

2015 No. 1689 (C. 100)

COMPANIES

FINANCIAL SERVICES AND MARKETS

INSOLVENCY

LANDLORD AND TENANT, ENGLAND

The Small Business, Enterprise and Employment Act 2015
(Commencement No. 2 and Transitional Provisions) Regulations
2015

Made - - - - *15th September 2015*

The Secretary of State, in exercise of the powers conferred by sections 160(1), 161(1), 161(2), 164(1) and 164(6) of the Small Business, Enterprise and Employment Act 2015^(a) and after consulting the Department of Enterprise, Trade and Investment in Northern Ireland, makes the following Regulations.

Citation and interpretation

1.—(1) These Regulations may be cited as the Small Business, Enterprise and Employment Act 2015 (Commencement No. 2 and Transitional Provisions) Regulations 2015.

(2) In these Regulations—

“the 1986 Act” means the Insolvency Act 1986^(b);

“the 2002 Order” means the Company Directors Disqualification (Northern Ireland) Order 2002^(c);

“the Act” means the Small Business, Enterprise and Employment Act 2015; and

“the Disqualification Act” means the Company Directors Disqualification Act 1986^(d).

Provisions coming into force on 1st October 2015

2. The following provisions of the Act come into force on 1st October 2015—

(a) section 20 (Independent Complaints Commissioner: reporting duty);

(b) in relation to England, sections 35 and 36 (home businesses);

(a) 2015 c. 26.
(b) 1986 c.45.
(c) S.I. 2002/3150 (N.I. 4).
(d) 1986 c.46.

- (c) sections 104 and 105 (new grounds for disqualification);
- (d) section 106 (determining unfitness and disqualifications: matters to be taken into account);
- (e) sections 108 and 109 (director disqualification: other amendments);
- (f) section 110 (compensation orders and undertakings);
- (g) section 111 (sections 104 to 110: consequential and related amendments) and Schedule 7;
- (h) section 112 (provision for Northern Ireland corresponding to sections 104 to 111) and Schedule 8, except for paragraph 5 (reports of office-holders on conduct of directors of insolvent companies);
- (i) sections 113 to 116 (bankruptcy: Scotland and Northern Ireland); and
- (j) sections 117 to 119 (office-holder actions).

Provisions coming into force immediately after the coming into force of section 17 of the Deregulation Act 2015

3. The following provisions of the Act come into force immediately after the coming into force of section 17 of the Deregulation Act 2015^(a)—

- (a) sections 137 to 143 (regulation of insolvency practitioners: amendments to existing regime); and
- (b) sections 144 to 146 (power to establish single regulator of insolvency practitioners) and Schedule 11.

Provisions coming into force on 10th October 2015

4. The following provisions of the Act come into force on 10th October 2015—

- (a) section 96 (protection of information about a person's date of birth), so far as not yet in force, except for the insertion of sections 1087A(3)(b), 1087A(4)(a) and (b), 1087A(5) 1087A(6), 1087A(7) and 1087B(4) into the Companies Act 2006^(b);
- (b) sections 100 and 101 (director disputes); and
- (c) section 103 (reduction in notice periods etc for striking off companies).

Transitional provisions and savings

5. The Schedule (which contains transitional provisions relating to the provisions brought into force by these Regulations) has effect.

Baroness Neville-Rolfe
Parliamentary Under Secretary of State and Minister for Intellectual Property
Department for Business, Innovation and Skills

15th September 2015

(a) 2015 c.20.
(b) 2006 c. 46.

**TRANSITIONAL PROVISIONS IN RESPECT OF PROVISIONS
BROUGHT INTO FORCE****PART 1****PROVISIONS COMING INTO FORCE ON 1ST OCTOBER 2015**

1. Sections 8ZA to 8ZE of the Disqualification Act (as inserted by section 105 of the Act) apply in a case where—

- (a) the main transgressor's conduct (as mentioned in section 8ZA(2) of the Disqualification Act); and
- (b) the exercise by P of the requisite amount of influence (as mentioned in section 8ZA(1) and (2) of the Disqualification Act),

occur on or after 1st October 2015.

