



EXPLANATORY NOTES

Enterprise Act 2016

Chapter 12

£11.00

ENTERPRISE ACT

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Enterprise Act 2016 (c. 12) which received Royal Assent on 4 May.

- These Explanatory Notes have been produced by the Department for Business, Innovation and Skills in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act. So where a provision of the Act does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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Overview of the Act

- 1 The Act deals with a range of Government commitments which are intended to support the growth of enterprise in the United Kingdom. The Act:
 - establishes a Small Business Commissioner, to enable small businesses to resolve disputes with larger businesses and avoid future issues;
 - expands the deregulation target to include regulators;
 - requires regulators subject to the duty to have regard to the Regulators' Code and/or the Growth Duty to report on the effect these duties have had on the way they exercise the functions to which these duties apply;
 - extends the Primary Authority scheme to make it easier for more businesses to join;
 - protects the term apprenticeship in law, with a view to ensuring that apprentices have access to high quality training;
 - gives powers to set targets for apprentice numbers in the public sector;
 - requires insurers to pay insurance claims within a reasonable time;
 - reforms the business rates appeals system and reduces the burdens for businesses when dealing with local authorities in relation to business rates;
 - extends the rights of shop workers working on Sundays;
 - simplifies and updates the Industrial Development Act 1982;
 - repeals some of the legislation relating to the Green Investment Bank in order to allow it to be classified as in the private sector;
 - includes provisions concerning the pubs code.
- 2 The Act gives the Treasury, Scottish Ministers and Welsh Ministers powers to make regulations to restrict public sector exit payments. The Act also gives the Treasury or the Secretary of State a power to provide financial assistance or make other payments to UK Government Investments Limited.
- 3 The Act contains provisions on a range of policies which span the responsibilities of the Department for Business, Innovation and Skills, HM Treasury, Department for Culture, Media and Sport and the Department for Communities and Local Government.

Policy background

- 4 The policy background is explained separately below in relation to each Part of the Act.

Legal background

- 5 The relevant legal background is explained separately below in relation to each Part of the Act.

Territorial extent and application

- 6 The territorial extent and application is explained separately below in relation to each Part of the Act.

Commentary on provisions of Act

Part 1: The Small Business Commissioner

- 7 On 26 July 2015, the Government published [‘Establishing a Small Business Commissioner’](#), a consultation which closed on 21 August 2015. The paper proposed the creation of a Small Business Commissioner to assist small businesses in payment disputes with larger businesses – a problem that is estimated to adversely impact small businesses to the tune of £26.8bn per year. The Commissioner’s role is intended to enable small businesses to resolve disputes and avoid future issues by encouraging a culture change in how businesses deal with each other, promoting fair treatment for all.
- 8 The Small Business Commissioner will achieve this by providing:
 - General advice and information to small businesses, for example, related to dispute resolution and contract principles, including options for resolving disputes;
 - Directing small businesses to appropriate services, such as relevant sector ombudsmen or regulators, existing independent advice services, or, for business-to-business disputes, to an approved alternative dispute resolution provider;
 - An in-house complaints handling function, in respect of payment issues between a small business supplier and a larger business.
- 9 The Small Business Commissioner will not provide advice on specific legal issues relating to a particular case, nor information or advice on matters specific to dealing with a public body.
- 10 The legal position in relation to the matters and disputes which the Small Business Commissioner seeks to cover is determined by contract law and, where relevant, legislation such as the [Late Payment of Commercial Debts \(Interest\) Act 1998](#) (LPCDA). The Act does not alter the substantive legal regime. The LPCDA entitles a supplier to statutory interest and (limited) compensation, where a business fails to pay the supplier within certain periods. If there is no agreed payment date, statutory interest starts to run after a 30-day period. If there is an agreed payment date, interest starts to run after a 60-day period for a contract between two businesses, or (if longer) after the agreed period if this is not grossly unfair.
- 11 The Small Business Commissioner is intended to complement the existing court and alternative dispute resolution landscape. The Act does not alter existing court rules or formal mechanisms for dispute resolution. It establishes a statutory office holder whose role is to encourage and facilitate dispute resolution.
- 12 Part 1 (other than paragraphs 1, 15 and 18 to 21 of Schedule 1) extends to England and Wales, Scotland and Northern Ireland. Paragraphs 1 and 15 of Schedule 1, which are the provisions establishing the Commissioner as a corporation sole and the document execution provisions, do not extend to Scotland.

Section 1: Small Business Commissioner

- 13 This section establishes the statutory office of the Small Business Commissioner and sets out its principal functions. The section also gives effect to Schedule 1, which contains more detail on how the office is established and structured.

Schedule 1: The Small Business Commissioner

Paragraph 1 – Status

- 14 This provision establishes the Commissioner as a corporation sole. As a corporation sole, the Commissioner has separate legal personality which will ensure, for example, that the Commissioner is able to enter contracts, in his or her capacity as an office holder rather than any individual capacity.

Paragraph 2 – Appointment of Commissioner

- 15 This provision is self-explanatory.

Paragraphs 3 & 4 – Deputy Commissioners

- 16 The Secretary of State may appoint one or more Deputy Commissioner(s), if necessary, to work alongside and share the workload of the Commissioner. If any Deputy Commissioner(s) is appointed, the Commissioner will determine what the Deputy Commissioner(s) will do, as the Commissioner can delegate any functions to the Deputy Commissioner(s). The Commissioner could choose to delegate functions in relation to particular complaints, or could delegate certain functions only - for example, the function of considering complaints but not of publishing reports or providing general advice and information.

Paragraph 5 – Term in office and how it may end

- 17 The Commissioner and any Deputy Commissioner(s) may be appointed for up to four years and may then be re-appointed for one or two further terms of up to three years each. A person may not serve more than a total of one initial term and two further terms overall whether any of these terms is as Commissioner or Deputy Commissioner.
- 18 The Commissioner, and any Deputy Commissioners, may resign by giving written notice to the Secretary of State; or the Secretary of State may dismiss the Commissioner (and any Deputy Commissioner(s)) for being unable, unwilling, or unfit to perform their official functions.

Paragraph 6 – Remuneration

- 19 The Commissioner and any Deputy Commissioner(s) may receive remuneration, allowances, and/or sums by way of or in respect of pensions, at the discretion of the Secretary of State.

Paragraph 7 – Commissioner and Deputy Commissioners not civil servants

- 20 This provision is self-explanatory.

Paragraph 8 – Acting Commissioner arrangements

- 21 The Secretary of State may nominate a person to act as Commissioner during a vacancy in the office of Commissioner or when the Commissioner is absent, subject to suspension or unable to act for any reason, including due to a conflict of interest.
- 22 The nominated person will be a Deputy Commissioner or if there is no Deputy Commissioner a member of staff can be appointed to the role.

Paragraph 9 - Conflicts of interest

- 23 The Commissioner must make procedural arrangements for dealing with conflicts of interest for the Commissioner, any Deputy Commissioner and any member of staff working for the Commissioner. The Commissioner must consult the Secretary of State before making or revising these arrangements, and must publish a summary of those arrangements.

Paragraph 10 – Validity of acts

- 24 If there has been an error in the way the Commissioner, Deputy Commissioner or an acting Commissioner (under paragraph 8) has been appointed, for example a procedural requirement in the terms of appointment is not met, this does not impair the validity of what they do in their appointed roles.

Paragraphs 11 to 13 – Staff

- 25 The Commissioner may appoint staff directly and make arrangements for staff to be seconded to serve as members of the Commissioner's staff. Before doing so, the Commissioner must obtain the Secretary of State's approval of his or her policies as regards the number of appointed or seconded staff, any payments to be made to or in respect of staff and the terms and conditions on which staff are to be appointed or seconded. Staff appointed by the Commissioner will not be civil servants.

Paragraph 14 – Financial and other assistance from the Secretary of State

- 26 This paragraph enables the Secretary of State to provide payments and provide other financial assistance to the Commissioner so that the office will be publicly funded. It also enables the Secretary of State to provide other assistance, such as premises for the Commissioner's use.

Paragraph 15 – Application of seal and proof of documents

- 27 This paragraph sets the formalities for the application of the Commissioner's seal to a document and the correct treatment of such a document: it is to be received in evidence and treated as duly executed unless this is shown to not be the case. The seal itself has to be certified as authentic by the Commissioner's signature or the signature of someone authorised by the Commissioner.

Paragraph 16 – Incidental powers

- 28 This paragraph allows the Commissioner to do anything that will help his/her work.

Paragraph 17- Exemption from liability for damages

- 29 This paragraph protects the Commissioner, any Deputy Commissioner or a member of staff nominated as an acting Commissioner, and any other staff from claims for damages by third parties, except where they have acted in bad faith or in breach of human rights. This covers things done in exercise of their functions, or where they believed they were exercising their functions. In the absence of this protection it might, for example, be possible for a business to claim against the Commissioner in the tort of negligence in relation to a decision on a complaint. The Government intends that the Commissioner should not be required to spend time, at public cost, in dealing with such claims. The Commissioner will however be subject to the normal public law duties and constraints of a public authority.

Paragraphs 18 to 21

- 30 Paragraph 18 inserts reference to the Small Business Commissioner into Schedule 2 to the [Parliamentary Commissioner Act 1967](#) (departments etc. subject to investigation), so that the Small Business Commissioner may be subject to investigation by the Parliamentary Ombudsman.
- 31 Paragraphs 19 and 20 insert references into the relevant schedules to the [House of Commons Disqualification Act 1975](#) and the [Northern Ireland Assembly Disqualification Act 1975](#), so that neither the Commissioner nor any Deputy Commissioner may be a member of Parliament or of the Northern Ireland Assembly. This is in order to avoid a conflict of interest.
- 32 Paragraph 21 adds the Small Business Commissioner to the list of public authorities covered by the [Freedom of Information Act 2000](#).

Section 2: Small businesses in relation to which the Commissioner has functions

- 33 This section provides the definition of small businesses. In all cases, a small business must have a staff headcount of fewer than 50 people. Financial thresholds may also be applied, under secondary legislation. Further details of how 'small business' is defined and the relevant thresholds are calculated may be provided in secondary legislation. Regulations made under this section, related to the definition of small business, must be approved by both Houses of Parliament. The intention is that the thresholds to be a small business under this Part will be broadly consistent with those under sections 33-34 of the [Small Business, Enterprise and Employment Act 2015](#).

Section 3: General advice and information

- 34 This section provides the Commissioner with the power to publish, or provide small businesses with, impartial general advice and information which the Commissioner believes may be useful to small businesses in connection with their supply relationships with larger businesses. In considering what may be useful the Commissioner must consider how helpful the advice and information would be in encouraging the small business to resolve and/or avoid disputes. General advice and information may cover contract law principles, legal rights about supplying or buying goods and services, and means of resolving disputes (subsection (3)).
- 35 The Commissioner may publish or provide information to direct small businesses to providers of dispute resolution services, for example directories of authorised mediators who may be able to assist the small business to resolve a dispute with a larger business. The Commissioner may also direct small businesses to regulators or ombudsmen, for example to assist the small business with a concern with a regulated larger business such as a financial services firm (subsection (4)).
- 36 In relation to small businesses' dealings with public authorities, the Commissioner's function is to direct them to regulators, ombudsmen, adjudicators and other public bodies, that may help the small business resolve a dispute with a public authority and/or give them other types of help (subsection (5)). The Commissioner may also provide small businesses with general advice and information related to statutory rights (where applicable) to refer for adjudication a dispute with a public authority.

- 37 The Commissioner may publish and/or provide general advice and information directly to small businesses or make arrangements with others who will do so (subsection (7)). For example the Commissioner may arrange that he/she must approve the content of information to be published by Government or a business representative body.
- 38 The section also makes provision for the Commissioner to make recommendations to the Secretary of State about the publication or provision of advice and information to small businesses (subsection (8)). This enables any general advice or information for small businesses which is published or provided by the Government, to reflect the Commissioner's views about what will be useful to small businesses.
- 39 The general advice and information which may be published or provided under this section, may be useful in relation to small businesses' past, current or potential supply agreements with a larger business or public authority, under which small businesses receive or provide goods or services.

Section 4: The Small Business Commissioner complaints scheme

- 40 This section requires the Commissioner to establish a complaints scheme under which the Commissioner enquires into, considers, and determines complaints (subsection (1)). The Commissioner must establish and run the scheme in accordance with regulations to be made under section 7 (subsection (2)).
- 41 The section also sets out the types of complaints which will be considered (subsection (3)). The Commissioner will consider complaints from a small business supplier, about payment issues with a larger business with which the small business has a previous, current or potential supply relationship. The Commissioner will consider complaints about payment in a broad sense: a complaint need not relate to the act of paying (or failing to pay), but any acts or omissions in respect of payment. Examples could be requesting a new fee, seeking to alter the price or fees agreed, or requesting payment of a fee which is provided for by the contract but has not previously been relied on.
- 42 If a larger business seeks to prevent a small business supplier from complaining to the Small Business Commissioner, the small business may raise a complaint about this (subsection (4)(b)).
- 43 Subsection (5) sets out exclusions from the scheme. The Commissioner will not consider complaints about: how appropriate a price is for goods or services; matters which are going through legal or adjudication proceedings; matters which are within the remit of an ombudsman, regulator or adjudicator providing statutory adjudication, or another public body which considers or decides complaints.
- 44 The Commissioner will also not consider a complaint if it relates to an act or omission that occurred before the start date of the complaints scheme, or if the act or omission is allowed by a pre-existing contractual term and that term has not been varied after the start date for the scheme (subsection (5)(e)). For example, the Commissioner could not consider a complaint about a small business being asked to make a payment, which is payable under a pre-existing contract term. However, the Commissioner may consider a complaint about an act or omission which breaches or would amend a pre-existing contract term. For example, if a larger business proposes an amendment to a pre-existing contract, such as a new or increased fee, the Commissioner could consider a complaint about that proposed amendment. Or if a pre-existing contract required the larger business to pay invoices within 30 days and, after the scheme start date, they failed to do so, then the Commissioner could consider a complaint about that breach. The exemption in

subsection (5)(e) applies by reference to a start date to be appointed by the Secretary of State, so that the exemption will reflect the date of which the complaints handling scheme starts. A different start date may be specified for different areas or purposes (subsections (7) and (8)), so that the exemption would still fit with the relevant start date for the complaints handling scheme, if the Government were to commence the complaints handling scheme in phases.

- 45 Under subsection (5)(f), the Secretary of State may make regulations to exclude other matters from the scope of 'relevant complaints'. Regulations to exclude any other matters from scope of the complaints handling scheme must be approved by both Houses of Parliament.

Section 5: Enquiry into, consideration and determination of complaints

- 46 This section sets the key parameters for the Commissioner's enquiry into, consideration and determination of complaints. The Commissioner will seek representations from the respondent before reaching a view, and can ask, but not require, either party to provide information.
- 47 The Commissioner determines complaints under the scheme in accordance with what the Commissioner considers to be fair and reasonable in all the circumstances of the case. The scheme regulations to be made under section 7 will specify matters which the Commissioner is to take into account in deciding what is fair and reasonable in a case, and these matters include the legal position.
- 48 When the Commissioner determines a complaint, the determination may result in recommendations or it may not. The determination may be that it is not possible to reach a view. Once a complaint is determined the Commissioner must prepare a written statement which sets out the reasons for the determination, any recommendations and in the absence of recommendations, the reasons why no recommendations have been given. The statement must be given to the complainant and respondent.
- 49 Determinations made under the Small Business Commissioner complaints scheme are not legally binding. The parties are therefore not under a legal obligation to follow any of the Commissioner's recommendations, but the intention is that the Commissioner's determination and any recommendations will enable the parties to resolve the issue.

Section 6: Reports on complaints

- 50 This section provides that the Commissioner may publish a report of the enquiry into, consideration and determination of a complaint made under the complaints scheme. The report may be anonymous or may name the respondent. The Commissioner will consider whether it is appropriate to publish a report and, if so, whether to name the respondent. The scheme regulations to be made under section 7 will specify matters which the Commissioner is to take into account in deciding whether to name the respondent (section 7(7)). The Commissioner has an obligation to allow both complainant and respondent reasonable opportunity to make representations about the proposal to publish a report and must allow the respondent to make representations about a proposal to name them in the report. The complainant will not be named in a report without their consent.

