



Water Industry Act 1991

1991 CHAPTER 56

PART II

APPOINTMENT AND REGULATION OF UNDERTAKERS

CHAPTER II

ENFORCEMENT OF INSOLVENCY

Special administration orders

23 Meaning and effect of special administration order.

- (1) A special administration order is an order of the High Court made in accordance with section 24 or 25 below in relation to a company holding an appointment under Chapter I of this Part [^{F1}or which is [^{F2}a qualifying water supply licensee or a qualifying sewerage licensee]] and directing that, during the period for which the order is in force, the affairs, business and property of the company shall be managed, by a person appointed by the High Court—
 - (a) for the achievement of the purposes of such an order; and
 - (b) in a manner which protects the respective interests of the members and creditors of the company.
- (2) The purposes of a special administration order made in relation to any company [^{F3}holding an appointment under Chapter 1 of this Part] shall be—
 - (a) the transfer to another company, or (as respects different parts of the area to which the company's appointment relates, or different parts of its undertaking) to two or more different companies, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that the functions which have been vested in the company by virtue of its appointment may be properly carried out; and

Changes to legislation: Water Industry Act 1991, Section 23 is up to date with all changes known to be in force on or before 30 May 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) View outstanding changes

- (b) the carrying out of those functions pending the making of the transfer and the vesting of those functions in the other company or companies (whether by virtue of the transfer or of an appointment or variation which replaces the former company as a relevant undertaker).
- [^{F4}(2A) The purposes of a special administration order made in relation to any company which is [^{F5}a qualifying water supply licensee] shall be—
- (a) the transfer to another company or companies, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that activities relating to the introduction or introductions of water mentioned in [^{F6}subsection (7)] below may be properly carried on; and
 - (b) the carrying on of those activities pending the making of the transfer.]
- [^{F7}(2B) Where a company is in special administration as a result of an order made on the grounds that the company is or is likely to be unable to pay its debts—
- (a) a purpose of the special administration order is to rescue the company as a going concern, and
 - (b) the transfer purpose under subsection (2)(a) or (2A)(a) applies only if the special administrator thinks that—
 - (i) it is not likely to be possible to rescue the company as a going concern, or
 - (ii) transfer is likely to secure more effective performance of the functions or activities mentioned in subsection (2)(a) or (2A)(a).
- (2C) Where subsection (2B) applies, subsections (2)(b) and (2A)(b) have effect as if they referred to carrying out functions, or carrying on activities, pending rescue or transfer.
- (2D) For the purpose of rescuing the company as a going concern a special administrator may propose—
- (a) a company voluntary arrangement under Part 1 of the Insolvency Act 1986, or
 - (b) a compromise or arrangement in accordance with Part 26 [^{F8}or 26A] of the Companies Act 2006.
- (2E) The Secretary of State may by regulations made by statutory instrument—
- (a) modify a provision of the Insolvency Act 1986 or the Companies Act 2006 in respect of the arrangements and compromises mentioned in subsection (2D) in so far as they apply to a company which is or has been in special administration;
 - (b) make other supplemental provision about those arrangements and compromises (which may, in particular, apply or modify the effect of an enactment about insolvency or companies).
- (2F) Provision under subsection (2E)(a) or (b) may, in particular, confer a function on—
- (a) the Secretary of State,
 - (b) the Welsh Ministers, or
 - (c) the Authority.
- (2G) Regulations under subsection (2E) may not be made unless—
- (a) the Welsh Ministers have consented to the making of the regulations, and
 - (b) a draft has been laid before and approved by resolution of each House of Parliament (and section 213(1) shall not apply).]
- [^{F9}(2H) A transfer under subsection (2) or (2A) may be effected by—

Changes to legislation: Water Industry Act 1991, Section 23 is up to date with all changes known to be in force on or before 30 May 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) View outstanding changes

