024 No.

The Water Industry (Special Administration) Regulations 2024

PART 4

The Insolvency Act 1986 – specific modifications

CHAPTER 1

Schedule B1 – specific modifications

Challenge to special administrator’s conduct of company

25. Paragraph 74(1) has effect as if—

(a) for sub-paragraph (2), there were substituted—

“(2) Where a company is in special administration, a person mentioned in sub-paragraph (2A) may apply to the court claiming that the special administrator is conducting the special administration in a way that is preventing its purposes from being achieved as quickly and efficiently as is reasonably practicable.”;

(b) after sub-paragraph (2), there were inserted—

“(2A) The persons who may apply to the court under sub-paragraph (2) are—

- (a) the relevant authority,
- (b) the Water Services Regulation Authority, if it has the consent of the relevant authority,
- (c) a creditor of the company,
- (d) a member of the company.

(2B) Where a company is in special administration, the relevant authority or the Water Services Regulation Authority may apply to the court claiming that the special administrator has exercised or is exercising or is proposing to exercise their powers in relation to the company in a way which involves a contravention of—

- (a) the conditions of the company’s appointment under Chapter 1 of Part 2 of the 1991 Act,
- (b) the company’s licence granted under Chapter 1A of Part 2 of the 1991 Act, or
- (c) any statutory or other requirement imposed on the company in consequence of that appointment or licence.”;

(c) sub-paragraph (6)(c) were omitted; and

(d) after sub-paragraph (6), there were inserted—

(1) Paragraph 74 was amended by: [S.I. 2007/2974](#), regulation 65(1), (4) and (5); [S.I. 2008/948](#), articles 3(1)(b), 6 and Schedule 1, Part 2, paragraph 100(b); the Small Business, Enterprise and Employment Act 2015 (c. 26), section 126 and Schedule 9, Part 1, paragraphs 1, 10(1) and (24); [S.I. 2019/348](#), regulation 8 and Schedule 3, paragraph 1; and, the Corporate Insolvency and Governance Act 2020 (c. 12), section 7, Schedule 9, Part 2, paragraphs 5 and 7(1) and (4).

“(7) In the case of a claim made by a creditor or member of the company, the court may not grant a remedy or relief under this paragraph unless it has given the relevant authority and the Water Services Regulation Authority a reasonable opportunity to make representations about the claim and the proposed remedy, relief or order.

(8) An order may not be made under this paragraph if it would be likely to prejudice, impede or prevent the achievement of the purposes of the special administration order concerned.

(9) Before making an order of the kind mentioned in sub-paragraph (4)(d)—

(a) the court must notify the special administrator of—

(i) the proposed order, and

(ii) a reasonable period during which the special administrator may take relevant steps (see sub-paragraphs (10) to (13)), and

(b) the period mentioned in paragraph (a)(ii) must have expired without the special administrator having taken such of those steps as the court thinks should have been taken.

(10) If the claim is made under sub-paragraph (1)(a), relevant steps are—

(a) ceasing to act in a way that unfairly harms the interests to which the claim relates,

(b) remedying any harm unfairly caused to those interests, and

(c) ensuring that there is no repetition of conduct unfairly causing harm to those interests.

(11) If the claim is made under sub-paragraph (1)(b), relevant steps are steps for ensuring that the interests to which the claim relates are not unfairly harmed.

(12) If the claim is made under sub-paragraph (2), relevant steps are—

(a) ceasing to act in a manner preventing the achievement of the purposes of the special administration as quickly and as efficiently as is reasonably practicable,

(b) remedying the consequences of the special administrator having acted in such a manner, and

(c) ensuring that there is no repetition of conduct preventing the achievement of the purposes of the special administration as quickly and as efficiently as is reasonably practicable.

(13) If the claim is made under sub-paragraph (2B), relevant steps are—

(a) ceasing to act in a manner contravening—

(i) the conditions of the appointment or licence, or

(ii) any statutory or other requirement imposed on the company in consequence of that appointment or licence,

(b) remedying the consequences of the special administrator having acted in such a manner, and

(c) ensuring that there is no repetition of conduct contravening—

(i) the conditions of the appointment or licence, or

(ii) any statutory or other requirement imposed on the company in consequence of that appointment or licence.”.