

## **EXPLANATORY NOTES**

### **SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015**

#### **INTRODUCTION**

#### **BACKGROUND AND SUMMARY**

##### **PART 1: ACCESS TO FINANCE**

**Power to invalidate terms of contracts prohibiting etc. assignment of receivables and UK businesses: duty to publish report on payment practices**

**Small and Medium Sized Business Credit Data**

**Small and medium sized businesses: information to finance platforms**

**VAT Data Sharing**

**Disclosure of exporter information**

**Power of the Secretary of State under section 1 of the Export and Investment Guarantees Act 1991 (EIGA) and Commitment limits**

**Cheque Clearing**

**Payment Systems Regulator**

##### **PART 2: REGULATORY REFORM**

**Streamlined Company Registration**

**Review of business appeals procedure**

**Business Impact Target**

**Duty to Review Regulatory Provisions**

**Definition of small and micro business**

**Home businesses**

**Competition and Markets Authority (CMA) recommendations**

##### **PART 3: PUBLIC SECTOR PROCUREMENT**

##### **PART 4: PUBS CODE AND ADJUDICATOR**

##### **PART 5: CHILDCARE AND SCHOOLS**

**PART 6: EDUCATION EVALUATION**

**PART 7: COMPANIES: TRANSPARENCY**

**PART 8: COMPANY FILING REQUIREMENTS**

**PART 9: DIRECTORS' DISQUALIFICATION ETC.**

**PART 10: INSOLVENCY**

**Insolvency Red Tape Challenge**

**Administration: sales to connected persons**

**Regulation of the regulators**

**PART 11: EMPLOYMENT**

**Equal pay: Transparency**

**Whistleblowing**

**Employment Tribunals**

**National Minimum Wage**

**Exclusivity Terms in Zero Hours Contracts**

**Public Sector Redundancy Payments**

**Concessionary coal**

**OVERVIEW AND STRUCTURE OF THE ACT**

**TERRITORIAL EXTENT AND APPLICATION**

**COMMENTARY ON SECTIONS**

**PART 1: ACCESS TO FINANCE**

**Assignment of receivables**

Section 1: Power to invalidate certain restrictive terms of business contracts

Section 2: Section 1(4)(a): meaning of 'financial services'

**Business payment practices**

Section 3: Companies: duty to publish report on payment practices

**Financial information about businesses**

Section 4: Small and medium sized businesses: information to credit reference agencies

Section 5: Small and medium sized businesses: information to finance platforms

Section 6: Sections 4 and 5: supplementary

Section 7: Sections 4 to 6: interpretation

Section 8: Disclosure of VAT registration information

Section 9: Offences for the purposes of Section 8

### **Exports**

Section 10: Disclosure of exporter information

Section 11: Power of the Secretary of State under section 1 of the EIGA 1991

Section 12: EIGA 1991: further amendments

### **Presentment of cheques etc**

Section 13: Electronic paying in of cheques etc.

### **Payment systems**

Section 14: Powers of the Payment Systems Regulator

## **PART 2: REGULATORY REFORM**

### **Streamlined company registration**

Section 15: Target for streamlined company registration

Section 16: Streamlined company registration: duty to report on progress

### **Review of business appeals procedures**

Section 17: Review of regulators' complaints and appeals procedures

Section 18: Power to specify regulatory functions

Section 19: Guidance by the Secretary of State

### **Report on investigations under financial regulators' complaint scheme**

Section 20: Independent Complaints Commissioner: reporting duty

### **Business impact target**

Section 21: Duty on Secretary of State to publish business impact target etc.

Section 22: Sections 21 and 23 to 25: "qualifying regulatory provisions" etc.

Section 23: Duty on Secretary of State to publish reports

Section 24: Additional matters to be included in reports

Section 25: Appointment of body to verify assessments and lists in reports

Section 26: Amending the business impact target etc

Section 27: Sections 21 to 25 etc: interpretation

**Secondary legislation: duty to review**

Section 28: Duty to review regulatory provisions in secondary legislation

Section 29: Section 28(1) (b): interpretation

Section 30: Section 28(2) (a): “provision for review”

Section 31: Section 28(2) (b): appropriateness of making provision for review

Section 32: Sections 28 to 31 etc: supplementary

**Definition of small and micro business**

Section 33: Definitions of small and micro business

Section 34: Small and micro business regulations: further provision

**Home Businesses**

Section 35: Exclusion of home businesses from Part 2 of the Landlord and Tenant Act 1954

Section 36: Section 35: supplementary and consequential provision

**CMA recommendations**

Section 37: CMA to publish recommendations on proposals for Westminster legislation

**Liability of bodies concerned with accounting standards**

Section 38: Exemption from liability for bodies concerned with accounting standards etc.

