

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

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## **EXPLANATORY NOTES**

### **BACKGROUND AND SUMMARY**

#### **Part 2: Regulatory Reform**

##### **Streamlined Company Registration**

36. The current process to establish a new company in the UK is fragmented and involves providing several Departments and Agencies with different levels of information about the business in order to obtain all of the necessary permissions and licences to trade.
37. Over recent years there has been considerable discussion as to whether it is possible to provide what has been colloquially termed ‘one click registration’ or ‘tell us once’ to aid the process of company incorporation at Companies House and registration for tax purposes at HMRC by means of supplying a set of data on a single occasion.
38. This will form a part of the on-going strategic package of better regulation by keeping unnecessary regulatory burdens on business to a minimum, specifically making life easier for persons setting up a company to fulfil their legal obligations by simplifying the process of incorporating and getting registered for tax by ensuring a person can provide data once and in digital form only.
39. This Part contains provisions which will:
  - i. impose a duty on the Secretary of State to ensure that the first phase of a solution to create a more streamlined company registration process is delivered by the end of May 2017; and
  - ii. commit the Secretary of State to report annually to Parliament on progress made towards achieving the target and, in the final report in March 2017, to include an assessment of what steps, if any, the Secretary of State expects to take to extend the solution.

##### **Review of business appeals procedure**

44. The Act creates a duty on the relevant Minister of the Crown to appoint a person (“Small Business Appeals Champion”) to each non-economic regulator in scope. The aim is to ensure that there are clear and effective procedures and processes in place so that a business can challenge regulatory decisions, should they feel they have been treated unfairly.
45. This was announced by the Government in December 2013 in the ‘*Small Business: Great Ambition*’ publication and addresses issues identified by the *Focus on Enforcement Programme*, which found that businesses were not always confident that there was a clear pathway to challenge decisions by a regulator.

46. Further details of the proposal were published in April 2014 in a consultation entitled ‘*Small Business Appeals Champion and Non-Economic Regulators*’. The Government’s response to the consultation was published on 4 June 2014.
47. The Act provides that the Small Business Appeals Champion will be responsible for reviewing the complaints and appeals processes of the relevant regulator, ensuring that these meet the needs of business, and must produce a yearly report including any recommendations for how these processes could be improved. The regulators will be required to respond to this report. Both the report and the response will be published by the relevant minister of the Crown for each regulator.

### **Business Impact Target**

48. The Act supports the Government’s regulatory reform agenda by creating a statutory framework for managing and reporting of the economic impacts of new regulation on business and voluntary or community bodies.
49. One-in One-out (and, since 2013, One-in, Two-out) has provided a framework under which departments are required to ensure that business impacts are properly assessed before new regulatory measures are introduced, and that regulations are designed in a way to deliver the desired outcomes at the lowest possible net cost – with new burdens offset by a reduction in burdens elsewhere. There is transparent reporting on performance through the Statement of New Regulation, published every six months, including independent verification of burdens by the independent Regulatory Policy Committee. The proposals in the Act will ensure that these disciplines around regulatory management are maintained on a statutory footing. However decisions on the choice of target, together with its scope and detailed methodology will be made by the Government of the day.

### **Duty to Review Regulatory Provisions**

50. The Act strengthens existing arrangements for ensuring that new regulations affecting business are subject to periodic review. In 2011, the Government set out its policy requiring a statutory review provision to be included in certain categories of new legislation, placing a legal obligation on the relevant Minister to carry out a review of the legislation and publish a report setting out the conclusions within five years of the legislation coming into force. There are now several hundred pieces of legislation in force that contain such a provision.
51. The measures in the Act strengthen these arrangements by creating a statutory obligation on Ministers to include a review provision, except in circumstances where a review is not appropriate.

### **Definition of small and micro business**

52. The Act provides for statutory definitions of the terms “small business” and “micro business”, with power to flesh out the detail in regulations. The definitions are based on the approach in the widely used EU definitions of “small enterprise” and “microenterprise”. This is to ensure that definitions are available for use in secondary legislation made by UK Ministers, for example where smaller businesses are exempted from new regulatory obligations.

### **Home businesses**

53. Part 2 of the Landlord and Tenant Act 1954 contains provisions giving security of tenure to tenants of premises that are occupied for business purposes. Because of this, residential landlords often prohibit business use in the tenancy agreement and refuse requests from tenants to be allowed to run a home business, in order to avoid the possibility that it will be more difficult to recover possession of the premises at the end of a tenancy. The measures in the Act amend Part 2 to exclude home business from

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

its provisions. Providing this certainty is expected to make landlords less likely to bar home businesses in their property.

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

54. The Act gives the CMA a new power, to use at its discretion, to publish recommendations on the impact on competition of proposals for legislation. This relates to an aspect of Government's 'Strategic Steer' to the CMA where Government stated that it 'sees the CMA playing a key role in challenging Government where Government is creating barriers to competition'.
55. Government has committed to accept the CMA's recommendations for improving competition, and there is a presumption that all will be accepted unless there are strong policy reasons not to do so.