2. The amendments to sections 6 and 8 of the Disqualification Act (as made by section 106 of the Act) in respect of overseas companies apply in respect of a person's conduct as a director of an overseas company where that conduct occurs on or after 1st October 2015.

3. Save where conduct is considered by a court or by the Secretary of State under section 5A of the Disqualification Act (as inserted by section 104 of the Act), section 12C of the Disqualification Act (as inserted by section 106 of the Act) and Schedule 1 to the Disqualification Act (as substituted by section 106 of the Act) apply to a person's conduct as a director where that conduct occurs on or after 1st October 2015.

4. Sections 15A to 15C of the Disqualification Act (as inserted by section 110 of the Act) apply in respect of a person's—

- (a) conduct (as mentioned in section 15A(3)(b) of the Disqualification Act); or
- (b) exercise of the requisite amount of influence (as mentioned in section 15A(6) of the Disqualification Act),

occurring on or after 1st October 2015.

5. The amendments to Articles 9 and 11 of the 2002 Order (as made by paragraph 3 of Schedule 8 to the Act) in respect of overseas companies apply in respect of a person's conduct as a director of an overseas company where that conduct occurs on or after 1st October 2015.

6. The amendment to Article 9 of the 2002 Order (as made by paragraph 3 of Schedule 8 to the Act) in respect of a shadow director applies in respect of conduct occurring on or after 1st October 2015.

7. The amendments to Article 11 of the 2002 Order (as made by paragraph 3 of Schedule 8 to the Act) apply in respect of a person's conduct as a director of a company where that conduct occurs on or after 1st October 2015.

8. Save where conduct is considered by a court or by the Department under Article 8A of the 2002 Order (as inserted by paragraph 2 of Schedule 8 to the Act), Article 17A of the 2002 Order (as inserted by paragraph 3 of Schedule 8 to the Act) and Schedule 1 to the 2002 Order (as substituted by paragraph 3 of Schedule 8 to the Act) apply to a person's conduct as a director where that conduct occurs on or after 1st October 2015.

9. Articles 11A to 11E of the 2002 Order (as inserted by paragraph 7 of Schedule 8 to the Act) apply in a case where—

- (a) the main transgressor's conduct (as mentioned in Article 11A(2) of the 2002 Order); and

- (b) the exercise by P of the requisite amount of influence (as mentioned in Article 11A(1) and (2) of the 2002 Order),

occur on or after 1st October 2015.

10. Articles 19A to 19C of the 2002 Order (as inserted by paragraph 8 of Schedule 8 to the Act) apply in respect of a person's—

- (a) conduct (as mentioned in paragraph (3)(b) of Article 19A of the 2002 Order); or
- (b) exercise of the requisite amount of influence (as mentioned in paragraph (6) of Article 19A of the Order),

occurring on or after 1st October 2015.

11. The amendments to section 11 of the Disqualification Act (as made by section 113 of the Act) apply in respect of a person where—

- (a) a bankruptcy order, a bankruptcy restrictions order, a debt relief restrictions order;
- (b) a bankruptcy restrictions undertaking, a debt relief restrictions undertaking; or
- (c) a moratorium period under a debt relief order,

is, as the case may be, made, awarded, accepted, granted or commences on or after 1st October 2015.

12. The amendments to Article 15 of the 2002 Order (as made by section 114 of the Act) apply in respect of a person where—

- (a) a bankruptcy order, a bankruptcy restrictions order, a debt relief restrictions order;
- (b) a bankruptcy restrictions undertaking, a debt relief restrictions undertaking; or
- (c) a moratorium period under a debt relief order,

is, as the case may be, made, awarded, accepted, granted or commences on or after 1st October 2015.

13. The amendments to section 390 of the 1986 Act (as made by section 115 of the Act) apply in relation to an individual in respect of whom a bankruptcy restrictions order or a debt relief restrictions order is made or granted on or after 1st October 2015.

14. The amendments to Article 349 of the Insolvency (Northern Ireland) Order 1989(a), paragraph 4 of Schedule 6 to the Insolvency (Northern Ireland) Order 2005(b) and paragraph 4(9)(b) of the Schedule to the Debt Relief Act (Northern Ireland) 2010(c) (as made by section 116 of the Act) apply in relation to an individual in respect of whom a bankruptcy restrictions order or a debt relief restrictions order is made or granted on or after 1st October 2015.