**PART 3: PUBLIC SECTOR PROCUREMENT**

Section 39: Regulations about procurement

Section 40: Investigation of procurement functions

**PART 4: THE PUBS CODE ADJUDICATOR AND THE PUBS CODE**

**The Pubs Code Adjudicator**

Section 41: The Adjudicator

Schedule 1: The Pubs Code Adjudicator

**PART 1 THE PUBS CODE ADJUDICATOR**

**Status**

Paragraph 1 – Legal status

Paragraphs 2 and 3 – Appointment of the Adjudicator to represent the Crown

### **Deputy Adjudicator**

Paragraphs 4 and 5 – Appointment of a Deputy Adjudicator

### **Terms of office etc**

Paragraphs 6 and 7 – Period in office and how it may end

### **Remuneration**

Paragraph 8 – Remuneration decisions

### **Staff**

Paragraph 9 – Secondments

### **Conflicts of interest**

Paragraphs 10 and 11 – Arrangements for when the Adjudicator, Deputy Adjudicator or any of their staff have an interest that may conflict with their duties

### **Validity of acts**

Paragraph 12 – Appointment errors

### **Application of seal and proof of documents**

Paragraphs 13 and 14 – Use of the Adjudicator’s seal

### **Accounts**

Paragraph 15 – Financial reporting

### **Incidental powers**

Paragraph 16 – Aiding the work of the Adjudicator

### **Assistance from the Secretary of State**

Paragraph 17 – Help with resourcing

### **Exemption from liability for damages**

Paragraph 18 – Protection against most claims for damages

## **PART 2: INFORMATION POWERS OF THE PUBS CODE ADJUDICATOR**

Paragraph 19 – Requirement to provide information

Paragraphs 20 to 22 – Offences

## **PART 3: AMENDMENTS OF LEGISLATION**

Paragraphs 23 to 26 – Amendments of legislation

**The Pubs Code**

Section 42: The Pubs Code

Section 43: Pubs code: market rent only option

Section 44: Market rent only option: procedure

Section 45: Market rent only option: disputes

Section 46: Review of the Pubs Code

Section 47: Inconsistency with Pubs Code etc

**Arbitration by Adjudicator**

Section 48: Referral for arbitration by tied pub tenants

Section 49: Timing of referral for arbitration by tied pub tenants

Section 50: Arbitration commenced by pub-owning businesses

Section 51: Arbitration: supplementary

Section 52: Information about arbitration

**Investigations by Adjudicator**

Section 53: Investigations

Section 54: Investigation reports

Section 55: Forms of enforcement

Section 56: Recommendations

Section 57: Requirements to publish information

Section 58: Financial penalties

Section 59: Recovery of investigation costs

**Advice and guidance by the Adjudicator**

Section 60: Advice

Section 61: Guidance

**Adjudicator's reporting requirements**

Section 62: Annual Report

**Funding of Adjudicator**

Section 63: Levy Funding

Section 64: Loans by Secretary of State

### **Supervision of Adjudicator**

Section 65: Review of Adjudicator and guidance from Secretary of State

Section 66: Abolition of Adjudicator

Section 67: Information to Secretary of State

### **Supplementary**

Section 68: Tied Pub

Section 69: “Pub-owning business”

Section 70: “Tied pub tenant”, “landlord”, “tenancy” and “licence”

Section 71: Power to grant exemptions from the Pubs Code

Section 72: Interpretation: other provision

### **Regulations under this Part**

Section 73: Regulations under this Part

## **PART 5: CHILDCARE AND SCHOOLS**

Section 74: Funding for free of charge early years provision

Section 75: Exemption from requirement to register as early years provider

Section 76: Childminding other than on domestic premises

Section 77 (and Schedule 2): Registration of childcare: premises

## **PART 6: EDUCATION EVALUATION**

Section 78: Assessments of effectiveness

Section 79: Qualifications

Section 80: Destinations

## **PART 7: COMPANIES: TRANSPARENCY**

### **Register of people with significant control**

Section 81: Register of people with significant control

Schedule 3: Register of people with significant control

### **PART 1: DUTY TO OBTAIN INFORMATION AND KEEP REGISTER**

## **Part 21A: Information about people with significant control**

### **Chapter 1: Introduction**

790A: Overview

790B: Companies to which this Part applies

790C: Key terms

### **Chapter 2: Information-gathering**

#### **Duty on companies**

790D: Company's duty to investigate and obtain information

790E: Company's duty to keep information up-to-date

790F: Failure by company to comply with information duties

#### **Duty on others**

790G: Duty to supply information

790H: Duty to update information

#### **Compliance**

790I: Enforcement of disclosure requirements

#### **Exemption from information and registration requirements**

790J: Power to make exemptions

#### **Required particulars**

Section 790K: Required particulars

Section 790L: Required particulars: power to amend

### **Chapter 3: Register of people with significant control**

Section 790M: Duty to keep register

Sections 790N to 790V

Section 790N: Register to be kept available for inspection

Section 790O: Rights to inspect and require copies

Section 790P: PSC Register: response to request for information or copy



Section 790Q: PSC register: refusal of inspection or default in providing copy

Section 790R: PSC register: offences in connection with request for or disclosure of information