Section 7: Scheme regulations

- 51 This section requires the Secretary of State to make "scheme regulations" to address how complaints should be made by small businesses, and details of how the Commissioner will consider, determine and may report on them.

- 52 The regulations are to set out a time limit after which complaints cannot be considered and will establish that a complaint cannot generally be considered by the Commissioner if it has not been communicated to the respondent business. The regulations are to provide that the time limit can be extended in certain circumstances, and to specify circumstances in which a complaint need not be communicated to the respondent first. Subsection (3)(c) and (d) set out other factors that the regulations may stipulate to permit the Commissioner to dismiss a complaint.
- 53 The scheme regulations must include factors for the Commissioner to take into consideration in deciding whether something complained of is fair and reasonable, and factors to be taken into consideration in deciding whether to name the respondent in a report to be published under section 6. These factors are non-exhaustive.
- 54 The scheme regulations may not specify that certain practices are fair or unfair, because the Commissioner is to consider fairness and reasonableness on a case by case basis, taking account of the particular circumstances of each complaint.
- 55 The Secretary of State must consult appropriate persons before making scheme regulations and the regulations must be approved by both Houses of Parliament.

Section 8: Confidentiality

- 56 This section prohibits the Commissioner from disclosing to third parties information which is likely to reveal that the complainant has raised a complaint, unless the disclosure is covered by certain exceptions. This does not stop the Commissioner from carrying out his/her functions; for example, the Commissioner is not prevented from publishing a report under section 6 or informing the respondent of the complaint, although in some cases it may be appropriate not to reveal the complainant's identity in doing so. But this section would stop the Commissioner from speaking publicly about the complaint before the report stage, if the complainant could be identified from this.
- 57 The prohibition in section 8 does not apply if (1) the complainant consents to disclosure, (2) the disclosure is made by the Commissioner to the respondent in relation to the complaint or in a report on a complaint published under section 6, (3) disclosure is required to comply with an EU obligation (as defined in Schedule 1 to the European Communities Act 1972; any such obligation could not be overridden by the Act), (4) disclosure is required by court or tribunal rules, or a court or tribunal order, for the purpose of legal proceedings, or (5) the information is already in the public domain. However, section 8 is intended to prevent the disclosure of information to which the section applies being required by a request under the Freedom of Information Act 2000 (see section 44 of that Act).

Section 9: Annual report

- 58 This section provides that the Commissioner must publish an annual report after the end of each reporting period and send it to the Secretary of State (subsections (1) and (2)). The first reporting period will begin when section 1 comes into force and end on 31 March. Subsequent reporting periods are each twelve-month period after that.
- 59 Each annual report should contain information which is useful to the Secretary of State in reviewing the Commissioner under section 10, as well as to users of the Small Business Commissioner generally. Subsection (3) requires that the Secretary of State lay a copy of the report before Parliament.

Section 10: Review of Commissioner's performance

- 60 The Secretary of State is required to review the Commissioner's performance two years from the 31 March that follows commencement of section 1 and every three years thereafter (subsections (1), (3) and(4)). Following a review, the Secretary of State must publish a report of the findings and lay a copy before Parliament (subsection (6)).
- 61 The Secretary of State may direct the Commissioner to provide information for the review (subsection (2)) and must in particular assess how effective the Commissioner has been in carrying out his or her functions (subsection (5)).

Section 11: Power to abolish the Commissioner

- 62 The Secretary of State may abolish the statutory office of Small Business Commissioner through secondary legislation following a review under section 10, if the Secretary of State is satisfied either that it is no longer necessary to have a Small Business Commissioner or that the role has not been sufficiently effective (subsection 1).
- 63 In determining whether or not the role has been sufficiently effective the Secretary of State must consider how the Commissioner has carried out the functions of the role as well as whether the role has improved payment practices and the awareness of small businesses of alternative dispute resolution.
- 64 In the event that the office is abolished, the Secretary of State can amend or repeal Part 1 of the Act and other legislation, such as the cross-references inserted into other legislation by Schedule 1 of the Act. The Secretary of State can make other provisions in the secondary legislation required to effect the abolition, for example, to allow the Commissioner to exercise only certain functions pending abolition. Prior to making regulations, the Secretary of State must consult the Commissioner (unless the office is vacant), persons affected by the regulations and other persons the Secretary of State deems appropriate. If the Secretary of State decides to change the proposed regulations he or she must carry out a further consultation on the changes.

Section 12: Regulations under section 11: procedure

- 65 This section contains the procedural requirements for use of the power for the Secretary of State to abolish the office of the Commissioner. If (following consultation) the Secretary of State considers it appropriate to make regulations under section 11, the Secretary of State must lay draft regulations and an explanatory document before Parliament (subsection (2)). Under subsection (4), this may not be done before 12 weeks after the start of the consultation under section 11(5). The explanatory document must explain why the Secretary of State considers abolition of the office is appropriate by reference to section 11(1), and summarise consultation responses.
- 66 Subsections (6) to (13) provide for either House of Parliament to require an "enhanced affirmative" procedure for use of the power. This "enhanced affirmative" procedure increases the scrutiny period by a further 20 days (making 60 days in total). The Secretary of State must have regard to certain representations, resolutions and recommendations made within this period. After the 60th day the regulations can be debated and made if approved, or the Secretary of State may choose to amend the draft and lay revised draft regulations.

Section 13: Definitions used in Part 1

- 67 This section contains the definitions of terms used in the preceding sections and in Schedule 1.

Part 2: Regulators

Business Impact Target

- 68 Sections 21-27 of the [Small Business, Enterprise and Employment Act 2015](#) (SBEE Act) require the Government of the day to publish a Business Impact Target (BIT) for the duration of the Parliamentary term, regarding the economic impact of new legislation on business, including voluntary and community bodies.
- 69 The Government is required to measure and report on the economic impact of all new or amended "qualifying regulatory provisions" which come into force or cease to have effect over the course of the Parliament. Section 22 of the SBEE Act specifically describes which provisions can qualify for inclusion within the target and gives the Secretary of State the power to further determine measures that qualify for inclusion within the target ("qualifying regulatory provisions"). Currently the target covers legislation and regulatory activity undertaken by UK Ministers, including non-statutory regulators who exercise regulatory functions for or on behalf of UK Ministers. To increase transparency, the intention is to extend the scope of the target to include the regulatory activity of statutory regulators, as their activities have an impact on businesses. The list of statutory regulators subject to this measure will be specified in secondary legislation.
- 70 Statutory regulators will be required to assess the economic impact on business of changes to their regulatory policies and practices that come into force or cease to have effect during the course of the Parliament. They will have to publish independently verified assessments and the verified figures will be incorporated into the Government's annual reports outlining its performance against the Business Impact Target.

Section 14 and Schedule 2: Business Impact Target

- 71 This section and accompanying Schedule enable the Government to bring certain provisions made by statutory regulators into scope of the Government's Business Impact Target.
- 72 The Business Impact Target (BIT) in Sections 21-27 of the [Small Business, Enterprise and Employment Act 2015](#) (SBEE Act) requires the Secretary of State to:
- Publish a target for the Government regarding the economic impact on business activities of new or amended regulatory measures (or provisions) that fall within the definition of "qualifying regulatory provisions" and that come into force or cease to have effect between two general elections;
 - Publish annual reports covering the impact of qualifying regulatory provisions in the reporting period in which they came into force or ceased to have effect and in aggregate over the period between two general elections;
 - Appoint an independent verification body that must verify the assessments of economic impact of all measures in scope of the business impact target, and the classification of the regulatory provisions as qualifying regulatory provisions.

- 73 The BIT applies to statutory provisions. These include public Acts made in the UK Parliament, subordinate legislation made by UK Ministers, and other similar provisions that have effect by virtue of the exercise of a function conferred on a Minister of the Crown by an Act – such as statutory guidance, policy and procedures relating to the securing of enforcement and compliance with regulations. The scope of the BIT is currently limited to the activity of UK Ministers. This includes non-statutory regulators who exercise regulatory functions for or on behalf of UK Ministers.
- 74 Subsections (1) - (3) extend the scope of the BIT by amending the definition of “statutory provision” to cover provisions made by statutory regulators which exercise their own statutory powers. The Secretary of State will specify the “relevant” statutory regulators by regulations which are subject to the affirmative resolution procedure.
- 75 Subsections (5) and (6) deal with implementation. They clarify that when the SBEE Act is amended, the amendments as to what is within scope of the BIT will apply for the whole of the relevant period i.e. the period between the last general election and the next one, including the part of that period that has already elapsed. The first set of regulations made specifying statutory regulators will have the effect that those regulators will be within the scope of the BIT for the whole of the relevant period.
- 76 Subsection (7) sets out transitional arrangements for regulator reporting in respect of any past reporting period, which will apply on the making of the first set of regulations that will bring statutory regulators in scope of the target. Subsection (8) allows for subsequent regulations listing statutory regulators to contain similar provisions as to the period for which those regulators will be within the BIT and how they will report in respect of any past reporting period.
- 77 Schedule 2 sets out the amendments which arise as a consequence of bringing the activities of statutory regulators within the scope of the BIT provided in subsections (1) to (3) and makes some related amendments to the SBEE Act.
- 78 Paragraph 2 of Schedule 2 amends the existing BIT reporting duties of the Secretary of State under the SBEE Act. Specifically, it amends the required content of the annual reports in relation to regulatory provisions which are measures which are not in scope of the target. They allow for the report to contain a summary (rather than a list) of regulatory provisions which are not primary or secondary legislation and which are not in scope of the target. This provision is intended to streamline the reporting requirements in light of the extension of the target.
- 79 Paragraph 3 of Schedule 2 clarifies a further aspect of the reporting duty in section 23 of the SBEE Act. Specifically that, in assessing aggregate economic impact in annual reports, the contribution of provisions that came into force in previous reporting periods is to be assessed by reference to the assessments of the impact of those provisions that were made in the reporting period in which they came into force.
- 80 Paragraph 4 of Schedule 2 introduces a new reporting duty for the regulators specified in regulations by the Secretary of State. The duty requires such regulators to publish certain information to enable the Secretary of State to fulfil his BIT reporting obligations under section 23 of the SBEE Act. It also ensures that regulators assess economic impact consistently, and in line with the methodology that is published by the Government of the day. Each regulator must publish the following information no later than two weeks after the end of each annual reporting period:

- A list of all new or amended qualifying regulatory provisions for which the regulator is responsible which have come into force or ceased to be in force in that reporting period;
- An assessment of the economic impact of these provisions on business activities, assessed in accordance with the published BIT methodology and verified by the Independent Verification Body appointed under section 25 of the SBEE Act; and
- A summary of all new or amended regulatory provisions for which the regulator is responsible which do not qualify for the target and which have come into force or ceased to be in force in the reporting period.

- 81 Regulators must have regard to guidance issued by the Secretary of State regarding the publication of this information.
- 82 Paragraph 5 of Schedule 2 amends section 26 of the SBEE Act which addresses provisions required as a consequence of the Secretary of State making changes to the BIT or the scope or methodology. They align the variation procedure for regulators with those that already apply to the actions of UK Ministers under the SBEE Act. In particular, if the methodology or the scope of the target is varied within a Parliamentary term, regulators will be required to revise any lists, assessments or summaries that have already been published to bring them into line with the revised scope or methodology. If regulatory measures previously outside of scope of the BIT are brought within scope, the regulator will be required to make a backdated assessment of the economic impact of those measures. All revised or back-dated assessments must be verified by the Independent Verification Body and published to enable the Secretary of State to produce amended reports as required under the SBEE Act.
- 83 The Secretary of State may issue guidance in relation to this process of updating lists and assessments, which regulators must have regard to.
- 84 This measure extends to the United Kingdom. The measure will apply to statutory regulators but not in relation to any regulatory provision which is within the legislative competence of the Scottish Parliament, Northern Ireland Assembly or the National Assembly for Wales (see section 22(7) of the 2015 Act). The result is that, where regulators operate under a mix of reserved and devolved powers, only the regulatory activities undertaken pursuant to reserved powers would be considered in scope.

Reporting requirements

- 85 Section 22 of the [Legislative and Regulatory Reform Act 2006](#) (LRRRA) places duties on a person whose regulatory functions are specified by order under section 24(2) of the LRRRA (i.e. a regulator), to have regard to any code of practice issued under section 22 in the exercise of certain functions. The current code of practice, issued in April 2014, is called the Regulators' Code.
- 86 Section 108(1) of the [Deregulation Act 2015](#) places a duty on a person exercising regulatory functions to be specified by order under section 109(1) (i.e. a regulator) to have regard, in the exercise of those functions, to the desirability of promoting economic growth (the growth duty).
- 87 Together, these two measures are intended to support a positive shift in the way regulation is delivered by regulators.

- 88 There is currently no express legal requirement for regulators to report on how they have performed their duties under the Regulators' Code or the growth duty ("the Duties"). Consequently, not all regulators publish such information, which makes it very difficult to measure the effect the Duties have had and assess whether or not they benefit business.
- 89 These provisions amend the LRRRA and the Deregulation Act 2015 by requiring a regulator to report on the effect that their performance of the Duties has had on the way it has exercised those functions to which the Duties apply. It also requires regulators (other than the Commission for Equality and Human Rights in respect of the Regulators' Code) to provide information about that effect to a Minister when requested to do so from time to time. The aim is to ensure regulators are more transparent about the action they have taken in respect of the Duties.

Sections 15 and 16: Reporting requirements

- 90 Section 15 inserts section 23A into the [Legislative and Regulatory Reform Act 2006](#) (LRRRA) and will apply to any "relevant regulator" (i.e. a person, other than a local authority, with regulatory functions to which section 22 of LRRRA applies). Section 22 of the LRRRA permits a Minister to issue a code of practice (the current code of practice under section 22 is the Regulators' Code) to which persons with regulatory functions to which section 22 LRRRA applies must have regard. Section 16 inserts section 110A into the Deregulation Act 2015 and will apply to any "regulator" with regulatory functions that are brought in scope of the duty to have regard to the desirability of promoting economic growth (i.e. the growth duty) in section 108(1) of that Act.
- 91 Subsections (1) and (2) of both new sections introduce a requirement on regulators who are subject to a duty to have regard to the Regulators' Code and/or the growth duty ("the Duties") to publish an annual performance report. The report must set out the effect that a regulator's performance of the Duties has had on the way it has exercised the functions to which the Duties apply. There are a number of ways in which the Duties might affect the way a regulator exercises its functions. The Duties may or may not affect the outcome in a particular case, for example, a regulator may decide that a provision of the Regulators' Code is outweighed by another relevant consideration. The Government intends that guidance will set out how these scenarios should be covered in a performance report.
- 92 Subsection (4) of new section 23A and subsection (3) of new section 110A require the performance report to also include a regulator's assessment of the views of business about this effect, the impact the effect has had on business, and a forward look covering any future effects a regulator expects to result from the Duties.
- 93 Subsections (5) and (6) in new section 23A and subsections (4) and (5) in new section 110A provide a Minister of the Crown with the power to issue guidance on the preparation and publication of performance reports. Regulators must follow this guidance unless there is a good reason not to do so. Both sections make provision for the timing of annual performance reports, the aim of which is to enable a regulator to include their report in their existing annual report, should they wish to.

