
EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument modifies the application of the moratorium regime in Part A1 of the Insolvency Act 1986 (c. 45) (“the moratorium regime”) to “protected energy companies” (companies that hold an electricity distribution or transmission licence or a gas transporter licence), a “smart meter communication licensee” and “energy supply companies” (companies that hold an electricity or gas supply licence).

Regulations 3, 4 and 5 modify the procedure for these companies to obtain or apply for a moratorium, by requiring their directors to notify the Secretary of State and the energy regulator, the Gas and Electricity Markets Authority (“GEMA”), that they have obtained or have applied to court for a moratorium.

Regulations 6 and 7 modify the obligations on monitors and directors of those companies when a moratorium comes into force, has been extended, or come to an end. The monitor is required to notify, and the directors are required to give specified documents to, the Secretary of State and GEMA.

Regulations 8 and 9 modify restrictions on legal processes during a moratorium. Regulation 8 allows the Secretary of State or GEMA to apply for an energy administration order, a smart meter communication licensee administration order or an energy supply company administration order. These orders would respectively place a company under a special administration regime under: Chapter 3 of Part 3 of the Energy Act 2004 (c. 20) in respect of protected energy companies; sections 2 to 10 of the Smart Meters Act 2018 (c. 14) in respect of a smart meter communication licensee; or Chapter 5 of Part 2 of the Energy Act 2011 (c. 16) in respect of energy supply companies. Regulation 9 allows GEMA to institute, carry out or continue legal processes in relation to these companies without the court’s permission.

Regulation 10 modifies the general interpretation provision for the moratorium regime to include definitions for terms contained in the modifications.

A full impact assessment has not been produced for this instrument as no impact, or no significant impact on the private, public or voluntary sectors is foreseen.