Section 790S: Information as to state of register

Section 790T: Protected information

Section 790U: Removal of entries from the register

Section 790V: Power of court to rectify register

#### **Chapter 4: Alternative method of record keeping**

Section 790W: Introductory

Section 790X: Right to make an election

Section 790Y: Effective date of election

Section 790Z: Effect of election on obligations under Chapter 3

Section 790ZA: Duty to notify registrar of changes

Section 790ZB: Information as to state of central register

Section 790ZC: Power of court to order company to remedy default or delay

Section 790ZD: Withdrawing the election

Section 790ZE: Power to extend option to public companies

#### **Chapter 5: Protection from disclosure**

Section 790ZF: Protection of information as to usual residential address

Section 790ZG: Power to make regulations protecting material

Schedule 1A: References to people with significant control over a company

### **PART 1: THE SPECIFIED CONDITIONS**

**Ownership of shares**

**Ownership of voting rights**

**Ownership of right to appoint or remove directors**

**Significant influence or control**

**Trusts, partnerships etc.**

**PART 2: HOLDING AN INTEREST IN A COMPANY  
ETC**

**PART 3: SUPPLEMENTARY PROVISION**

**Joint interests**

**Joint arrangements**

**Calculating shareholdings**

**Voting rights**

**Rights to appoint or remove members of the board**

**Shares or rights held “indirectly”**

**Shares held by nominees**

**Rights treated as held by a person who controls  
their exercise**

**Rights exercisable only in certain circumstances etc.**

**Rights attached to shares by way of security**

**Limited partnerships**

**PART 3: POWER TO AMEND THRESHOLDS ETC.**

Schedule 1B: Enforcement of disclosure requirements

**Right to issue restrictions notice**

**Relevant interests**

**Effect of restrictions notice**

**Protection of third party rights**

**Breach of restrictions**

**Relaxation of restrictions**

**Orders for sale**

**Company's power to withdraw restrictions notice**

**Supplementary provisions**

**Offences for failing to comply with notices**

**Offences for failing to provide information**

**PART 2: RELATED AMENDMENTS**

Section 82: Review of provisions about PSC registers

**Register of interests disclosed**

Section 83: Amendment of section 813 of the Companies Act 2006

**Abolition of share warrants to bearer**

Section 84: Abolition of share warrants to bearer

Schedule 4: Abolition of share warrants to bearer

**PART 1: ARRANGEMENTS FOR CANCELLATION AND  
CONVERSION**

**PART TWO: CONSEQUENTIAL AMENDMENTS**

Section 85: Amendment of company's articles to reflect abolition of share warrants

Section 86: Review of section 84

**Corporate Directors**

Section 87: Requirement for all company directors to be natural persons

Section 88: Review of section 87

**Shadow directors**

Section 89: Application of directors' general duties to shadow directors

Section 90: Shadow directors: definition

Section 91: Shadow directors: provision for Northern Ireland

## **PART 8: COMPANY FILING REQUIREMENTS**

### **Annual return reform**

Section 92: Duty to deliver confirmation statement instead of annual return

Section 93: Section 92: related amendments

### **Additional information on the register**

Section 94: Option for companies to keep information on central register

Schedule 5: Option to keep information on central register

## **PART 1 – CREATION OF THE OPTION**

### **Register of members**

### **Register of overseas members**

### **Register of directors and register of directors' residential addresses**

### **Register of secretaries**

## **PART 2 – RELATED AMENDMENTS**

Section 95: Recording of optional information on register

### **Directors' dates of birth**

Section 96: Protection of information about a person's date of birth

### **Statements of capital etc**

Section 97: Contents of statements of capital

Schedule 6: Contents of statements of capital

Section 98: Public companies: information about aggregate amount paid up on shares

### **Registered office disputes**

Section 99: Address of company registered office

### **Director disputes**

Section 100: Company filing requirements: consent to act as director or secretary

