

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

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## **EXPLANATORY NOTES**

### **OVERVIEW AND STRUCTURE OF THE ACT**

90. This Act contains 12 Parts and 11 Schedules.
91. Provisions in Part 1 aim to help business, and small businesses in particular, by making the payment practices of businesses more transparent, incentivising improvements in payment culture, and helping small businesses agree fair payment terms. Further provisions aim to help business by improving access to finance through increasing the availability of investment for small businesses, allowing HMRC to provide non-financial VAT registration data to approved parties increasing the reliability to credit reports and the introduction of ‘Cheque Imaging’, giving the added option of depositing cheques remotely via Smartphone or tablet, thus enabling a faster clearing cycle. There are also provisions which amend legislation to increase the powers available to UK Export Finance to support UK exports and exporters.
92. [Part 2](#) deals with better regulation. Measures include requirements to make it easier for new companies to set up online, the establishment of a new office holder to scrutinise the processes for appeals and complaints against regulators to make them more effective for business, a requirement that regulations affecting business are reviewed frequently to remain effective, and a requirement for the Government to publish a target for itself about the removal of regulatory burdens in each parliamentary term, including transparent reporting on progress. There is also a DCLG measure to amend the Landlord and Tenant Act 1954 to make landlords less likely to bar home businesses in their property. This part also includes a power for the Competition and Markets Authority to make recommendations about proposals for legislation and a new statutory definition of small and micro businesses for use in future secondary legislation in order to allow businesses of this size to be exempted from that legislation in some cases.
93. [Part 3](#) contains powers to streamline public procurement to remove barriers and help small business gain fair access to the £230 billion public procurement market and give additional powers to the Cabinet Office’s Mystery Shopper scheme to monitor public procurement practice.
94. [Part 4](#) contains provisions about the pubs industry. These aim to bring fairness to the sole traders and small businesses that run 13,000 or so tied pubs across England and Wales owned by businesses with 500 or more tied pubs. The provisions include a new Statutory Code and independent Adjudicator to ensure that publicans who are tied to certain pub-owning businesses are treated fairly, and the option at certain trigger points to replace their tied arrangements with a market rent only agreement.
95. [Part 5](#) contains measures that amend requirements for various aspects of registration required for the provision of childcare, and extends the existing exemption from Ofsted registration (that schools already have for providing care for children younger than school age) down to two-year-olds. It also contains measures which will give the Secretary of State and English local authorities access to tax credit and social security

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

data for the purpose of determining eligibility for funding related to free early years childcare provision.

96. [Part 6](#) contains measures for the sharing of information about students and former students to enable a fuller understanding of the impact of education choices.
97. [Part 7](#) contains measures which amend UK company law. These aim to increase transparency around who owns and controls UK companies and to deter and sanction those who hide their interest in UK companies to facilitate illegal activities or who otherwise fall short of expected standards of behaviour. The measures include requiring every company to keep a register of people with significant control over the company, the abolition of bearer shares and corporate directors and the extension of directors' duties to shadow directors.
98. [Part 8](#) contains provisions that concern the filing requirements of companies. The measures amend requirements about the information which must be delivered to the registrar of companies in certain cases, providing a more flexible regime for companies in their dealings with the registrar. It also makes changes to improve the ability of the registrar to deal with situations where disputes as to the contents of the register arise.
99. [Part 9](#) amends the directors' disqualification regime to strengthen the rules that prevent an individual from acting as a director where that individual through their conduct has shown him or herself to be 'unfit'. The measures introduce new grounds for disqualification, create a new way in which creditors may receive financial redress for loss suffered through director misconduct, and update the matters that courts must take into account when considering a director disqualification. The Part also makes changes to increase the efficacy of the disqualification regime.
100. [Part 10](#) amends insolvency law to remove unnecessary costs and burdens to creditors and others. It also contains provisions that will ensure effective oversight of insolvency practitioners.
101. [Part 11](#) of the Act contains employment law provisions. These aim to deter employers from breaking National Minimum Wage legislation by amending the power to set the maximum penalty for under payment so it can be calculated on a per worker basis; to stop the unfair use of 'exclusivity clauses' in zero hours contracts, which prevent individuals from working for another employer, even if the current employer is offering no work; and reform the employment tribunal system to encourage more efficient management of postponements to reduce delay and cost; and introduce a penalty to ensure that awards are paid so that the majority of employers that do comply with the process are not put at disadvantage by those that avoid their responsibilities and liabilities. There are also provisions to allow the recovery of exit payments from public sector workers who are re-employed in the public sector and that enable the Government to support UK Coal Production Ltd by way of meeting the company's concessionary fuel obligation to members of its workforce.
102. [Part 12](#) of the Act contains general and supplementary provisions.