- 94 Subsection (10) in new section 23A and subsection (9) in new section 110A require a regulator to provide certain information to a Minister, which the Minister may from time to time request. The Commission for Equality and Human Rights is exempt from the requirement in new section 23A(10). This requirement is largely limited to the type of information required in subsections (2) and (3) but also covers information relating to instances in which it appears to a Minister that a regulator has not followed the guidance issued under subsection (5) of new section 23A and subsection (4) of new section 110A.
- 95 The Regulators' Code does not cover operational matters. Whilst the Growth Duty does cover operational matters, new section 110A(10) makes it clear that the duty to report on performance in respect of the Growth Duty does not require a regulator to report on the exercise of functions in relation to a particular person and, as a result, regulators will not be required to report on individual operational matters.
- 96 Subsection (11) in both sections clarifies that the reporting duty does not apply if there is other legislation that would prevent the regulator from disclosing such information (unless that legislation contains provision for such disclosure where another Act, such as this, requires that information is provided). This is to prevent a situation where the regulator is both under a duty to include information in a performance report, but is prevented from doing so by other legislation.
- 97 The regulatory functions which are the subject of the reporting requirements introduced by new sections 23A and 110A are subject to the devolution constraints in section 24(3) of LRRRA and section 109(3) of the Deregulation Act 2015 respectively. The sections extend to the United Kingdom. Section 44(5) provides that the new section 23A LRRRA and section 110A of the Deregulation Act 2015 come into force on such day as the Secretary of State may by regulations appoint.

Application of regulators' principles and code

Section 17: Power of Welsh Ministers to apply regulators' principles and code of practice

- 98 Section 24 of the Legislative and Regulatory Reform Act 2006 (LRRRA) details the application of the regulators' principles and code of practice. This section will amend Section 24 to ensure that the power to make orders relating to the Regulators' Code is divided between Welsh Ministers and the Minister of the Crown along the lines of devolved competence.
- 99 This section extends to England and Wales, Scotland and Northern Ireland and applies to Wales only.

Section 18: Application of regulators' principles and code: removal of restrictions

- 100 This section will repeal section 24(5) of the LRRRA. Section 24(5) currently prevents the regulatory functions of Ofgem, Ofcom, the ORR and Ofwat from being subject to the duty to have regard to the five regulatory principles set out in section 21 of the LRRRA and the Regulators' Code.
- 101 The section will not of itself subject these regulators to the duty to have regard to the five regulatory principles or the Regulators' Code. This can only be done via secondary legislation following consultation (i.e. in accordance with section 24 of the LRRRA).

102 The section extends to the United Kingdom and, as a result of section 44(2), will come into force two months after the day on which this Bill became an Act.

Secondary Legislation: Duty to Review

103 The [Small Business Enterprise and Employment Act 2015](#) (SBEE Act) requires that secondary legislation which impacts on business must include provision for a statutory review, undertaking to carry out a review of the legislation and report on it within 5 years of the legislation coming into force. This provision amends section 30 in the SBEE Act. The aim is to ensure that Departments adopt a proportionate approach when deciding how many other EU member states' implementation to consider when reviewing EU or internationally derived legislation.

Section 19: Secondary legislation: duty to review

104 The [Small Business Enterprise and Employment Act 2015](#) requires that secondary legislation which impacts on business must include provision for a statutory review, undertaking to carry out a review of the legislation and report on it within 5 years of the legislation coming into force. The section amends a measure in the Small Business, Enterprise and Employment Act 2015 that sets out what the review needs to look at. In relation to EU derived legislation, the Small Business, Enterprise and Employment Act states that the review must have regard to how the other EU member states have implemented the obligation. The amended section clarifies that the requirement is to review implementation in other EU member states "as far as is reasonable", rather than reviewing the implementation in all the other EU member states.

105 This section extends to the United Kingdom.

Part 3: Regulatory Enforcement and Sanctions Act

106 Part 2 of the [Regulatory Enforcement and Sanctions Act 2008](#) (c.13) (RESA) established the Primary Authority scheme. Under this scheme a local authority may be nominated by the Secretary of State to act as a primary authority for a person carrying out a regulated activity in more than one local authority area. A local authority may also be nominated to act as a primary authority for a group of persons who carry out the same regulated activity, in a similar way, in more than one local authority area, e.g. trade associations. The primary authority provides advice and guidance on regulatory compliance to that person, as well as advice and guidance to local authorities with the same regulatory functions as to how they should exercise those functions in relation to the person. The primary authority may stop another local authority from taking enforcement action against that person where it would be inconsistent with the advice and guidance the primary authority has given.

107 The measures in this Act extend the application of the Primary Authority scheme and enable the Secretary of State to make legislation that will bring regulators other than local authorities within the scope of the scheme.

108 This Part substitutes Part 2 of RESA and extends to England, Wales, Scotland and Northern Ireland. In relation to Scotland, Part 2 of RESA will continue to apply only to reserved matters. In relation to Northern Ireland, it will continue to apply only to matters that are not transferred.

Section 20 and Schedule 3: Extending the primary authority scheme

- 109 Part 2 of RESA (Co-ordination of regulatory enforcement) established the Primary Authority scheme. It enables the Secretary of State to nominate a local authority to be the primary authority for the exercise of a relevant (regulatory) function in relation to a regulated person. The primary authority provides advice and guidance to the regulated person, as well as advice and guidance to other local authorities who share the same regulatory function as to how those authorities should exercise that function in relation to that person, including how those authorities should conduct inspections. Where a local authority other than the primary authority (“the enforcing authority”) proposes to take enforcement action against the person, the enforcing authority must notify the primary authority before it takes the enforcement action. Where the enforcement action would be inconsistent with the advice and guidance that the primary authority has given, the primary authority may direct the enforcing authority not to take the enforcement action.
- 110 The new Part 2 of RESA (Regulatory enforcement) will extend the application of the Primary Authority scheme. It will enable the Secretary of State to prescribe in secondary legislation qualifying regulators other than local authorities that may be a primary authority, regulators that may provide support to primary authorities, and regulators that will be required to act consistently with primary authority advice. It provides that persons who carry on an activity in the area of only one qualifying regulator and those who do not yet carry on an activity are also in the scope of the Primary Authority scheme. It enables members of regulated groups to access the Primary Authority scheme via a co-ordinator and establishes the powers and duties of persons who act as a co-ordinator.
- 111 While much of the scheme remains the same, the Part is being replaced, rather than simply amended, for ease of comprehension.

Section 22A: “Regulated person” and “regulated group”

- 112 This section defines “regulated person” and “regulated group” for the purposes of Part 2 of RESA. Under section 23A, the Secretary of State may nominate a primary authority in relation to a regulated person or a regulated group.
- 113 At present, section 22 of RESA (Scope of Part 2) means that the Secretary of State may only nominate a primary authority where a person carries out a regulated activity in the area of two or more local authorities with the same regulatory function, or where a person shares an approach to regulatory compliance with another person who carries out an activity in another local authority area.
- 114 Subsection (1) of section 22A provides that a ‘regulated person’ is a person who carries on, or proposes to carry on, an activity where a qualifying regulator has a ‘relevant function’. This means that a person regulated by only one qualifying regulator will be able to benefit from the Primary Authority scheme. It also means that a person who has not yet started to carry out an activity will be able to obtain advice and guidance through the Primary Authority scheme.
- 115 Section 22A also defines “regulated group”. A group of persons is a regulated group where a member of the group carries on, or proposes to carry on an activity that is regulated by a qualifying regulator.

Section 22B: "Qualifying regulators"

- 116 This section defines "qualifying regulator" for the purposes of Part 2 of RESA. A qualifying regulator is one that the Secretary of State may nominate to act as a primary authority under section 23A.
- 117 Subsection (1)(a) provides that a local authority may be a qualifying regulator and subsections (2) and (3) define "local authority". The local authorities that may be qualifying regulators are the same as those who may be primary authorities under the current provisions of RESA, as subsections (2) and (3) re-enact section 23 of RESA ("local authority").
- 118 Subsections (1)(b) and (4) enable the Secretary of State to specify by regulations a regulator other than a local authority that may be a "qualifying regulator" for the purposes of Part 2 of RESA. The Welsh Ministers must consent to the inclusion of a regulator whose functions relate only to Welsh devolved matters.

Section 22C: "Relevant function"

- 119 This section defines "relevant function" for the purposes of Part 2 of RESA. A relevant function is one that may be included in the primary authority's partnership functions under section 23A.
- 120 In relation to local authorities in England and Wales, the relevant functions to which Part 2 of RESA will apply are the same as those that are within the scope of the existing scheme, as subsection (1)(a) re-enacts section 24(1)(a) of RESA. 'Relevant function' in the context of these authorities has the same meaning as in Part 1 of RESA and is defined in section 4 and Schedule 3 of RESA.
- 121 In relation to local authorities in Scotland and Northern Ireland, a "relevant function" is a regulatory function exercised by a local authority and specified in regulations made by the Secretary of State. Subsection (2) of section 22C provides that the regulations may only specify functions that are relevant functions in relation to local authorities in England or Wales or are equivalent to such a function in Scotland or Northern Ireland. This re-enacts the existing provisions in section 24(2) of RESA. Subsections (4) and (5) prevent the Secretary of State specifying a regulatory function in Scotland that is not reserved and a regulatory function in Northern Ireland that is transferred. This re-enacts the existing provisions in section 24(3) and (4).
- 122 In relation to 'specified regulators', section 22C(1)(d) provides that a relevant function is a regulatory function exercised by that regulator and specified in regulations made by the Secretary of State. The regulations may only specify functions that are relevant functions in relation to local authorities in England or Wales or equivalent to such a function. The Welsh Ministers must consent to the inclusion of a regulatory function, so far as in exercisable in relation to Wales, which relates to a Welsh devolved matter.

Section 23A: Primary authorities for regulated persons and regulated groups

- 123 Subsection (1) provides that the Secretary of State may nominate a qualifying regulator to be a primary authority in relation to a regulated person or a regulated group. Subsection (2) provides that the "partnership functions" are the relevant functions specified in the nomination. Subsections (3), (4) and (5) provide that each partnership function must be a relevant function of the primary authority, or a relevant function that is held by another qualifying regulator and equivalent to a relevant function of the primary authority.

124 Subsection (6) provides that the Secretary of State may from time to time revise the specification of functions if the primary authority and the regulated person or the co-ordinator of the regulated group have agreed in writing to the revision.

Section 23B: Nomination of primary authorities

125 Subsection (1) sets out the requirements that must be met in order for the Secretary of State to nominate a qualifying regulator to be a primary authority in relation to a regulated person (a "direct primary authority") and subsection (2) provides the conditions that must be met in relation to nominating a primary authority for a regulated group (a "co-ordinated primary authority").

126 Subsection (3) enables the Secretary of State to revoke a nomination.

127 Subsection (4) requires the Secretary of State to maintain the register of nominations and make it available for inspection free of charge. Section 23C(6) also requires that the register contains the names of any co-ordinator nominated under that section.

Section 23C: "Co-ordinator" of a regulated group

128 Subsection (1) provides for a person to be nominated by the Secretary of State as the "co-ordinator" of a regulated group. The co-ordinator has various functions in respect of regulated groups, and having a co-ordinator is a condition for nominating a qualifying regulator to be the primary authority in respect of a regulated group.

129 Subsection (2) provides that a person cannot be nominated as the co-ordinator without the person's consent.

130 Provision is made in subsections (3) and (4) for the revocation of a nomination of a co-ordinator and for nomination of another person when a co-ordinator is unable to act.

Section 23D: Membership of a regulated group

131 Subsection (2) requires a co-ordinator of a regulated group to maintain a list of the members of the regulated group, which is the definitive list of who is a member of a regulated group at any point in time (subsection (6)).

132 Subsection (3) sets out what information must be included in the membership list.

133 Subsections (4) and (5) provide that the co-ordinator must make the membership list available to the Secretary of State, the primary authority and (where this is relevant to the exercise of their functions) qualifying regulators. The co-ordinator must do so as soon as is reasonably practicable, and not later than the end of the third working day after the day on which the request was received.

Section 23E: Application of sections 24A to 28B

134 Subsection (1) sets out the provisions that apply where a qualifying regulator has been nominated as a primary authority. It provides that the sections relating to primary authority advice and guidance, enforcement action, inspection plans, the power to recover costs, support by other regulators and the requirement for other regulators to act consistently with primary authority advice apply. Subsection (3) provides that, where more than one qualifying regulator has been nominated as primary authority in relation to the same person, the provisions in subsection (1) are subject to sections 29A to 29D.

Section 24A: Primary authority advice and guidance

- 135 This section gives primary authorities the function of giving advice and guidance to a regulated person, to the co-ordinator of a regulated group and to other qualifying regulators (as the case may be).
- 136 Subsection (4) provides that a co-ordinator must pass any advice or guidance given to it by the co-ordinated primary authority on to regulated group members who the co-ordinator considers might find it relevant.
- 137 Subsection (5) provides that the Secretary of State's consent is required before advice and guidance may be given by a primary authority to other qualifying regulators.

Section 25A: "Enforcement action"

- 138 Section 25A(1) defines 'enforcement action' for the purposes of Part 2 of RESA. Subsection (2) provides that the Secretary of State may, with the consent of the Welsh Ministers, make regulations that specify action which is, or is not, enforcement action for the purposes of Part 2 of RESA.

Section 25B: Enforcement action by the primary authority

- 139 This section makes provision for the process to be followed where enforcement action is proposed by the primary authority against a regulated person or (where the primary authority is aware that the person is a member of a regulated group) against a member of a regulated group.
- 140 Subsection (2) requires the primary authority to notify the regulated person, or member of the regulated group, of the enforcement action it proposes to take and prevents the primary authority from taking the proposed enforcement action before the end of the period allowed for the regulated person or the member to refer the matter to the Secretary of State under paragraph 1(1) of Schedule 4A.
- 141 Subsection (3) provides that Parts 1 and 3 of new Schedule 4A to RESA apply. Part 1 of Schedule 4A provides that the person or member may, with the consent of the Secretary of State, refer the proposed enforcement action to the Secretary of State for a determination. Where the Secretary of State determines that the enforcement action is inconsistent with advice or guidance given by the primary authority and that the advice was correct and properly given, the Secretary of State must direct the primary authority not to take the enforcement action.
- 142 Under Part 3 of Schedule 4A of RESA, the referral must be made as soon as reasonably practicable, or within the relevant period, defined in paragraph 5(2). The Secretary of State has 28 days in which to make the determination (paragraph 5(6)).

Section 25C: Enforcement action other than by primary authority

- 143 This section sets out the process to be followed where enforcement action is proposed by a qualifying regulator other than a primary authority (the "enforcing authority") against a regulated person or a member of a regulated group.
- 144 Subsection (2) requires an enforcing authority to notify the primary authority of proposed enforcement action before it takes the action and prevents the enforcing authority from taking the proposed enforcement action until the end of the relevant period, which is defined in subsection (9).

145 Subsection (3) provides that, if the enforcing authority fails to notify the primary authority of the proposed enforcement action but the primary authority is notified of the enforcement action by the regulated person or a member or coordinator of the regulated group, the primary authority must then notify the enforcing authority that it is prohibited from taking enforcement action during the relevant period.

146 Subsection (4) enables a primary authority, within the relevant period, to direct the enforcing authority not to take the enforcement action if it decides such action would be inconsistent with advice or guidance the primary authority has previously given. If no direction is issued and the enforcing authority continues to propose to take the enforcement action, it must notify the regulated person or the member of its intention to do so under subsection (6).

147 Subsection (7) provides for Parts 2 and 3 of Schedule 4A to RESA, which contains provisions that allow an enforcing authority, a primary authority or a regulated person or members of a regulated group to refer questions regarding enforcement action to the Secretary of State.

Section 25D: Enforcement action: exceptions

148 This section provides that the Secretary of State must make regulations, with the consent of the Welsh Ministers, which prescribe the circumstances in which the procedures in sections 25B and 25C do not apply.

Section 26A: Inspection plans

149 Section 26A provides that a primary authority may make an inspection plan that applies to a regulated person or a regulated group; section 26B makes provision for the effect of an inspection plan on the functions of the primary authority and other relevant qualifying regulators; and section 26C provides for the revision and revocation of an inspection plan made under section 26A.

150 Subsection (2) of section 26A provides that an “inspection plan” is a plan containing recommendations as to how a relevant qualifying regulator (an “inspecting regulator”) should exercise its inspection functions (as defined in subsection (1)) in relation to the regulated person or member of the regulated group.

151 Before drawing up an inspection plan, the primary authority must consult the regulated person or the co-ordinator of the regulated group to whom the plan applies (subsection 5). When drawing up the plan, the primary authority is required to take into account recommendations published by any person (other than an inspecting regulator) pursuant to a regulatory function (subsection (6)).