Section 101: Registrar's duty to inform new directors of entry in register

Section 102: Removal from register of material about directors

### **Accelerated strike-off**

Section 103: Reduction in notice periods etc for striking off companies

## **PART 9: DIRECTORS' DISQUALIFICATION ETC.**

### **New grounds for disqualification**

Section 104: Convictions abroad

Section 105: Persons instructing unfit director

### **Determining unfitness**

Section 106: Determining unfitness and disqualifications: matters to be taken into account

Section 107: Reports of office-holders on conduct of directors of insolvent companies

### **Director disqualification: other amendments**

Section 108: Unfit directors of insolvent companies: extension of period for applying for disqualification order

Section 109: Directors: removal of restriction on application for disqualification order

### **Compensation awards**

Section 110: Compensation orders and undertakings

### **Consequential amendments and corresponding provision for Northern Ireland**

Section 111: Sections 104 to 110: consequential and related amendments

Section 112: Provision for Northern Ireland corresponding to Sections 104 to 111

### **Bankruptcy: Scotland and Northern Ireland**

Section 113: Disqualification as director: bankruptcy, etc. in Scotland and Northern Ireland

Section 114: Company Directors Disqualification (Northern Ireland) Order 2002: bankruptcy, etc. in England and Wales or Scotland

Section 115: Disqualification as insolvency practitioner: bankruptcy, etc. in Scotland or Northern Ireland

Section 116: Disqualification as insolvency practitioner in Northern Ireland: bankruptcy, etc. in England and Wales or Scotland

## **PART 10: INSOLVENCY**

### **Office-holder actions**

Section 117: Power for administrator to bring claim for fraudulent or wrongful trading

Section 118: Power for liquidator or administrator to assign causes of action

Section 119: Application of proceeds of office-holder claims

### **Removing requirements to seek sanction**

Section 120: Exercise of powers by liquidator: removal of need for sanction

Section 121: Exercise of powers by trustee in bankruptcy: removal of need for sanction

### **Position of creditors**

Section 122: Abolition of requirements to hold meetings: company insolvency and Section 123: Abolition of requirements to hold meetings: individual insolvency

Section 124: Ability for creditors to opt not to receive certain notices: company insolvency and Section 125: Ability for creditors to opt not to receive certain notices: individual insolvency

Section 126: Sections 122 to 125: further amendments

### **Administration**

Section 127: Extension of administrator's term of office

Section 128: Administration: payments to unsecured creditors

Section 129: Administration: sales to connected persons

Section 130: Attachment of floating charges on administration (Scotland)

### **Small debts**

Section 131: Creditors not required to prove small debts: company insolvency

Section 132: Creditors not required to prove small debts: individual insolvency

### **Trustees in bankruptcy**

Section 133: Trustees in bankruptcy

### **Voluntary arrangements**

Section 134: Time limit for challenging IVAs

Section 135: Abolition of fast-track voluntary arrangements

### **Progress reports**

Section 136: Voluntary winding-up: progress reports

### **Regulation of insolvency practitioners: amendments to existing regime**

Section 137: Recognised professional bodies: recognition

Section 138: Regulatory objectives

Section 139: Oversight of recognised professional bodies

Section 140: Recognised professional bodies: revocation of recognition

Section 141: Court sanction of insolvency practitioners in public interest cases

Section 142: Power for Secretary of State to obtain information

Section 143: Compliance orders

### **Power to establish single regulator of insolvency practitioners**

Section 144: Power to establish single regulator of insolvency practitioners

Section 145: Regulations under section 144: designation of existing body

Section 146: Regulations under section 144: timing and supplementary

Section 147: Equal Pay: Transparency

## **PART 11: EMPLOYMENT**

### **Whistleblowing**

Section 148: Protected disclosures: reporting requirements

Section 149: Protection for applicants for employment etc. in the health service

### **Employment Tribunals: Failure to pay sums**

Section 150: Financial Penalty for failure to pay sums ordered by employment tribunal etc

### **Employment tribunals: Postponements**

Section 151: Employment tribunal procedure regulations: postponements

### **National Minimum Wage**

Section 152: Amount of financial penalty for underpayment of national minimum wage

### **Exclusivity in zero hours contracts**

Section 153: Exclusivity terms unenforceable in zero hours contracts

**Public sector exit payments**

Section 154: Regulations in connection with public sector exit payments and Section 155 Section 154(1): further provision

Section 156: Power to make regulations to be exercisable by the Treasury or the Scottish Ministers

Section 157: Power to Secretary of State to waive repayment requirement

Section 158: Concessionary Coal

**PART 12: GENERAL**

Section 159: Consequential amendments, repeals and revocations; Section 160 Transitional, transitory or saving provision; Section 161: Supplementary provision about regulations; Section 162: Financial provisions; and Section 163: Extent

Section 164: Commencement

**COMMENCEMENT DATES**

**HANSARD REFERENCES**