

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 7: COMPANIES: TRANSPARENCY**

##### **Corporate Directors**

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

598. This section will introduce the general requirement that company directors need to be natural persons (individuals). It inserts new sections into the Companies Act 2006 (CA 2006) to require that company directors should be natural persons and prohibits (subject to exceptions) the appointment of legal persons as directors (for example companies). It provides a power for the Secretary of State to set out exceptions – situations where legal persons can be directors.
599. Subsection (2) removes section 155 from CA 2006 which requires all companies to have at least one director who is a natural person (section 155(1)) and permits natural persons to be appointed by virtue of the office they hold (section 155(2)). As subsequent sections set out, these requirements are now superseded.
600. Subsection (4) inserts sections 156A, 156B and 156C into the Companies Act 2006:
- i. Section 156A introduces the general requirement that company directors must be natural persons. It reintroduces the provision which allows individuals to be appointed by virtue of the office they hold. If a legal person is appointed a director by a company that appointment will be void. However, any liability attaching to the person in the role of director is not affected. Also provisions which place liability on persons other than appointed directors (where they purport to act as directors or are shadow directors) will still apply even though they are legal persons). It will be an offence to breach these requirements. These restrictions apply subject to any exceptions made to the general requirement that directors must be individuals (see below).
  - ii. Section 156B gives the Secretary of State the power to make regulations setting out the exceptions to the general requirement that directors must be individuals. If this power is exercised it must include the compliance process, including registration requirements, and must require that the company has at least one director who is an individual. This power can also be used to require the approval of a regulator to the appointment of a corporate director. Specific regulators will be designated in regulations.
  - iii. Section 156C sets out the transition period for companies with corporate directors. After one year of the coming into force of section 156A a corporate director not in scope of exceptions defined in regulations under section 156B will cease to be

*These notes refer to the Small Business, Enterprise and Employment Act 2015 (c.26) which received Royal Assent on 26 March 2015*

a director. The company will need to make the necessary register alterations and notifications to the Registrar.

***Section 88: Review of section 87***

601. This section requires the Government to review provisions in section 87 of the Act every 5 years, with the first review taking place no later than 5 years after these provisions come into force. The Government's policy of sunset and review of regulations can be found in section 1.7 of the Better Regulation Framework Manual (July 2013). In accordance with this guidance, which requires review sections for new legislation that regulates business, the new provision to which this section applies is the requirement for all company directors to be natural persons.