152 For an inspection plan to have effect, the Secretary of State must consent to it. Where the Secretary of State consents to an inspection plan, subsection (8) requires the primary authority to bring the plan to the notice of the regulated person or the co-ordinator of a regulated group and inspecting regulators.

153 Subsection (9) requires the co-ordinator to bring the plan to the notice of the members of the regulated group to whom it may be relevant, and to keep a list of those members, which it must provide to the primary authority. The primary authority must notify the list or update to inspecting regulators (subsection (10)).

Section 26B: Effect of inspection plans

- 154 Subsection (1) requires the primary authority to comply with its inspection plan in relation to the regulated person or a member of a regulated group.
- 155 Under subsection (2), if the plan has been brought to the attention of an inspecting regulator, that regulator must also comply with the plan, unless the primary authority has approved an alternative inspection proposal by the inspecting authority or, in the case of a regulated group, the member's name is not on the list provided to the inspecting regulator under section 26A(10).

Section 26C: Revocation and revision of inspection plans

- 156 This section enables the primary authority, with the consent of the Secretary of State, to revoke an inspection plan made by it. The primary authority must bring the revocation to the attention of the regulated person or the co-ordinator of the regulated group and to the attention of inspecting regulators, under subsection (2). Under subsection (3), where the revocation is brought to the attention of a co-ordinator, the co-ordinator must bring the revocation to the attention of relevant members of the regulated group.
- 157 Subsection (4) enables the primary authority to revise an inspection plan. Under subsection (5), sections 26B and 26C apply where a primary authority revises such a plan.

Section 27A: Power to charge

- 158 Section 27A enables the primary authority to charge the regulated person or the co-ordinator for the work it has done. The primary authority is only entitled to recover such costs as it has reasonably incurred in the exercise of its functions. Under section 30A, the Secretary of State may issue guidance about the charging of fees.

Section 28A: Support of primary authority by other regulators

- 159 This section provides for certain "supporting regulators" with "designated functions" to do anything that they consider appropriate to support a primary authority in the preparation of advice and guidance under section 24A or an inspection plan under section 26A (subsection (2)).
- 160 Under subsection (1) a "supporting regulator" is defined as a person who has regulatory functions and who is specified in regulations made by the Secretary of State. The consent of the Welsh Ministers is required to specify a "supporting regulator" whose functions relate only to devolved Welsh matters (subsection (9)).
- 161 The Secretary of State specifies in regulations the "designated functions" exercised by the supporting regulator. A designated function must be a regulatory function exercised by that regulator (subsection (10)). When exercising a designated function, a supporting regulator who has provided support under section 28A must act consistently with any advice, guidance or plan that is subsequently given by the primary authority under section 24A or 26A and to which the supporting regulator has consented (subsection (3)).
- 162 The designated functions may not include regulatory functions exercisable in Scotland, unless those functions are reserved matters and may not include regulatory functions in Northern Ireland that are transferred matters. The consent of the Welsh Ministers is required to include a regulatory function, so far as is exercisable in Wales, which relates to a devolved Welsh matter (subsection (11)).

163 Where the regulated person or co-ordinator has agreed to the support being given to the primary authority by the supporting regulator, subsection (6) gives the regulator the power to charge the regulated person or co-ordinator of the regulated group fees for the work it has done on a costs recovery basis.

Section 28B: Other regulators required to act consistently with primary authority advice etc

164 This section provides that "complementary regulators" must act consistently with primary authority advice and guidance in the exercise of their "designated functions" in relation to a regulated person or a member of a regulated group, in so far as it was aware that the person is a member of a regulated group and as far as is possible to do so in accordance with its other functions (subsections (2) to (4)). Subsection (5) defines primary authority advice and guidance as advice and guidance issued by a primary authority under section 24A and inspection plans made by the primary authority under section 26A.

165 Under subsection (1), a "complementary regulator" is defined as a person who has regulatory functions and who is specified in regulations made by the Secretary of State. The consent of the Welsh Ministers is required where the "complementary regulator" exercises functions that relate only to devolved Welsh matters (subsection (8)).

166 Under subsections (1)(b) and (9), the Secretary of State must specify in regulations the "designated functions" exercised by the complementary regulator. A designated function must be a "partnership function" (as defined in section 23A(2)) or equivalent to such a function but must not be a "relevant function" (defined in section 22C) of the complementary regulator. This means that, in relation to the designated function, the complementary regulator could not be a "qualifying regulator" eligible for nomination as a primary authority under section 23A. The designated function must be exercisable by the complementary regulator in relation to the regulated person or member of the regulated group.

167 Under subsection (11) the regulations may not include regulatory functions exercisable in Scotland, unless those functions are reserved matters and may not include regulatory functions in Northern Ireland that are transferred matters. The consent of the Welsh Ministers is required to include a regulatory function, so far as is exercisable in Wales, which relates to a devolved Welsh matter.

Section 29A: Primary authority enforcement action inconsistent with another authority's advice etc

168 This section applies where a 'direct' or 'co-ordinated' primary authority notifies under section 25B(2)(a) a regulated person or member of a regulated group that it proposes to take enforcement action. If, within the relevant period, the regulated person or member notifies the primary authority that it considers the proposed enforcement action to be inconsistent with advice or guidance previously given by another primary authority, then the provisions of section 25C apply as if the primary authority proposing to take the enforcement action were an enforcing authority.

Section 29B: Concurrent duties to notify primary authorities of enforcement action

169 Under section 25C(2)(a), where an enforcing authority intends to take enforcement action, it must notify the primary authority of the proposed enforcement action. Section 29B makes provision for what the enforcing authority must do where there is more than one primary authority.

170 Under subsection (3), if there is a direct primary authority and a co-ordinated primary authority, the enforcing authority need only inform the direct primary authority of the proposed enforcement action. If there is no direct primary authority, but more than one co-ordinated primary authority, the enforcing authority is only required to notify one of the co-ordinated primary authorities of the proposed enforcement action.

Section 29C: Enforcement action notified to a primary authority inconsistent with another primary authority's advice etc.

171 This section applies where a primary authority ("PA1") has been notified that an enforcing authority intends to take enforcement action against a regulated person or member of a regulated group but has decided not to give a direction to the enforcing authority under section 25C(4) and not to refer the matter to the Secretary of State under Schedule 4. Where this is the case, subsection (2) requires PA1 to take reasonable steps to ascertain whether another primary authority ("PA2") has given advice or guidance to the person or member, and whether the regulated person or member considers the proposed enforcement action to be inconsistent with PA2's advice or guidance.

172 If PA1 does ascertain that PA2 has given advice or guidance has and that the regulated person or member considers the enforcement action to be inconsistent PA2's advice or guidance, then PA1 must refer the proposed enforcement action to PA2 and notify the enforcing authority and the regulated person or member that the action has been referred to PA2 (subsection (3)).

173 Subsection (4) provides that where a reference is made under subsection (3) the procedure to be followed is that set out under sections 25C, but as if the reference by PA1 to PA2 was a notification given by the enforcing authority to PA2 under section 25C(2)(a). Section 25C will no longer apply to PA1 but will apply to PA2. In practice, this means that the relevant period (during which time the enforcing authority cannot take enforcement action) will restart, and PA2 will have to decide whether to give a direction to the enforcing authority under section 25C(4) or whether to refer the action to the Secretary of State under Schedule 4. The provisions in section 25B that allow an enforcing authority or a regulated person or member of a regulated group to refer the decision to the Secretary of State will also apply.

Section 29D: Overlapping inspection plans

174 This section makes provision for cases where there is more than one relevant inspection plan in respect of the same inspection function in relation to the same person. The effect of the section is that an inspection plan made by a direct primary authority must be followed even where there is also an inspection plan made by a co-ordinated primary authority.

175 Where a direct primary authority has made an inspection plan to which the Secretary of State has consented, section 26B(2) (which would require the primary authority as an inspecting regulator to exercise the inspection function in accordance with another plan if it was notified of the other plan) does not apply (subsection (3)).

176 Subsections (4) and (5) make provision for the situation where a co-ordinated primary authority is an inspecting authority and a direct primary authority has also made an inspection plan in respect of the same inspection function for the same person. These subsections provide that section 26B(1), which would require the co-ordinated primary authority as an inspecting regulator to exercise the inspection function in accordance with its own plan (if one is made), does not apply, and section 26B(2), which would require the co-ordinated primary authority to follow an inspection plan made by an inspecting authority applies only to the inspection plan made by the direct primary authority.

177 Where a co-ordinated primary authority has made an inspection plan, section 26B(2), which would require the primary authority as an inspecting regulator to exercise the inspection function in accordance with another plan if it was notified of another plan, does not apply (subsection (6)) unless such other plan was made by a direct primary authority.

178 In all other cases where there is more than one inspection plan in respect of an inspection function for the same person, the reference in section 26B(2) to the plan must be read as a reference to the plan made by a direct primary authority or, where there is no such plan, as a reference to any one of the plans brought to the attention of the inspecting regulator (subsection (7)).

Section 30A: Guidance from the Secretary of State

179 This section provides that the Secretary of State may give guidance to qualifying regulators, supporting regulators, complementary regulators and co-ordinators about the operation of Part 2 of RESA. Any such guidance must be published (subsection (8)).

180 Subsection (5) requires the Secretary of State to consult such persons as are considered appropriate before issuing the guidance. Under subsection (6), the Welsh Ministers must be consulted where guidance to supporting regulators makes provision about which functions are relevant to the exercise of a partnership function under section 28A. The Welsh Ministers must also be consulted where guidance is issued to qualifying regulators and supporting regulators about the charging of fees by the primary authority.

181 Qualifying regulators, supporting regulators, complementary regulators and co-ordinators must have regard to any guidance issued by the Secretary of State, by virtue of subsection (4).

Section 30B: Periods of time under Part 2 of RESA

182 This section enables the Secretary of State to make regulations that amend any provision of Part 2 of RESA that specified a time period. Any such regulations are subject to the affirmative resolution procedure (section 30C(2)).

Section 30C: Regulations under Part 2 of RESA

183 This section stipulates that regulations made under Part 2 of RESA must be made by statutory instrument (subsection (1)). A statutory instrument containing regulations made under sections 22B, 28B(1)(a) or 30B must be made via affirmative resolution (subsection (2)). All other regulations may be made by negative resolution (subsection (3)).

Section 30D: Interpretation of Part 2 of RESA

184 This section aids interpretation of the Part 2 of RESA. It contains definitions of key terms (subsection (1)) and definitions of 'working day' (subsection (2)) and 'relevant part' (subsection (3)).

Schedule 3: Primary Authority Scheme: New Schedule 4A to RESA 2008

- 185 This schedule sets out the procedure for references to the Secretary of State. It replaces schedule 4 to the Regulatory Enforcement and Sanctions Act 2008.
- 186 Part 1 of RESA is concerned with enforcement action by the primary authority. It enables a regulated person, or a member of a regulated group, to make a referral to the Secretary of State where the primary authority has notified it of proposed enforcement action. This part is new. Its purpose is to ensure that the regulated person, or member of a regulated group, has the opportunity to apply for a reference where enforcement action is proposed by the primary authority, rather than by a different regulator.
- 187 Part 2 of RESA sets out the procedure for references to the Secretary of State where enforcement action has been notified to the primary authority by an enforcing authority. If the primary authority directs the enforcing authority not to take the enforcement action, the enforcing authority may refer the proposed action to the Secretary of State (paragraph 2). If the primary authority does not issue a direction to the enforcing authority, the regulated person or member of the regulated group may refer the matter to the Secretary of State (paragraph 3).
- 188 Part 2 of RESA also enables a primary authority to refer proposed enforcement action by an enforcing authority to the Secretary of State instead issuing a direction under section 25C(4) (paragraph 1).
- 189 Consent of the Secretary of State to the reference is necessary in each situation. The Secretary of State:
- must direct against the action, if satisfied that the proposed enforcement action is inconsistent with advice or guidance previously given by the primary authority, and that the advice or guidance was correct and properly given;
 - otherwise, consent to the action.
- 190 If the Secretary of State directs against the action, the Secretary of State may direct the enforcing authority to take some other enforcement action.
- 191 Part 3 of RESA sets out general provisions in relation to referrals. Paragraph 5 sets out timings for the making of referrals and for the Secretary of State to determine referrals. Paragraph 6 provides that the Secretary of State must consult with any relevant regulator where appropriate, and may consult with other persons. Paragraph 7 enables the Secretary of State to require information to be provided by any of the primary authority, the enforcing authority or the regulated person/member of the regulated group. Paragraph 8 makes provision as to costs where the regulated person/member of regulated group applies for make a reference. Paragraph 9 allows the Secretary of State to make further provision as to procedures to be followed.

Section 21: Devolved Welsh Matters

- 192 Subsection (2) replaces the references in RESA to a "Welsh ministerial matter" with references to a "devolved Welsh matter" and subsection (4) inserts a definition of "devolved Welsh matter" into section 74 of that Act. This is to reflect the devolution settlement more accurately. Subsection (3) replaces references in RESA to functions exercisable "in Wales" with references to functions exercisable "in relation to Wales" to provide consistency with the wording in section 108 of the [Government of Wales Act 2006](#), thus clarifying the extent to which the provisions are applicable in Wales.

193 This section extends to England and Wales, Scotland and Northern Ireland and applies to Wales only.

Part 4: Apprenticeships

194 The Government aims to deliver 3 million apprenticeship starts in England within this Parliament; an increase on the 2.4 million achieved in the previous Parliament.

195 The latest research, published June 2015 in [BIS Research Paper 229](#), demonstrates the high level of return to investment delivered by the apprenticeship programme, indicating that adult apprenticeships at level 2 and level 3 deliver £26 and £28 of economic benefits respectively for each pound of Government investment.

196 Provisions in this Act will help the Government to deliver 3 million, high quality apprenticeships in both the public and private sectors; ensure a sustainable governance arrangement is in place to regulate the quality of apprenticeships through the establishment of the Institute of Apprenticeships, as well as encouraging long term employer investment in skills through the apprenticeship levy.

197 The Government wants to ensure that the public sector is a model employer with respect to apprenticeships; leading by example and offering a significant number of apprenticeships to develop a skilled workforce for the future. These provisions therefore aim to increase the number of apprenticeships in the public sector. A [consultation](#) was published on 25 January 2016.

198 The Government also wishes to protect the term ‘apprenticeship’ from misuse. Low-quality courses that do not meet the requirements of statutory apprenticeships should not be described as apprenticeships, or else it would damage the reputation of apprenticeships and have a negative impact on the growth of statutory apprenticeship schemes. Provision in this Act is intended to protect the reputation of training providers, employers who offer statutory apprenticeships and apprentices who join those apprenticeships, by helping to ensure that statutory apprenticeships are not confused with lower quality training. It also secures a “level playing field” and fairness in the market to the benefit of training providers, employers and individuals. Preventing improper use of the apprenticeships name is intended to give employers more confidence that they are investing in high quality schemes. A [consultation](#) was published in July 2015, and the [Government Response](#) was published in September 2015.

199 A parallel can be drawn between this measure and the unrecognised degrees legislation in section 214 of the [Education Reform Act 1988](#). The unrecognised degree legislation was designed to prevent persons from offering a degree when they were not entitled to do this. The Government wants similar protection for apprenticeships.

200 The Government announced its intention to introduce a UK wide apprenticeship levy in the summer Budget on 8th July 2015. A [consultation](#) was published in August 2015 and the [Government Response](#) was published in November 2015. Details of the rate and scope of the levy were set out in the [Spending Review Statement](#).

201 The levy will be introduced for all employers with a paybill of £3m or more to help fund the increase in quantity and quality of apprenticeship training in England. Provisions to establish and collect the levy and set the rate and scope are included in the [Finance Bill 2016](#). The levy is due to take effect in 2017.

202 The data sharing provisions in this Act (section 26) will enable us to align levy payments with the operation of apprenticeships in England; with similar powers to enable Devolved Administrations to manage their own apprenticeship schemes.