- (a) transferring all or part of the company's undertaking to a wholly-owned subsidiary of the company, and
 - (b) then transferring securities in the subsidiary to another company.]
- [^{F10}(3) Schedule B1 to the Insolvency Act 1986 (administration) applies to special administration (subject to regulations under subsection (3A)).
- (3A) The Secretary of State may make regulations about special administration which—
- (a) apply (with or without modification) an insolvency provision;
 - (b) disapply an insolvency provision;
 - (c) modify the effect of an insolvency provision;
 - (d) make provision similar to, and in place of, an insolvency provision.
- (3B) In subsection (3A) “insolvency provision” means a provision of the Insolvency Act 1986 or another enactment about insolvency (including (i) a provision about administration, (ii) a provision about consequences of insolvency, and (iii) a provision conferring power to make rules).
- (3C) A reference in an enactment to Part II of the Insolvency Act 1986 includes a reference to that Part as applied by or under this section (subject to regulations under subsection (3A)).
- (3D) Regulations under subsection (3A) shall be made by statutory instrument and may not be made unless—
- (a) the Welsh Ministers have consented to the making of the regulations, and
 - (b) a draft has been laid before and approved by resolution of each House of Parliament (and section 213(1) shall not apply).]
- (4) Schedule 2 to this Act shall have effect for enabling provision to be made with respect to cases in which
- [^{F11}(a) a company is replaced by another as a relevant undertaker without an appointment or variation under Chapter 1 of this Part; or
 - [^{F12}(b) a company carries on activities relating to—
 - (i) the introduction or introductions of water mentioned in subsection (7) formerly carried on by another company; or
 - (ii) the removal or removals of matter mentioned in subsection (9) formerly carried on by another company,]
 in pursuance of a special administration order.]
- (5) In this section “business” and “property” have the same meanings as in the ^{M1}Insolvency Act 1986.
- [^{F13}(6) For the purposes of this section, sections 24 to 26 below and Schedule 2 to this Act, a [^{F14}water supply licensee] is a [^{F15}qualifying water supply licensee] if—
- [^{F16}(a) it is the holder of a water supply licence giving it a wholesale or supplementary authorisation (within the meaning of Chapter 1A of this Part), and
 - (b) the condition in subsection (7) is satisfied in relation to it.]
- [The condition in this subsection is that—
- ^{F17}(7) (a) the introduction of water by the licence holder which is permitted under section 66B or 66C is designated as a strategic supply under section 66G, or

Changes to legislation: Water Industry Act 1991, Section 23 is up to date with all changes known to be in force on or before 30 May 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) View outstanding changes

- (b) the introductions of water by the licence holder which are permitted under section 66B or 66C are designated as a collective strategic supply under section 66H.]]

Textual Amendments

- F1** Words in s. 23(1) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 8\(2\)](#); [S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))
- F2** Words in s. 23(1) substituted (1.4.2017 except as it relates to qualifying sewerage licensees) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(2\)](#); [S.I. 2017/462, art. 3\(k\)\(bb\)\(v\)](#)
- F3** Words in s. 23(2) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 8\(3\)](#); [S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))
- F4** S. 23(2A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 8\(3\)](#); [S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))
- F5** Words in s. 23(2A) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(3\)\(a\)](#); [S.I. 2017/462, art. 3\(k\)\(cc\)\(v\)](#)
- F6** Words in s. 23(2A) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(3\)\(b\)](#); [S.I. 2017/462, art. 3\(k\)\(cc\)\(v\)](#)
- F7** S. 23(2B)-(2G) inserted (1.10.2010 for specified purposes, 12.1.2024 in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 3](#) (with s. 49(1)(6)); [S.I. 2010/2169, art. 4](#); [S.I. 2024/35, art. 2\(b\)](#)
- F8** Words in s. 23(2D)(b) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 11](#) (with ss. 2(2), 5(2))
- F9** S. 23(2H) inserted (1.10.2010 for specified purposes, 12.1.2024 in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 5\(1\)](#) (with s. 49(1)(6), [Sch. 5 para. 5\(4\)](#)); [S.I. 2010/2169, art. 4](#); [S.I. 2024/35, art. 2\(b\)](#)
- F10** S. 23(3)-(3D) substituted for s. 23(3) (1.10.2010 for specified purposes, 15.3.2024 in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 5 para. 6\(1\)](#) (with s. 49(1)(6)); [S.I. 2010/2169, art. 4](#); [S.I. 2024/363, art. 2\(b\)](#)
- F11** Words in s. 23(4) substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 8\(5\)](#); [S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))
- F12** S. 23(4)(b) substituted (1.4.2017 so far as it substitutes s. 23(4)(b)(i), otherwise prosp.) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(7\)](#); [S.I. 2017/462, art. 3\(k\)\(dd\)\(v\)](#)
- F13** S. 23(6) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 8\(6\)](#); [S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))
- F14** Words in s. 23(6) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(8\)\(a\)](#); [S.I. 2017/462, art. 3\(k\)\(ee\)\(v\)](#)
- F15** Words in s. 23(6) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(8\)\(b\)](#); [S.I. 2017/462, art. 3\(k\)\(ee\)\(v\)](#)
- F16** S. 23(6)(a)(b) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(8\)\(c\)](#); [S.I. 2017/462, art. 3\(k\)\(ee\)\(v\)](#)
- F17** S. 23(7) inserted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 35\(9\)](#); [S.I. 2017/462, art. 3\(k\)\(ee\)\(v\)](#)

Modifications etc. (not altering text)

- C1** S. 23 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), [Sch. 1 para. 7\(2\)](#) (with [reg. 1\(1\)\(c\)](#))
- C2** S. 23(1) restricted (15.11.1999) by [S.I. 1999/2787, art. 4](#)

Marginal Citations

- M1** 1986 c. 45.