15. Sections 246ZA to 246ZC of the 1986 Act and the amendments to section 214 of the 1986 Act (as made by section 117 of the Act) apply in respect of the carrying on of any business of the company on or after 1st October 2015.

16. Section 246ZD of the 1986 Act (as inserted by section 118 of the Act) applies in respect of a company which enters administration or goes into liquidation on or after 1st October 2015.

17. Section 176ZB of the 1986 Act (as inserted by section 119 of the Act) applies in respect of a company which enters administration or goes into liquidation on or after 1st October 2015.

(a) S.I. 1989/2405 (N.I. 19).
(b) S.I. 2005/1455 (N.I. 10).
(c) 2010 c.16 (N.I.).

PART 2

PROVISIONS COMING INTO FORCE IMMEDIATELY AFTER THE COMING INTO FORCE OF SECTION 17 OF THE DEREGULATION ACT 2015

18. Sections 391O to 391R of the 1986 Act (as inserted by section 141 of the Act) apply in respect of conduct of an individual acting as an insolvency practitioner where that conduct occurs on or after 1st October 2015 notwithstanding the date of the individual's authorisation to act as an insolvency or appointment as office holder in a particular insolvency.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These are the second commencement regulations made under the Small Business, Enterprise and Employment Act 2015 (c.26) ("the Act"). Certain provisions came into force on the passing of the Act.

Regulation 2 commences provisions in the Act on 1st October 2015 including provisions that:

- amend section 87 of the Financial Services Act 2012 (c. 21) (investigation of complaints against regulators) to provide that the Independent Complaints Commissioner must produce and publish an annual report on its investigations under the financial services complaints scheme, including any recommendations for how the complaints handling procedures of the UK financial services regulators (the Prudential Regulation Authority, the Financial Conduct Authority and the Bank of England) could be improved. The Treasury must lay the report (and any responses from the UK financial services regulators) before Parliament;
- amend the Landlord and Tenant Act 1954 (c. 56) in relation to England only. Under tenancies entered into after the amendments come into force the carrying on of a home business will no longer entitle domestic tenants to renew tenancy agreements as business tenancies;
- make changes to the director's disqualification regime;
- allow the Secretary of State to apply for compensation orders against certain disqualified directors;
- amend the Insolvency Act 1986 (c. 45).

Regulation 3 commences provisions of the Act immediately after the coming into force of related provisions in the Deregulation Act 2015 (c. 20). These provisions relate to the regulation of insolvency practitioners.

Regulation 4 commences provisions of the Act on 10th October 2015 that:

- amend Part 35 of the Companies Act 2006 (c. 46) to require the registrar of companies to omit the 'day' of the date of birth of directors from the material on the register available for public inspection;
- remove a requirement on companies to provide the registrar with a consent by a company director or secretary to act in that capacity, replacing it with a requirement to state that the person has consented to act;
- create a duty for the registrar of companies to notify new company directors on appointment; and
- reduce the timescales under which the registrar of companies may strike off companies from the register.

Regulation 5 and the Schedule provide for transitional provisions.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Regulations)

The following provisions of the Act are brought into force by commencement regulations made before the date of these Regulations:

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 18	26th May 2015	2015/1329
Section 19(1), (3) and (4)	26th May 2015	2015/1329
Sections 28 to 32	1st July 2015	2015/1329
Section 33(4), (6) and (7)	26th May 2015	2015/1329
Section 34	26th May 2015	2015/1329
Section 76	1st January 2016	2015/1329
Section 77 and Schedule 2 (partially)	15th June 2015	2015/1329
Section 77 and Schedule 2 (partially)	1st January 2016	2015/1329
Section 81 and Schedule 3 (partially)	26th May 2015	2015/1329
Section 96 (partially)	26th May 2015	2015/1329
Sections 104 to 111 and Schedule 7 (partially)	26th May 2015	2015/1329
Sections 122 to 126 and Schedule 9 (partially)	26th May 2015	2015/1329
Section 149	26th May 2015	2015/1329
Section 152	26th May 2015	2015/1329
Section 153	26th May 2015	2015/1329
Section 158	26th May 2015	2015/1329

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