203 This Act also establishes a new independent body: the Institute for Apprenticeships (IfA). It will operate in England, supporting employer-led reforms and the quality of apprenticeships. It may also have a role in relation to apprenticeships funding. It is expected that the IfA will be operational by April 2017.

204 Part 4 (except section 26) extends to England only. Section 26 extends to the United Kingdom.

Section 22: The Institute for Apprenticeships

205 This section introduces a new Schedule, which amends the Apprenticeships, Skills, Children and Learning Act 2009 to establish the Institute for Apprenticeships and make provision about its functions.

Section 23: The Institute for Apprenticeships Transitional Provision

206 This section makes transitional provision relating to the establishment of the Institute for Apprenticeships. This would ensure that standards and assessment plans previously approved by the Secretary of State will be treated as if they were approved by the Institute for Apprenticeships.

Schedule 4: Institute for Apprenticeships

207 Paragraphs 1 and 2 insert new provisions in Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (the 2009 Act).

208 Section ZA1 establishes the Institute for Apprenticeships (IfA) as a body corporate and introduces new Schedule A1 to be inserted in the 2009 Act.

209 Section ZA2 sets out the general duties and matters to which the IfA must have regard when performing its functions. These matters include the reasonable requirements of industry, employers, and apprentices, and to ensure good value for money and the quality of the standards and assessment plans the IfA approves.

210 Further such matters can be included in a written notice given by the Secretary of State, in which the Secretary of State may set out specific areas for the IfA to take into consideration when performing its functions. The Secretary of State can only write once a year, or after a change of Government.

211 Under subsection (6), education or training provided in the course of an approved English apprenticeship is automatically within the IfA's remit. The Secretary of State may also issue directions or make regulations which bring other matters relating to education and training within the IfA's remit (subsection (7)).

212 Section ZA3 enables the IfA, upon request, to provide the Secretary of State with advice and assistance about the latter's functions relating to English apprenticeships.

213 Section ZA4 enables the Secretary of State, by direction, to delegate further apprenticeship functions to the IfA which are currently exercised by the Secretary of State.

214 Section ZA5 enables the Secretary of State, by regulations, to confer new functions which relate to English apprenticeships.

- 215 Section ZA6 requires the IfA to provide the Secretary of State with an annual report at the end of each financial year, to describe what it has done during the year, including how it has met any written requests from the Secretary of State. The Secretary of State can also ask the IfA to provide reports on any other issues which relate to its functions. Each report must be laid before Parliament by the Secretary of State.
- 216 Section ZA7 enables the Secretary of State to direct the IfA to take certain action or stop acting in a certain way where the Secretary of State concludes that the IfA has failed to fulfil its duties or has acted or is proposing to act in an unreasonable way. Section ZA8 provides that any direction made under the above provisions must be in writing and must be complied with by the IfA.
- 217 Paragraph 3 of the Schedule substitutes a series of new provisions in the 2009 Act in place of existing section A2.
- 218 Section A2 requires the IfA to publish standards for sectors which it thinks appropriate, and for each standard to describe the sector and the outcomes which each apprentice will be expected to achieve to successfully complete the apprenticeship. It also states that the IfA must publish an assessment plan for each published standard, which sets out how each standard will be assessed. The plan must also set out how each assessment will be quality assured.
- 219 Section A2A provides further detail about how standards and assessment plans should be drafted: they must be drafted by a group of persons who have been approved by the IfA. The IfA can provide advice and guidance to this group whilst they are preparing the standard or assessment plan.
- 220 The IfA must publish the criteria which it will use to decide whether to approve or reject a group who wish to develop a standard and assessment plan, and the criteria it will use to approve or reject the standard and plans themselves. It may also take into account other matters outside the published criteria in individual cases where appropriate.
- 221 Section A2B provides that the IfA must quality assure the assessment of a person's attainment of outcomes (which are set out in the standard to which the assessment plan relates). The section provides that the IfA will approve proposals for others to carry out this quality assurance role, or it can carry it out itself.
- 222 Section A2C provides that if the IfA is concerned that any apprenticeship assessment is, or could become, unsatisfactory it can carry out a review of the assessment, or arrange for someone else to carry out a review. Once the review is completed, the IfA can make arrangements with a view to improving the quality of the assessment in question. If the proposed changes are not followed or the IfA is concerned that the quality of assessments is or may become unsatisfactory, the IfA can report their concerns to the Secretary of State, or others. Such a report may contain recommendations and may be published by the IfA.
- 223 Section A2D enables the IfA to establish a committee to advise it on the functions given to the IfA under section A2B and A2C and any other matters that the IfA asks it to. A majority of the members of the committee must be people who appear to the IfA to have experience of the assessment of education or training.
- 224 Section A2E provides that the IfA must regularly review standards and assessment plans to make a judgement about whether any changes are needed or whether the standard or plan needs to be withdrawn. It must make public information about when the reviews will take place.

- 225 Section A2F provides that the IfA must publish all revised standards and plans. Those revisions must have been prepared by an approved group of persons and approved by the IfA.
- 226 Section A2G provides that the IfA must ensure that all standards and assessment plans (other than revised standards or assessment plans) have been scrutinised by an independent third party before they are approved. The IfA must take the views of the third party reviewer into account when exercising its functions. Revised standards and plans do not have to be reviewed by a third party, but they can be if the IfA thinks it is appropriate. The IfA can decide to reject a standard or assessment plan without first seeking a third party view.
- 227 Section A2H provides that the IfA must publish and maintain a list of its published standards and assessment plans, including when each comes into force. Any entry on the list in respect of a revised standard or assessment plan must give a description of the cases to which the revised version applies.
- 228 Section A2I provides that the IfA will own the copyright for all standards and assessment plans in circumstances where another person had, before they were approved, a copyright or interest in that standard or plan.. The right transfers at the point where the IfA approves the standard or assessment plan. The IfA must make sure that any standards or plans which have transferred to them under this provision are made publically available and subject to any appropriate conditions.
- 229 Paragraph 9 inserts a new Schedule A1 after Schedule 1 to the 2009 Act.
- 230 Paragraphs 2 and 3 of the new Schedule provide that the IfA will consist of a Chair, Chief Executive and between 4 and 10 other members appointed by the Secretary of State. Each non-executive member can, on terms determined by the Secretary of State, be appointed for a maximum of 5 years at a time and can be reappointed. They can resign by giving written notice to the Secretary of State. The Secretary of State can remove them if they are unfit or unable to carry out their duties or if they are absent from the IfA's meetings for longer than 6 months without the IfA's permission.
- 231 Paragraph 4 provides that the IfA must pay its non-executive members remuneration, allowances, expenses and a pension if required to by the Secretary of State. If a non-executive board member leaves the board, the Secretary of State can ask for them to receive compensation from the IfA if the Secretary of State considers there are special circumstances.
- 232 Paragraph 5 provides that the Secretary of State will appoint the first Chief Executive (CEO), having consulted the Chair. Subsequent CEOs will be appointed by the IfA, having consulted the Secretary of State. The CEO cannot be appointed for more than one five year term at a time but is able to reapply or be appointed for more than one term. The CEO and other staff appointed by the IfA are civil servants. The IfA will determine how many staff it appoints and what their terms and conditions are, with agreement from the Secretary of State.
- 233 Under paragraph 6 the Secretary of State and the IfA may enter into agreements in relation to the Secretary of State providing staff, accommodation or services. Under paragraph 7 the IfA can set up committees and those committees may set up sub-committees. The IfA is able to change what a sub-committee has been asked to do or decide to dissolve it. All committees must include at least 2 members of IfA staff. The IfA

can pay remuneration, allowances or expenses to members of committees, with agreement from the Secretary of State. The Secretary of State can require the IfA to review its committees and the work they are carrying out on its behalf.

234 Paragraph 8 makes provision allowing the IfA to regulate its own meetings and procedures. Paragraph 9 provides that the IfA's functions can be carried out by IfA board members, IfA staff, IfA committees or any other person that the IfA asks to do so. However, the IfA cannot ask a committee which is not made up of a majority of IfA staff or any other person to carry out its functions in relation to publication of standards and assessment plans, the preparation of standards and assessment plans, reviews of published standards and assessment plans and transfer of copyright of standards and assessment plans.

235 The IfA can ask others to carry out additional functions which have been conferred or delegated to it by the Secretary of State, if the directions or regulations which gave those functions to the IfA allow it.

236 Paragraph 10 provides for the IfA's supplementary powers. They can provide information or advice and can co-operate and work jointly with others in relation to their functions. They can carry out research which relates to their functions. They can take any other action they think is necessary to carry out their functions, unless it is prohibited from doing so by legislation.

237 The IfA cannot borrow money. It cannot lend money, form, participate in forming, invest in or become a member of a company or form, participate in forming or become a member of charitable organisation, without agreement from the Secretary of State.

238 Paragraph 11 provides that the IfA must keep proper accounts and provide a statement of account each year. The Statement of accounts must comply with any directions from the Secretary of State about the information it must contain, how the information should be presented and how it should be prepared. A copy should be sent to the Secretary of State and Comptroller and Auditor General by the end of August each year. The Comptroller and Auditor General must certify and report on each of the accounts and send a copy of the report and a certified statement to the Secretary of State. The Secretary of State must then lay a copy of each of statement of account from the IfA and each report and certified statement from the Comptroller and the Auditor General before Parliament.

239 Paragraph 12 makes provision about the IfA's seal and documents authenticated under it.

240 Paragraph 13 provides that the Secretary of State can make grants to the IfA, or provide the IfA with any other kind of financial assistance, subject to any conditions the Secretary of State sees fit to apply.

Section 24: Public sector apprenticeship targets

241 This section will insert new sections A9 (public sector apprenticeship targets) and A10 (further provision about apprenticeship targets) into Chapter A1 of Part 1 of the [Apprenticeships, Skills, Children and Learning Act 2009](#) (the 2009 Act). That Chapter concerns English apprenticeships.

242 New section A9 will provide the Secretary of State with a power to set targets for public bodies in relation to the number of apprentices who work for them and new section A10 will make further provision. The apprentices must be employed under approved English apprenticeship agreements (see section A1 of the 2009 Act) or any apprenticeship agreements based on frameworks which are not yet phased out under provision made under section 115(9) of the [Deregulation Act 2015](#).

- 243 The public bodies within scope of an apprenticeship target will be set out in regulations. These may cover public authorities or bodies with functions of a public nature that receive some form of funding from public money. The intention is to ensure that the Secretary of State is able to set targets for any public sector body, including central Government departments, non-departmental public bodies and other bodies which exercise public functions. The Secretary of State has discretion to decide not to include certain bodies or categories of bodies in the regulations.
- 244 The Secretary of State has the freedom and flexibility on how to apply a target; the Secretary of State may set different targets for different bodies, groups of bodies or parts of bodies. Alternatively, the Secretary of State may wish to set one target for all of the bodies. When choosing to set a target, the Secretary of State may set different targets in different periods. The Secretary of State may take into account the particular circumstances of a body and not apply any, or a particular, target to it.
- 245 There is a duty on all public bodies for which targets are set to have regard to the applicable apprenticeship targets and any applicable guidance the Secretary of State may issue.
- 246 In order to determine which public bodies should be in scope of this measure, or to carry out other functions under the new section, the Secretary of State needs to be able to access information about the workforce of public bodies. This section provides a power for the Secretary of State to require anybody in the public sector to provide information to the Secretary of State that is needed for that reason. This may be information in relation to their numbers of employees, or workforce planning.
- 247 To ensure public bodies are having due regard to the target and in order to increase transparency there will be a duty for public bodies to publish information on progress towards meeting the apprenticeships targets annually. Public bodies will also be required to send this information to the Secretary of State. There is also provision for the Secretary of State to make regulations under which bodies would be required to send separate, additional information regarding the target. This may be information on why they were unable to meet the target, or their future plans to try and meet the target.
- 248 This provision forms part of the law of England and Wales but applies to England only. Where public bodies operate across the UK, the target will be set as a certain proportion of their England-based workforce.

Section 25: Only statutory apprenticeships to be described as apprenticeships

- 249 This section inserts a new section A11 into the 2009 Act. It creates an offence for a person to provide or offer a course or training as an apprenticeship in England if it is not a statutory apprenticeship. The offence applies to a person who, in the course of business, describes the course or training as an apprenticeship. Similarly, the offence includes describing a person who undertakes such a course or training as an apprentice.
- 250 The definition of statutory apprenticeship in the section is intended to include all English apprenticeships provided for under the 2009 Act (including apprenticeships in relation to frameworks saved under provision made under section 115(9) of the Deregulation Act 2015) and section 2 of the [Employment and Training Act 1973](#). It also includes statutory apprenticeship arrangements within Scotland, Wales and Northern Ireland in case any part of those apprenticeships are provided or offered in England.

- 251 Employers cannot commit the offence in relation to their employees. That includes employees who have a contract of apprenticeship which is not a statutory apprenticeship. The definition of a contract of employment in section 230(2) of the [Employment Rights Act 1996](#) expressly includes contracts of apprenticeship.
- 252 The offence may be committed by a body corporate. An officer of a body corporate also commits the offence if the action of the body corporate is done with their consent or connivance or is as a result of their neglect. In this context, an officer also includes a governor of an educational institution.
- 253 This offence will be enforced primarily by the Local Weights and Measures Authorities using similar powers to those they have in relation to unrecognised degrees under Schedule 5 to the [Consumer Rights Act 2015](#). It will enable them, the Secretary of State, or others with the consent of the Director of Public Prosecutions to take action if courses or training are offered which are not of sufficient quality as required of statutory apprenticeships. The offence is only triable in the Magistrates' Court and the maximum penalty is a fine.
- 254 This provision forms part of the law of England and Wales but applies to England only.

Section 26: Apprenticeships: Data sharing and payments to employers

- 255 The Government is establishing a Digital Apprenticeship Service in England, to be operating from April 2017 to help employers to choose and pay for training courses. To make the Service work, the Government wants to align the amount of an employer's funds available for apprenticeship training to the amount of levy such employer has paid. This section inserts new sections 40A to 40D into the 2009 Act. Section 40A will establish data sharing gateways to enable HMRC and the Secretary of State to exchange information on levy payments due from employers and carry out necessary administrative checks. This information will enable the Digital Apprenticeship Service to show in employers' accounts the amount of funding they are entitled to, based on their levy payments.
- 256 As the levy will be imposed across the UK, section 40B will enable HMRC and devolved authorities to exchange similar information about levy payments, so this data can be used in relation to devolved apprenticeship programmes. Section 40C introduces a criminal sanction for wrongful disclosure (under section 19 of the [Commissioners for Revenue and Customs Act 2005](#)) of data obtained under the gateways.

Section 27: Apprenticeship Funding

- 257 The new funding system will give employers the leading role in managing the funding of apprenticeship training, via the Digital Apprenticeship Service. Section 27 will enable Government to make payments directly to employers in relation to the full range of apprenticeships that can be funded by the Secretary of State.

Part 5: Late Payment of Insurance Claims

- 258 The Law Commission and the Scottish Law Commission are undertaking a major review of insurance contract law. Their July 2014 Report, [Insurance Contract Law: Business Disclosure; Warranties; Insurers' Remedies for Fraudulent Claims; and Late Payment](#) (Law Com No 353 / Scot Law Com No 238), made recommendations for reform of the law in relation to late payment of insurance claims.

- 259 Under the current law in England and Wales, there is no obligation to pay valid insurance claims within a reasonable time. This is the result of a legal fiction which holds that the insurer's primary obligation under a contract of indemnity insurance is not to pay money to the policyholder if an insured event occurs but is in fact to prevent the insured event from occurring in the first place.
- 260 In Scotland, however, the court has accepted that there is an implied term that the insurer should assess a claim reasonably quickly and with diligence.
- 261 Both Law Commissions recognised that the position in England and Wales was unexpected and difficult to justify on a policy or legal basis. They recommended that insurers in the UK should be under a legal obligation to pay sums due within a reasonable time, and that a policyholder should have a remedy where an insurer failed to do so.
- 262 The measure in this Act implements the key recommendations made by the Law Commissions on this issue.

