



## **Energy Act 2011: Special Administration Regime**

**Lead Directorate:** Energy Markets and Networks

### **Issue:**

Introduction of energy supply company administration for gas and electricity suppliers, as a backstop to the current arrangements for dealing with insolvencies in the energy supply sector.

### **Policy commitment:**

The provision contributes to the Government's security of supply commitments by ensuring that in the event of a large supplier becoming insolvent there are arrangements in place to ensure customers continue to be supplied with gas and electricity as cost effectively as possible until the company in difficulty is either rescued, sold or its customers transferred to other suppliers. The arrangements will help maintain market stability.

### **Provisions include:**

The provisions allow the Secretary of State (or Ofgem with the Secretary of State's consent) to apply to the court for an energy supply company administration order. The court will be able to grant the order if the current statutory tests for insolvency are met.

The energy administrator employed is required to continue to contract to supply gas and electricity to customers until the company is rescued, sold or its supply activities transferred to other companies. He/she is required to conclude energy supply company administration as quickly and as effectively as reasonably practicable.

The Act allows the government to provide grants and/or loans to enable the energy administrator to finance the company's activities. Provisions are included to recover any government funding from the company, or if it is not in a position to repay, through a cost recovery mechanism with the cost being borne by the industry. The cost recovery mechanism is subject to consultation. Taxpayers will not foot the bill for energy supply company administration.

### **Background:**

Special administration regimes are an alternative to general administration law. They are generally designed to ensure uninterrupted and safe operation of essential services in the event of a company becoming insolvent.

A special administration regime already exists for electricity and gas transmission and network distribution companies. For suppliers, we have relied on the Supplier of Last Resort process to ensure supply to customers in the event of a supplier's insolvency. This process allows Ofgem to revoke the failed supplier's licence and appoint another supplier to take on its customers. The Supplier of Last Resort arrangements have been tested several times over the last few years when small

suppliers have failed. However, although the arrangements have worked well to date, experience has shown that it is unlikely that they would work in the event of a large supplier becoming insolvent because of the volume of customers involved.

It is highly unlikely that a large supplier would become insolvent and DECC has no reason to believe any are at risk. If it were to happen the most likely outcome would be the sale of the company. However, if no purchaser is found and Ofgem advises that the Supplier of Last Resort arrangements are unlikely to work, then the Secretary of State may apply for an energy supply company administration order as a last resort. Energy supply company administration will ensure continuity of supply to customers as cost effectively as possible until the company in difficulty is rescued, sold or its customers transferred to other suppliers.