Changes to legislation:

Water Industry Act 1991, Section 23 is up to date with all changes known to be in force on or before 30 May 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 23(2B)(b) words substituted by 2014 c. 21 Sch. 7 para. 35(5)(a)
- s. 23(2B)(b)(ii) words substituted by 2014 c. 21 Sch. 7 para. 35(5)(b)
- s. 23(2C) words substituted by 2014 c. 21 Sch. 7 para. 35(6)
- s. 23(6)(a) words repealed by 2014 c. 21 Sch. 5 para. 23

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 3 Ch. 2B inserted by 2014 c. 21 s. 12
- s. 17(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(4)(b) (as substituted) by S.I. 2019/1245 reg. 21 (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17A(c) repealed by 2014 c. 21 Sch. 5 para. 4(2)(c)
- s. 17A(d) repealed by 2014 c. 21 Sch. 5 para. 4(2)(c)
- s. 17A(2)(ba) and word inserted by 2014 c. 21 Sch. 5 para. 4(2)(b)
- s. 17R(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(7)(b) (as substituted) by S.I. 2019/1245 reg. 21 (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17AA(1)(ba)(bb) inserted by 2014 c. 21 Sch. 5 para. 5(2)
- s. 17BA(5A) inserted by 2014 c. 21 Sch. 5 para. 7(3)
- s. 17HA(9)(b)(ia) inserted by 2014 c. 21 Sch. 5 para. 16(2)
- s. 23(2AA) inserted by 2014 c. 21 Sch. 7 para. 35(4)
- s. 23(8)(9) inserted by 2014 c. 21 Sch. 7 para. 35(10)
- s. 39E-39H inserted by 2021 c. 30 s. 78(7)
- s. 87(7C)-(7F) inserted by 2012 c. 7 s. 35(6)
- s. 94A-94E inserted by 2021 c. 30 s. 79
- s. 95ZA(6) inserted by 2014 c. 21 Sch. 5 para. 39(4)
- s. 96ZA(2)-(5) substituted for s. 96ZA(2) by 2014 c. 21 Sch. 5 para. 40
- s. 106B(3A) inserted by 2014 c. 21 Sch. 7 para. 94
- s. 117G(2)(aa) inserted by 2014 c. 21 Sch. 5 para. 41(2)
- s. 117G(4)-(4D) substituted for s. 117(4) by 2014 c. 21 Sch. 5 para. 41(3)
- s. 117G(6)(aa) inserted by 2014 c. 21 Sch. 5 para. 41(4)
- s. 117K(2)(aa) inserted by 2014 c. 21 Sch. 5 para. 42(2)
- s. 117K(5)(5A) substituted for s. 117(5) by 2014 c. 21 Sch. 5 para. 42(3)
- s. 117L(9) inserted by 2014 c. 21 Sch. 5 para. 43(3)
- s. 117N(4)(aa) inserted by 2014 c. 21 Sch. 5 para. 45(2)
- s. 117N(8)(aa) inserted by 2014 c. 21 Sch. 5 para. 45(3)
- s. 117N(11)(aa) inserted by 2014 c. 21 Sch. 5 para. 45(4)
- s. 117O(4)(aa) inserted by 2014 c. 21 Sch. 5 para. 46(2)
- s. 117O(8)(aa) inserted by 2014 c. 21 Sch. 5 para. 46(3)
- s. 117S(7)-(9) inserted by 2014 c. 21 Sch. 5 para. 49
- s. 119(2)(ab) inserted by 2003 c. 37 s. 89(1)(a)

- s. 119(3) inserted by 2003 c. 37 s. 89(1)(b)
- s. 121(1)(ba) inserted by 2003 c. 37 s. 89(2)(a)
- s. 141DC inserted by 2021 c. 30 s. 83
- s. 177K(7)(aa) inserted by 2014 c. 21 Sch. 5 para. 42(4)
- s. 207D and cross-heading inserted by 2014 c. 21 s. 39
- s. 207D(5) word repealed by 2014 c. 21 Sch. 5 para. 52(a)
- s. 207D(5) words inserted by 2014 c. 21 Sch. 5 para. 52(b)
- s. 213(1ZA) inserted by 2014 c. 21 Sch. 7 para. 119(3)
- s. 213(1ZA) repealed by 2014 c. 21 Sch. 5 para. 53