Section 28: Insurance contracts: implied term about payment of claims

- 263 Section 28(1) inserts a new section 13A into the [Insurance Act 2015](#) which will imply a term requiring the insurer to pay sums due within a reasonable time into all contracts of insurance made under the law of any part of the United Kingdom.
- 264 Breach of the new contractual term in insurance contracts will give rise to the usual remedies for breach of contract, including damages for loss.
- 265 Sections 13A(2) and (3) make further provision about the meaning of a "reasonable time". Under section 13A(2), this will always include time to investigate and assess the claim. Section 13A(3) makes clear that what is reasonable depends on all the relevant circumstances and contains a non-exhaustive list of factors which might be relevant in considering whether the insurer has acted within a reasonable time.
- 266 The type of insurance involved may be relevant because, for example, claims under business interruption policies usually take longer to value than claims for property damage. In terms of size and complexity, larger more complicated claims will usually take longer to assess than straightforward claims. A claim may be complicated by its location, for example: if an insured peril occurs abroad, it is possible that investigation will be more difficult.
- 267 The reference to relevant statutory or regulatory rules or guidance might include, for example, rule 8 of the Financial Conduct Authority's Insurance: Conduct of Business sourcebook (ICOBS) on claims handling, and paragraph 27 of Schedule 1 to the [Consumer Protection from Unfair Trading Regulations 2008](#) (SI 2008/1277) relating to commercial practices which are in all circumstances considered unfair.
- 268 Factors beyond the insurer's control might delay payment. For example, investigations may be held up because the policyholder or a third party fails to provide relevant information in a timely manner. An insurer's decision may also be dependent on the actions of another insurer. This may arise as a result of the interaction between business interruption and property insurance, or in the subscription market where a follower may be dependent on the lead insurer.
- 269 Section 13A(4) gives the insurer a defence to a claim for breach of the implied term where it had reasonable grounds for disputing the validity or quantum of a claim. Whether the insurer had reasonable grounds is intended to be judged objectively.

270 Section 13A(4)(b) provides that the insurer's conduct in handling the claim may be a relevant factor in deciding whether the term was breached and, if so, when. An insurer who has a reasonable basis for disputing a claim or at least conducting further investigations may nevertheless be found to be in breach of the implied term if, for example, it conducts its investigation unreasonably slowly, or is slow to change its position when further information confirming the validity of the claim comes to light.

271 Section 13A(5) preserves the distinction between claims for breach of the implied term and (a) the substantive insurance claim and (b) claims for interest on the insurance claim, whether contractual, statutory or otherwise. Breach of the implied term must be argued and proven separately.

272 These provisions have UK wide extent, as do the other provisions of the Insurance Act 2015. They deal solely with reserved or non-devolved matters.

Section 29: Contracting out of the implied term about payment of claims

273 This section amends Part 5 of the [Insurance Act 2015](#) which deals with contracting out of the substantive provisions of the Act.

274 The new section 16A inserted by section 23(1) follows the approach of the Insurance Act 2015 and makes different provision in relation to consumer insurance contracts and non-consumer insurance contracts which attempt to contract out of the term implied by section 13A. The terms "consumer insurance contract" and "non-consumer insurance contract" are defined in section 1 of the Insurance Act 2015. For these purposes, a term of an insurance contract "contracts out" of the implied term if it puts the insured in a worse position as regards the matters covered by section 13A than the insured would be in by virtue of the implied term.

275 Section 16A(1) ensures that (like the rest of the Insurance Act 2015), a term of a consumer insurance contract that purports to contract out of the implied term is of no effect. The obligation to pay valid claims within a reasonable time is therefore mandatory and an insurer cannot use a term of the contract to put a consumer in a worse position than they would be in by virtue of the implied term.

276 Section 16A(2) to (4) deal with contracting out in non-consumer insurance contracts. Subsection (2) prevents a contract term from contracting out of the implied term so far as relating to the consequences of a deliberate or reckless breach of it. Under subsection (4) it is generally possible to contract out of the implied term provided that the insurer complies with the transparency requirements set out at section 17 of the Insurance Act 2015. Under section 17 the insurer must give notice of the term to the insured and the term must be clear and unambiguous as to its effect.

277 Section 29(2) amends section 17(1) of the Insurance Act 2015, which defines what a "disadvantageous term" is for the purposes of the contracting out provisions in that Act, so that it applies also to a "disadvantageous term" of the kind referred to in the new section 16A(4).

278 The implied term about payment will apply only to insurance contracts entered into after the provisions come into force. These provisions have UK wide extent, as do the other provisions of the Insurance Act 2015. They deal solely with reserved or non-devolved matters.

Section 30: Additional time limit for actions for damages for late payment of insurance claims

- 279 Section 30 inserts a new section 5A into the Limitation Act 1980. The Limitation Act 1980, and the amendments made to it by section 30, extend to England and Wales only.
- 280 Subsection (1) of the new section means that, where the insurer has paid all sums due in respect of an insurance claim under the contract, then the insured may not bring any claim for late payment of those sums more than one year after that payment.
- 281 Subsection (2) provides that the receipt of any form of payment which extinguishes the insurer's liability in respect of the original insurance claim will constitute the beginning of the one year period for bringing a late payment claim specified in subsection (1). This payment may be, for example, a payment in accordance with a court or arbitral award, or an amount agreed by the insurer and insured in a binding settlement agreement.
- 282 A late payment action will be barred by the expiry of whichever period ends soonest: the one year period after payment of all sums due in respect of the insurance claim, or the usual limitation period (contained in section 5 of the Limitation Act 1980 – time limit for actions founded on simple contract) of six years from the date of breach of the implied term as to payment within a reasonable time.
- 283 This provision extends to England and Wales only.

Part 6: Non-Domestic Rating

- 284 Non-Domestic Rates are commonly known as Business Rates. The Valuation Office Agency (VOA), which is part of HM Revenue and Customs (HMRC), is responsible for compiling and maintaining non-domestic rating lists. These lists contain details of properties which are liable for non-domestic rates together with their rateable values. The rateable value is, broadly speaking, the annual market rental value of the property. Local authorities and (for certain properties) the Secretary of State for Communities and Local Government are responsible for calculating and collecting rates bills using the information on those rating lists.
- 285 In the course of exercising their functions, the VOA also collects information from businesses such as the identity of the non-domestic ratepayer and plans of the property. However, this information is not published on the rating list.
- 286 Section 18 of the [Commissioners for Revenue and Customs Act 2005](#) (CRCA) provides that HMRC officials, including VOA officials, are only able to disclose information in limited circumstances such as in relation to their functions. Section 19 of CRCA also sets out criminal sanctions for the wrongful disclosure of information that relates to an individual whose identity is specified in the disclosure or can be deduced from it. As a result, officers of the VOA are prevented from sharing the information they collect about properties and ratepayers with local government. This means that businesses often have to provide the same information twice to the VOA and to local government. It can also mean that the properties have to be inspected by both the VOA and the local authority.
- 287 In April 2014, the Government published a discussion paper on the review of [Administration of Business Rates in England](#) which included consideration of how to improve the sharing of non-domestic rates information in government. Following discussions with local government and ratepayers, the Government published their [Interim Findings](#) on the review in December 2014 and acknowledged that the current

constraint on the VOA sharing information with local government was a barrier to the efficient administration of the rating system. The Government committed to seek legislation to allow greater sharing of information on non-domestic properties.

288 In cases where a ratepayer is not content with the assessment shown in the non-domestic rating list, they may challenge their rateable value by making a proposal to the VOA for an alteration to the rating list under section 55 of the [Local Government Finance Act 1988](#). If there is a disagreement between the ratepayer and the VOA as to the proposed alteration, the ratepayer can appeal to the Valuation Tribunal for England (VTE).

289 In the Autumn Statement 2013, the Government announced it would open up a discussion with businesses and local authorities about long-term administrative reform to non-domestic rates in England after 2017. This was followed, in the Autumn Statement 2014, by publication of the Interim Findings of the Business Rates Administration review. This set out proposals for improvements, including a reformed non-domestic rates appeals system.

290 The Interim Findings identified that too many rating appeals are made with little supporting evidence and that they take too long to resolve. It suggested that a revised appeals system should be built around clearly structured stages which will provide transparency and clear expectations on all sides about timescales, requirements and action. The purpose of this is earlier and more effective engagement between the parties. The aim is to make the system more efficient, and to help to ensure that appeals are resolved at the earliest possible stage. Respondents to the Interim Findings paper broadly agreed with the proposed system.

Section 31: Disclosure of HMRC information in connection with non-domestic rating

291 This section gives effect to the Government's commitment to allow greater sharing of information on non-domestic properties.

292 The section amends the [Local Government Finance Act 1988](#) inserting new section 63A, to enable officers of the Valuation Office of Her Majesty's Revenue and Customs (VOA) to supply information to billing authorities, major precepting authorities, and contractors and service providers working for them in relation to authorities' non-domestic rating functions. It also allows information to be supplied to the Secretary of State and Welsh Ministers for functions related to the central rating list. The permissive (as opposed to mandatory) nature of section 63A implicitly allows for the VOA to control the release of information and for additional conditions to be placed on any disclosure. The section also inserts a new section 63B which makes provision for the lawful onward disclosure of the information and creates a criminal offence in relation to the unlawful disclosure of information which identifies an individual or whose identity can be deduced from the information provided under section 63A. Finally, this section inserts new section 63C which ensures that information disclosed under the new sections 63A or 63B which identifies a person to which the information relates is exempt from requests under the Freedom of Information Act 2000.

293 These provisions extend to England and Wales only.

Section 32: Alteration of Non-Domestic Rating lists

294 This section reforms the non-domestic rates appeals system.

295 The section amends section 55 of the [Local Government Finance Act 1988](#), which enables the Secretary of State to provide by regulations for ratepayers to make proposals for alterations to the non-domestic rating list (including who may make a proposal, the

circumstances in which a proposal may be made, the time limit to make a proposal, procedure for making a proposal). It also provides that appeals may be made to the Valuation Tribunal for England (in relation to English lists) and the Valuation Tribunal for Wales (in relation to Welsh lists) where there is disagreement between a valuation officer and the person making a proposal.

296 The new subsections (4A) and (4B) inserted by this section provide that the Secretary of State may make regulations prescribing the steps which must be taken before the ratepayer can make a proposal. This section will allow the introduction of a new 'check' stage. The check stage is intended to ensure that the property's rating assessment is based on accurate and up-to-date facts. This section will also provide for regulations which allow valuation officers to impose a civil financial penalty upon a person who in connection with a proposal knowingly, recklessly or carelessly provides false information and for that civil financial penalty to be appealed. Together with the existing powers, the amendments will allow details of the 'challenge' stage (which is a form of proposal) to be set out in secondary legislation.

297 New subsection (7B) provides that where regulations under section 55 of the Local Government and Finance Act 1988 provide for the imposition of financial penalties regarding the provision of false information or provide for fees to be paid for making an appeal, those funds are paid into the appropriate fund. Where such provision is made in relation to English lists, the funds are paid into the Consolidated Fund, and where in relation to Welsh lists, the funds are paid into the Welsh Consolidated Fund.

298 Section 55 of the Local Government Finance Act 1988 extends to England and Wales and the amendments made by this section apply to England and Wales.

Part 7: Sunday Working

299 In August 2015 the Government [consulted](#) on proposals to devolve decision making on Sunday trading hours to local areas. In response to comments raised through the consultation, the [Government response](#) published in February 2016 included a commitment to bring forward a range of measures to strengthen shop workers' rights, so that those shop workers who do not wish to work on Sundays or do not wish to work longer hours on Sundays are protected.

Section 33: Sunday Working

300 Section 33 introduces Schedule 5 (Sunday working). This Schedule makes changes to employment legislation with regard to the rights of shop workers employed at shops in Great Britain (that is, in England & Wales and Scotland).

Schedule 5: Sunday working

301 The [Employment Rights Act 1996](#) already enables shop workers in Great Britain (with some exceptions) to opt out of working on Sundays, by giving their employer an opting-out notice. Schedule 5 amends the Employment Rights Act 1996 and the Employment Act 2002 to change the Sunday opt-out rights of shop workers in a number of ways:

- It reduces the length of the notice period for which a shop worker at a large shop has to wait after giving their employer an opting-out notice before actually refusing to work on a Sunday, from three months to one month. (The notice period for a shop worker at a smaller shop remains at three months.)

- It gives shop workers a new right not to work additional hours on Sundays – that is, more than the shop worker’s normal Sunday working hours – by giving an objection notice to their employer and waiting until the end of a notice period (after which time the opt-out becomes effective). The length of the notice period is one month for shop workers at large shops and three months for shop workers at smaller shops. Schedule 5 provides that the definition of ‘normal Sunday working hours’ will be set out in regulations.
- The Employment Rights Act 1996 requires employers of new shop workers who can opt out of working on Sundays to give them an explanatory notice in writing, using text set out in that Act, informing them of their opt-out rights. The Schedule replaces and broadens this requirement, so that explanatory notices cover the right to object to additional hours as well as the right to opt out of working on Sundays altogether. Explanatory notices are to be given to existing Sunday shop workers within two months of commencement of the provisions, as well as to new Sunday shop workers within two months of becoming Sunday shop workers. The form and content of those statements will be set out in regulations.
- Schedule 5 provides that, if an employer fails to comply with the requirement to give a written explanatory statement, the notice period that the shop worker can give to exercise either of their rights to opt out will automatically reduce, from one month to seven days at large shops and from three months to one month at smaller shops.
- It enables an Employment Tribunal to make a minimum award of two weeks’ pay if a shop worker successfully brings certain other claims in the tribunal, in the course of which the tribunal finds that the employer failed to comply with the requirement to provide the shop worker with an explanatory statement about their Sunday working opt-out rights.
- It provides that, if a shop worker is subjected to detriment for exercising (or proposing to exercise) their right to opt-out of working additional Sunday hours, or for refusing (or proposing to refuse) additional hours on Sunday once the notice period has passed, then they will be able to bring a complaint to an Employment Tribunal.
- It provides that, if a shop worker is dismissed for exercising (or proposing to exercise) their right to opt out of working additional Sunday hours, or for refusing (or proposing to refuse) to work additional hours on Sunday once the relevant notice period has passed, then they will be regarded as unfairly dismissed.

Employment Rights Act 1996

302 Paragraphs 1 to 11 of Schedule 5 amend the Employment Rights Act 1996 to provide enhanced rights for shop workers in Great Britain to opt out of Sunday working or to opt out of working more than their normal number of Sunday working hours. The

Employment Rights Act 1996 also provides rights for betting workers to opt out of Sunday working: however, Schedule 5 leaves the rights of betting workers unchanged.

303 Under section 40 of the Employment Rights Act 1996 a shop worker may, at any time, give their employer an “opting-out notice” to the effect that they object to Sunday working. This right applies to shop workers who are (or may be) required to do shop work on Sundays, except those employed to work only on Sundays. The principal effect of giving an “opting-out notice” is that any contractual requirement to provide or to do shop work on Sunday is made unenforceable once the notice period has elapsed (see section 43 of the Employment Rights Act 1996).

304 Paragraph 2 of Schedule 5 changes the length of that notice period. Under the existing legislation, the notice period is three months, beginning on the day on which the shop worker gives a signed and dated opting-out notice to the employer. Paragraph 2 of Schedule 5 changes the notice period for a shop worker at a large shop from three months to one month. “Large shop” is defined essentially to mirror the definition which applies in England and Wales under the [Sunday Trading Act 1994](#), as a shop with a retail floor area of more than 280 square metres (see new section 43ZB of the Employment Rights Act 1996, introduced by paragraph 6 of Schedule 5).

305 For a shop worker who only ever works at a smaller shop (that is, with a retail floor area of up to 280 square metres), the notice period remains unchanged at three months.

306 The notice period is automatically reduced in certain circumstances, as explained below under “New Section 41D”.

307 Paragraph 3 of Schedule 5 inserts new sections 41A to 41D into the Employment Rights Act 1996.

New Section 41A: Notice of objection by shop workers to working additional hours on Sunday

308 New section 41A introduces a new right for a shop worker to object to working additional hours on Sunday.

309 The right is exercised by the shop worker giving their employer a written “objection notice”, which they have signed and dated, to the effect that they object to working additional hours on a Sunday. An objection notice can be given at any time. “Additional hours” on a Sunday are the hours of shop work that a shop worker is or may be required to do in excess of their normal Sunday working hours.

310 The method for calculating the “normal Sunday working hours” of a shop worker will be set out in regulations to be made by the Secretary of State. The Schedule sets out that those regulations may include:

- a prescribed way to calculate normal Sunday working hours as the average number of hours that a shop worker has worked on Sundays over a given period;
- different definitions of “normal Sunday working hours” in special cases, for example where a shop worker has not worked on enough Sundays for the standard calculation to be used;
- that the right to give an objection notice might not be exercisable in special cases, for example where a shop worker has not worked on enough Sundays for the standard calculation to be used.

311 However, Schedule 5 also provides that regulations on special cases cannot prevent a shop worker who has been continuously employed for a year or more from objecting to working additional hours on Sundays.

312 Paragraph 11 of Schedule 5 amends section 236 of the Employment Rights Act 1996 so that the affirmative resolution procedure will apply to these regulations if they provide for the right not to be exercisable in certain specified circumstances. Otherwise, the negative resolution procedure will apply to these regulations.

New section 41B: Explanatory statement: persons who become shop workers

313 New section 41B will supersede section 42 of the Employment Rights Act 1996 as it applies to shop workers, in requiring employers to give shop workers a written explanatory statement about their Sunday working opt-out rights. The purpose of this provision is that new shop workers are made aware of their opt-out rights. The statement must be given to any new shop worker who is or may be required to do shop work on Sundays, within two months. The statement need not be provided if the shop worker has opted out of working on Sundays before the end of those two months. However, the statement would need to be provided if a shop worker who had previously opted out of Sunday working subsequently gave an opting-in notice and agreed to do shop work on Sunday (see section 41(2) of the Employment Rights Act 1996).

314 The form and content of the statement will be set out in regulations made by the Secretary of State. It will inform shop workers about their right to opt out of working on Sundays and their right to object to working additional hours on Sundays. The regulations can prescribe different text for different types of shop worker, for example those who work at large and smaller shops. These regulations will be subject to the negative resolution procedure.

315 New section 41B replaces section 42 of the Employment Rights Act 1996 insofar as the latter applies to shop workers. As a consequence, paragraph 4 of Schedule 5 amends section 42 of the Employment Rights Act so that it no longer applies to shop workers.

New section 41C: Explanatory statement: shop workers at commencement date

316 Section 41C makes similar requirements for employers to give shop workers a written explanatory statement about their Sunday working opt-out rights, but this time for existing shop workers. The purpose of this provision is that existing shop workers are made aware of their opt-out rights, including the changes made by this Schedule, within two months of the Schedule coming into force. The statement must be given to all shop workers who are already employed when Schedule 5 comes into force, and who are (or may be) required to do shop work on Sundays. Again, the statement need not be provided if the shop worker has opted out of working on Sundays before the end of those two months.

317 Just as with the explanatory notice for new shop workers, the form and content of the statement will be set out in regulations made by the Secretary of State. It will inform shop workers about their right to opt out of working on Sundays and their right to object to working additional hours on Sundays. The regulations can prescribe different text for different types of shop worker, for example those who work at large and smaller shops. These regulations will be subject to the negative resolution procedure.

New Section 41D: Failure to give explanatory statement under section 41B or 41C

318 Section 41D reduces the notice period that applies to shop workers' opt-out rights, in the case where the employer has not provided an explanatory statement as required by section 41B or 41C.

319 The right to opt out of Sunday working under section 40 and the right to object to additional hours on Sundays under section 41A take effect only when a notice period has elapsed. The notice period which applies to both opt-out rights is one month for a shop worker at a large shop or three months for a shop worker who only ever works at a smaller shop – as explained above (under "Employment Rights Act 1996") in relation to opting out of Sunday working, and below (under "New section 43ZA") in relation to objecting to working additional hours on Sundays. However, section 41D provides that if the employer fails to comply with the requirement to give the shop worker an explanatory statement within the specified two month period, under section 41B or 41C, then the relevant notice period is reduced:

- from 1 month to 7 days, for a shop worker at a large shop;
- from 3 months to 1 month, for a shop worker who only ever works at a smaller shop.

New section 43ZA : Contractual requirements relating to working additional hours on Sundays: objection notices

320 Paragraph 6 of Schedule 5 inserts a new section 43ZA into the Employment Rights Act 1996. Section 43ZA contains the principal effect of the new right to object to working additional hours on Sundays: it varies the requirements in the contracts of employment of shop workers who exercise this right. Paragraph 5 of the Schedule amends the heading of section 43 in the same Act, to clarify that it relates to the right to opt out of Sunday working altogether whereas section 43ZA relates to the right to object to additional hours.

321 Under section 43ZA(1), when a shop worker gives the employer an objection notice, objecting to working additional hours on Sundays, then after the notice period has elapsed:

- any contractual obligations on the shop worker to do shop work for additional hours on Sundays become unenforceable; and
- any contractual obligations on the employer to offer additional hours of shop work on Sundays likewise become unenforceable.

322 Subsection (2) sets the notice period. Just as for the right to opt out of Sunday working, the notice period is one month for a shop worker at a large shop or three months for a shop worker who only ever works at a smaller shop. This notice period may be reduced by section 41D.

323 Subsections (3) and (4) enable a shop worker to reverse the effect of an objection notice by giving a further written notice to the employer, to the effect that the shop worker is willing to work additional hours – either on Sundays generally or on a particular Sunday. The shop worker's contract of employment is then taken to be varied accordingly.

324 Subsection (5)(a) clarifies that this section is capable of varying a shop worker's contract of employment. Subsection (5)(b) has the effect that a shop worker who reverses an objection

notice, opting in to working additional hours on Sundays, is nevertheless able to opt out again with a new objection notice.

New section 43ZB: Interpretation

325 Paragraph 6 of Schedule 5 also inserts new section 43ZB into the Employment Rights Act 1996, defining a number of terms. These definitions have been explained with the relevant provisions in these explanatory notes.

New section 45ZA: Sunday working for shop workers: additional hours

326 Paragraph 7 inserts new section 45ZA into the Employment Rights Act 1996. New section 45ZA gives a shop worker the right not to be subjected to detriment on the grounds that either:

- the shop worker gave an objection notice refusing to work additional hours on Sunday, or proposed to give an objection notice refusing to work additional hours on Sunday, or
- the shop worker refused (or proposed to refuse) to do shop work for additional hours on a Sunday, having given an objection notice and waited for the notice period to elapse.

327 New section 45ZA clarifies that the following are not covered by the right not to be subjected to detriment:

- where the detriment amounts to dismissal, because that is addressed separately by new section 101ZA;
- A failure by the employer to pay the shop worker for additional Sunday hours that the shop worker did not work;
- A failure by the employer to provide other benefits relating specifically to additional Sunday hours that the shop worker did not work.

328 Subsections (7) to (9) relate to the situation in which an employer offers to pay a shop worker to work additional hours on one or more Sundays, either as voluntary overtime (i.e. hours that the shop worker is not contractually obliged to work) or where the shop worker has opted out of working additional hours on Sundays. They clarify that in this situation, it does not count as detriment if:

- the shop worker turns down the offer and therefore the employer does not pay the amount offered; nor if
- a different shop worker is not given the same offer.

329 Paragraph 8 of Schedule 5 amends section 48 of the Employment Rights Act 1996 so that a shop worker may present a complaint to an employment tribunal if he or she has been subjected to detriment on the grounds set out above.

New section 101ZA: Shop workers who refuse to work additional hours on Sunday

330 Paragraph 9 of Schedule 5 inserts section 101ZA into the Employment Rights Act 1996. It provides that the dismissal of a shop worker is unfair if the reason for the dismissal (or the principal reason) is:

- that the shop worker gave (or proposed to give) an objection notice to the employer, objecting to working additional hours on Sundays; or
- that the shop worker refused (or proposed to refuse) to do shop work for additional hours on a Sunday, having given an objection notice and waited for the notice period to elapse;

331 Part 10 of the Employment Rights Act 1996 makes provision as to the remedies which apply to employees who are unfairly dismissed, and which would be available to the shop worker in this situation.

332 Paragraph 10 of Schedule 5 amends section 108 of the Employment Rights Act 1996 to disapply the two year qualifying period of employment which usually applies to unfair dismissal claims.

Employment Act 2002: minimum award at Employment Tribunal

333 Paragraph 12 contains amendments to section 38 of the [Employment Act 2002](#). These provide for a minimum award at Employment Tribunal where an employer has failed to provide a shop worker with an explanatory notice informing them of their opt-out rights, as required by new section 41B or 41C of the Employment Rights Act 1996.

334 This minimum award is two weeks' pay. In cases where the Tribunal considers it just and equitable in all the circumstances, the award may be increased to four weeks' pay. This is the same minimum award that already applies in the case of an employer who has failed to provide a written statement of particulars of employment under section 1 of the Employment Rights Act 1996.

335 The minimum award will be paid to a shop worker who successfully brings certain other claims in the Employment Tribunal (specifically, those listed in Schedule 5 to the Employment Act 2002): either in addition to the award that the claimant would otherwise have received, or on its own if there would otherwise have been no award. The award would be made if the employer had failed to comply with section 41B or 41C of the Employment Rights Act 1996 at the time the other tribunal proceedings were begun. In exceptional circumstances the Tribunal could decide not to pay the minimum award if to do so would be unjust or inequitable.

336 There is no separate right to bring a claim at Employment Tribunal simply because the employer has failed to provide an explanatory notice: rather, the failure to provide an explanatory notice would be established in the course of investigating another employment dispute brought to the Tribunal by the shop worker.

Part 8: Other Enterprise-Related Provisions

Industrial Development

337 The [Industrial Development Act 1982](#) enables financial support to be provided by the government to industry in the United Kingdom. It includes:

- Section 8 (Selective Financial Assistance: general powers) – this enables the Secretary of State to provide financial assistance in any part or area of the UK, subject to certain conditions. Subsection (8)-(9) caps the amount that can be paid in respect of any one project at £10 million. Financial assistance over this limit to any one project requires a resolution of the House of Commons. Section 8 applies

to the whole of the United Kingdom;

- Section 13 (Improvement of basic services) – this allows a Minister in charge of any Government Department to make grants or loans towards the cost of improving basic services in development areas or intermediate areas (now commonly known as Assisted Areas), with the intention of developing industry in that area. Basic services cover the provision of facilities such as power, water or transport, and the section applies to Great Britain.

338 The business environment has since changed and the then Government consulted on 20 July 2011 on proposals for increasing the project cap in section 8 and giving Ministers the power to provide financial assistance in relation to the provision of telecommunications and broadband. The consultation on revision of the Industrial Development Act 1982 closed on 2 November 2011, having received 31 responses. The Government [response \(Revision of the Industrial Development Act 1982\)](#) to the consultation was published on 28 June 2012, noting that there was strong support for these two proposals from those who commented, and committing to bring forward legislation as and when Parliamentary time allowed. The measures in the Enterprise Act updating the Industrial Development Act 1982 build on the response to the consultation.

339 This group of provisions forms part of the law of the United Kingdom, save for section 28(2) which amends the heading to section 13 of the [Industrial Development Act 1982](#), and does not extend to Northern Ireland.

Section 34: Allowable assistance under Industrial Development Act 1982

340 Under section 8 of the [Industrial Development Act 1982](#), the amount of financial assistance that can be given to a project under section 8 of the Industrial Development Act 1982 without a resolution of the House of Commons is £10 million. This section increases the threshold from £10 million to £30 million. This increase reflects UK inflation since 1982.

341 The amendment to the project cap in section 8 of the Industrial Development Act 1982 will extend and apply to the United Kingdom as a whole.

342 The power in section 8 of the Industrial Development Act 1982 is exercisable by the Secretary of State concurrently with Welsh and Scottish Ministers. Scottish Ministers are only able to exercise the power within devolved competences. Scottish and Welsh Ministers exercising the power are bound by the project cap in section 8(8). Scottish Ministers do not wish to benefit from the proposed increase in the amount which can be spent before a House of Commons resolution is required. Welsh Ministers will benefit from the increase in the project cap.

Section 35: Grants etc towards electronic communications services and networks

343 This section inserts a new section 13A into the [Industrial Development Act 1982](#) to confer on the Secretary of State the power to make grants or loans towards the costs of improving electronic communication facilities (electronic communications networks and services, and associated facilities) in any area of the United Kingdom. These changes are designed to help the Secretary of State support the roll out of telecommunications and broadband across the United Kingdom.

344 The intention is that the new power to make grants or loans towards the costs of improving electronic communications networks and services in an area of the United Kingdom should only be available to Ministers of the UK Government.

UK Government Investments

- 345 The Chancellor of the Exchequer and the Prime Minister announced [a machinery of Government change to create UK Government Investments Limited](#) (UKGI) in May 2015. UKGI has brought together, into a single corporate structure, the two bodies that currently manage most of the taxpayer stakes in businesses – the Shareholder Executive (ShEx) and UK Financial Investments Limited (UKFI).
- 346 UKGI is a government company (GovCo) - a company formed under the Companies Act 2006 with HM Treasury as its sole shareholder. UKFI already operates as a GovCo which enables it to successfully execute disposals, establishing and maintaining independence and commercial expertise.
- 347 ShEx operations have transferred out of the Department for Business, Innovation and Skills to UKGI and ShEx has rebranded as UKGI. It will continue to offer impartial advice directly to the Secretary of State and Permanent Secretary of the Department that owns the relevant company, asset or project. Since 1st April 2016, UKFI is a subsidiary company of UKGI continuing to operate as it currently does until, in time, it fully merges with UKGI.
- 348 UKGI will be funded centrally from HM Treasury (on behalf of Departments). This section in the Act provides a specific power to allow HM Treasury and Departments to fund and make payments to UKGI. This is in line with the 1932 Concordat between the Treasury and the House of Commons Public Accounts Committee, now reflected in HM Treasury's manual "[Managing Public Money](#)", which requires there to be specific statutory authority for significant items of ongoing Government expenditure.

Section 36: UK Government Investments Limited

- 349 This section permits the Treasury or the Secretary of State to provide financial assistance of any form or make payments to UK Government Investments Limited (UKGI). UKGI brings together the two bodies that currently manage most of the taxpayer stakes in businesses – the Shareholder Executive (ShEx) and UK Financial Investments Limited (UKFI) - into a government company owned by HM Treasury. This ensures a specific power for the Government to fund UK Government Investments is in place.
- 350 This provision extends to the United Kingdom.

UK Green Investment Bank

- 351 The UK Green Investment Bank plc (GIB) is a public company established by the Secretary of State under the [Companies Act 2006](#) to facilitate and develop investment in the green economy. GIB is currently funded by 100% equity from the Government and is entirely Government owned.
- 352 The [Enterprise and Regulatory Reform Act 2013](#) (ERRA 2013) contains provisions to ensure that GIB engages only in activities which contribute to "green purposes". ERRA 2013 also required the Secretary of State to provide an undertaking to the GIB in order to facilitate its operational independence, permits the Secretary of State to provide funding to GIB, and imposes certain enhanced reporting and accounting obligations on GIB.

353 These sections repeal some of the legislation on GIB contained in the ERRA 2013, in preparation of the Government's disposal of part or all its interest in the GIB. In particular, the repeal removes elements of Government control over the corporate policy of GIB contained within the ERRA 2013. The intention behind the repeal is to facilitate the GIB's re-classification to the private sector following a sale.

354 The Government has published additional information on the policy background for GIB, its plans to bring in private capital, and the need to re-classify GIB to the private sector, in its policy statement [“Future of UK Green Investment Bank plc”](#).

355 These provisions extend to the United Kingdom.

Section 37: Disposal of Crown's shares in UK Green Investment Bank company

356 This section repeals the majority of Part 1 of the ERRA 2013.

357 Sections 37(1) and 37(2) repeal in full sections 1, 3 and 5 of the ERRA 2013.

358 Section 37(3) amends section 2 of the ERRA 2013 by removing subsections (1) to (8) of that section. Section 37(3)(c) inserts a definition of what is meant by a UK Green Investment Bank company in Part 1 of the Enterprise and Regulatory Reform Act 2013.

359 Section 37(4) amends the Secretary of State's power in section 4 of the ERRA 2013 to give financial assistance to the UK Green Investment Bank. Section 37(4)(a) provides that this power applies to a UK Green Investment Bank company at any time when the Crown holds shares in a UK Green Investment Bank company. This is an extension of the original power in section 4(1) which applied only when the Crown owned more than half of the issued share capital in the UK Green Investment Bank. Section 37(4)(d) ensures that section 4 does not prevent the Treasury or the Secretary of State from providing financial assistance to a UK Green Investment Bank company under powers in other legislation at any time when the Crown holds no shares in a UK Green Investment Bank company.

360 Section 37(5) amends section 6 of the ERRA 2013 to require the Secretary of State to lay a copy of the annual report and accounts of the UK Green Investment Bank before Parliament each year, if at the date of the company's general meeting, the Crown holds at least one share in a UK Green Investment Bank company. Section 37(5)(c) repeals section 6(3) and 6(4) of the ERRA 2013 which is no longer relevant in light of the repeal of section 2(1) to 2(8) of the ERRA 2013.

361 Section 37(6) inserts a new section 6A into the ERRA 2013. Section 6A places a duty on the Secretary of State to report to Parliament as soon as reasonably practical after the Crown has disposed of shares in a UK Green Investment Bank company. Subsection (2) of the new section 6A sets out information that must be included in the Secretary of State's report. Subsection (3) of the new section 6A requires the Secretary of State to give a copy of the report to the Scottish Ministers, the Welsh Ministers, and the Office of the First Minister and Deputy First Minister in Northern Ireland, and also provides that the same is required in respect of a report laid before Parliament under section 38 of this Act.

Section 38: UK Green Investment Bank: transitional provision

362 This section contains transitional provisions.

363 Section 38(1) provides that regulations bringing section 37 into force may not be made unless the Secretary of State has made a decision to undertake a disposal of shares held by the Crown in a UK Green Investment Bank company, and has laid before Parliament a report on the proposed disposal(s) including the kind of disposal intended, the expected

time-scale for the disposal, and the Secretary of State's objectives for the disposal. Section 38(2) and 38(3) defines what is meant by a UK Green Investment Bank company in this section.

Pubs Code

- 364 Part 4 of the [Small Business, Enterprise and Employment Act](#) 2015 (SBEE Act) requires the Secretary of State to introduce a statutory Pubs Code. The Code will govern the relationship between large pub-owning businesses (those that own 500 or more tied pubs in England and Wales) and their tied tenants. The SBEE Act also provides for a new independent Adjudicator to enforce the Code. The Code and Adjudicator measures will be introduced through secondary legislation. The draft Code was the subject of consultation ([Part 1](#) and [Part 2](#)). The consultation ran until January 2016.
- 365 One aspect of the Code required by section 43 of the SBEE Act is that tied tenants must, in specified circumstances, be offered the opportunity to occupy their pub on a Market Rent Only (MRO) basis, i.e. the option to go free of tie. The Code will set out the details of when the MRO option is available to tied tenants and how the MRO procedure will work.
- 366 The Code should deliver two principles: that the tied tenant should be no worse off than a free-of-tie tenant, and that there is fair and lawful dealing as between pub-owning businesses and their tied tenants.
- 367 Section 46 of the SBEE Act also requires the Secretary of State regularly to review the Pubs Code, to consider how well it is delivering the two principles and to propose any changes as may be necessary. Sections 62 and 67 of the SBEE Act provide that the Adjudicator must provide annual reports to the Secretary of State, who can also ask for the Adjudicator to provide specific information.
- 368 These provisions extend to England and Wales only.

Section 39: Market rent only: conditions and triggers

- 369 Section 39 ensures that under the Pubs Code tied tenants will be entitled to request a MRO option at rent assessment whether the tied rent they are offered decreases, increases or doesn't change.

Section 40: Report on pub company avoidance

- 370 Section 40 requires the Pubs Code Adjudicator to report to the Secretary of State where pub-owning businesses have unfairly taken steps to avoid the provisions in Part 4 of the SBEE Act to the detriment of their tenants. The report to the Secretary of State should include any recommendations on preventative actions and recommendations on how pub tenants who have suffered from any unfair business practices should be provided with redress. The Secretary of State must respond within three months by issuing a statement that either outlines the actions he or she will take or explains why he or she has decided not to take any action.

Part 9: Public Sector Employment: Restrictions on Exit Payments

- 371 This part provides powers to the Treasury, the Scottish Ministers and the Welsh Ministers to make regulations to restrict exit payments that are payable in the public sector.

372 In this context, an exit payment is a payment made to an employee or office holder as a result of them leaving that employment or office. Exit payments can be any financial or non-financial transfer to an employee from the employer which does not represent remuneration for normal ongoing activities that are part of their employment. This includes, for example:

- Payments related to voluntary and compulsory redundancies;
- Payments related to other voluntary exits with compensation packages;
- The cost to the employer of offering early access to reduced pensions in place of, or in combination with, other exit payments;
- Special severance payments and ex gratia payments related to exit from employment;
- The monetary value of any extra leave, allowances or other benefits granted as part of the exit process which are not payments in relation to employment;
- Payments or compensation in lieu of notice and payments relating to the cashing up of outstanding entitlements.

373 There are a wide range of exit payment arrangements in the public sector. These include formal redundancy schemes (for example, the Civil Service Compensation Scheme) and schemes operated at local level by employers. Further, some employees may have individual contractual relationships that provide for additional exit payments. The regulations made under this Part of the Act will cap relevant payments under these arrangements to the amount specified in the Act or in later regulations.

374 The provisions of this Part extend to the whole of the United Kingdom.

Section 41: Restriction on public sector exit payments

375 This section inserts into the [Small Business, Enterprise and Employment Act 2015](#) new sections 153A through 153C, which provide the framework for a restriction on public sector exit payments.

376 The section also gives effect to Schedule 6 which contains consequential and supplementary provisions.

Section 153A: Regulations to restrict public sector exit payments

377 This section confers a power to make regulations to restrict exit payments payable to employees of prescribed public sector authorities or holders of prescribed public sector offices as a consequence of them leaving employment or office to a value of £95,000. The section further provides that any restriction must also apply to an aggregate of all exit payments made to the individual within a period of 28 days.

378 The regulations under this section will also:

- Prescribe what payments to an employee or post holder are within the scope of the restriction;
- Provide that certain payments or category of payments are exempt from the restriction; and

- Allow for a different amount to be substituted for the restriction set in this section.

379 The section also confers a power to amend an Act or relevant public sector compensation scheme to make sure they reflect the restriction on public sector exit payments.

Section 153B

380 This section provides that the power to make regulations under section 153A is exercisable by Scottish Ministers in relation to payments made by a relevant Scottish Authority, by Welsh Ministers in relation to relevant Welsh exit payments or the Treasury in respect of all other payments. The power to amend relevant public sector schemes will, with the consent of the Treasury, also be exercisable concurrently by any Minister of the Crown.

381 This section also provides that any regulations made under section 153A will be subject to the affirmative resolution procedure if made by the Treasury or a Minister of the Crown or the equivalent procedure if made by Scottish Ministers or Welsh Ministers.

Section 153C

382 This section provides that a Minister of the Crown, or where appropriate the Scottish Ministers or Welsh Ministers, may relax the whole or part of any restriction imposed by regulations made under section 153A. The power to relax the restrictions is exercisable in respect of an individual employee or post-holder, or in respect of a class of employees or post-holders. The section also provides that regulations made under section 153A may make provision for the power to relax the restrictions to be delegated to another person and that if regulations made by the Treasury impose restrictions on exit payments made by relevant Welsh authorities, then the regulations must provide that the power to relax those restrictions is delegated to the Welsh Ministers.

383 The section also provides that regulations under section 153A may make provision that the power to relax the restrictions is exercisable only with the consent of the person making the regulations or in compliance with any direction issued by them (save in respect of payments by relevant Welsh authorities that are restricted by regulations made by the Treasury) and for information in respect of the exercise of any relaxation of the restrictions to be published.

Schedule 6: Restriction on public sector exit payments: consequential and related provisions

384 This Schedule sets out consequential and related provisions.

385 Paragraphs 1 to 3 make minor amendments to Parts 11 and 12 of the [Small Business, Enterprise and Employment Act 2015](#) required as a consequence of inserting new sections 153A through 153C and to ensure sections 154 and 156 of that Act operate as intended.

386 Paragraph 4 confers a power to make regulations to amend public sector schemes to ensure that where the restriction on exit payments would have the effect of preventing immediate payment of an unreduced pension or preventing an employer paying an extra charge to the scheme, that benefits are instead immediately payable subject to an appropriate early payment deduction, and that an individual may choose to buy out all or part of that deduction.

387 Paragraph 5 makes an amendment to the [Local Government Pension Scheme Regulations 2013](#) that is required to give effect to the restriction on public sector exit payments made to those in local government.

Part 10: General Provisions

388 The provisions in Part 10 extend to the United Kingdom.

Section 42: Consequential amendments, repeals and revocations

389 This section gives the Secretary of State and the Treasury a power to make regulations containing consequential amendments, repeals and revocations, including transitional, transitory or saving provision. Where the regulations amend, repeal or revoke any provision of primary legislation, such regulations must be made using the affirmative resolution procedure (subsection (4)). In all other cases the negative resolution procedure applies (subsection (5)).

Section 43: Transitional, transitory or saving provision

390 This section provides a regulation making power to make transitional, transitory or saving provision. No parliamentary procedure is required to make such regulations.

Section 44: Commencement

391 See paragraphs 394 to 400 below.

Section 45: Extent

392 See commentary on sections and Annex A below.

Section 46: Short title

393 This section is self-explanatory.

Commencement

394 Section 44 makes provision about the coming into force of the provisions of the Act. The commentary on individual sections and Schedules includes an explanation of the effect of this section.

395 The Act provides for Part 10 of the Act (Final provisions) and certain powers enabling the making of regulations to come into force on the day of Royal Assent, as well as section 38 (UK Green Investment Bank: transitional provision) and paragraph 2 of Schedule 2 (as enabled by parts of section 14 coming into force on Royal Assent).

396 The Act provides for the following provisions to come into force two months after the day on which this Bill became an Act:

- Section 14 (business impact target: extension to provisions made by regulators etc) (so far as not already in force under subsection(1)) and Schedule 2 (other than paragraph 2 which comes into force on Royal Assent);
- Section 18 (application of regulators' principles and code: removal of restrictions);
- Section 24 (public sector apprenticeship targets);
- Section 31 (disclosure of HMRC information in connection with non-domestic rating);
- Section 32 (alteration of non-domestic rating lists);
- Sections 34 and 35 (industrial development).

397 The provisions on late payment of insurance claims come into force on the day one year after the Act is passed.

398 Section 36 (UK Government Investments Limited) and Part 9 (Public sector payments: restrictions on exit payments) come into force on such day or days as the Treasury may by regulations appoint.

399 The remaining provisions of this Act will come into force on such day or days as the Secretary of State may by regulations appoint.

400 Regulations made under this section may appoint different days for different purposes or different areas.

Related documents

401 The following documents are relevant to the Act and can be read at the stated locations:

- Impact Assessment - <https://www.gov.uk/government/collections/enterprise-bill>
- Delegated Powers Memorandum - <https://www.gov.uk/government/collections/enterprise-bill>
- European Convention of Human Rights Memorandum -

<https://www.gov.uk/government/collections/enterprise-bill>

- [Human Rights Act 1998](http://www.legislation.gov.uk/ukpga/1998/42) - <http://www.legislation.gov.uk/ukpga/1998/42>

Part 1: Small Business Commissioner

- [‘Establishing a Small Business Commissioner’](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450695/BIS-15-438-a-small-business-commissioner.pdf) - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450695/BIS-15-438-a-small-business-commissioner.pdf
- [Late Payment of Commercial Debts \(Interest Act\) 1998](http://www.legislation.gov.uk/ukpga/1998/20) - <http://www.legislation.gov.uk/ukpga/1998/20>
- [Parliamentary Commissioner Act 1967](http://www.legislation.gov.uk/ukpga/1967/13) - <http://www.legislation.gov.uk/ukpga/1967/13>
- [House of Commons Disqualification Act 1975](http://www.legislation.gov.uk/ukpga/1975/24) - <http://www.legislation.gov.uk/ukpga/1975/24>
- [Northern Ireland Assembly Disqualification Act 1975](http://www.legislation.gov.uk/ukpga/1975/25) - <http://www.legislation.gov.uk/ukpga/1975/25>
- [Freedom of Information Act 2000](http://www.legislation.gov.uk/ukpga/2000/36) - <http://www.legislation.gov.uk/ukpga/2000/36>
- [Small Business, Enterprise and Employment Act 2015](http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted) - <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted>

Part 2: Regulators

- [Small Business, Enterprise and Employment Act 2015](http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted) - <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted>
- [Legislative and Regulatory Reform Act](http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf) - http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf
- [Deregulation Act 2015](http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted) - <http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted>

Part 3: Regulatory Enforcement and Sanctions Act

- [Regulatory Enforcement and Sanctions Act 2008](http://www.legislation.gov.uk/ukpga/2008/13) - <http://www.legislation.gov.uk/ukpga/2008/13>
- [Government of Wales Act 2006](http://www.legislation.gov.uk/ukpga/2006/32/contents) - <http://www.legislation.gov.uk/ukpga/2006/32/contents>

Part 4: Apprenticeships

- [BIS Research Paper 229 - https://www.gov.uk/government/publications/further-education-measuring-the-net-present-value-in-england](https://www.gov.uk/government/publications/further-education-measuring-the-net-present-value-in-england)
- [Consultation on Public Sector Apprenticeships Targets - https://www.gov.uk/government/consultations/public-sector-apprenticeship-targets](https://www.gov.uk/government/consultations/public-sector-apprenticeship-targets)
- [Consultation on Protecting the Term 'Apprenticeship' from misuse - https://www.gov.uk/government/consultations/protecting-the-term-apprenticeship](https://www.gov.uk/government/consultations/protecting-the-term-apprenticeship)
- [Government Response to the Consultation on Protecting the Term 'Apprenticeship' from Misuse - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/462822/BIS-15-511-gov-response-protecting-the-term-apprenticeship-from-misuse.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/462822/BIS-15-511-gov-response-protecting-the-term-apprenticeship-from-misuse.pdf)
- [Education Reform Act 1988 - http://www.legislation.gov.uk/ukpga/1988/40/contents](http://www.legislation.gov.uk/ukpga/1988/40/contents)
- [Spending Review Statement - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479749/52229_Blue_Book_PU1865_Web_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479749/52229_Blue_Book_PU1865_Web_Accessible.pdf)
- [Consultation on the Apprenticeship Levy - https://www.gov.uk/government/consultations/apprenticeships-levy-employer-owned-apprenticeships-training](https://www.gov.uk/government/consultations/apprenticeships-levy-employer-owned-apprenticeships-training)
- [Government Response to the Consultation on the Apprenticeship Levy - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482049/apprenticeship_levy_response_25112015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482049/apprenticeship_levy_response_25112015.pdf)
- [Apprenticeships, Skills, Children and Learning Act 2009 - http://www.legislation.gov.uk/ukpga/2009/22](http://www.legislation.gov.uk/ukpga/2009/22)
- [Deregulation Act 2015 - http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted](http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted)
- [Employment and Training Act 1973 - http://www.legislation.gov.uk/ukpga/1973/50](http://www.legislation.gov.uk/ukpga/1973/50)
- [Employment Rights Act 1996 - http://www.legislation.gov.uk/ukpga/1996/18](http://www.legislation.gov.uk/ukpga/1996/18)
- [Consumer Rights Act 2015 - http://www.legislation.gov.uk/ukpga/2015/15/enacted](http://www.legislation.gov.uk/ukpga/2015/15/enacted)
- [Finance Bill - http://services.parliament.uk/bills/2015-16/financeno2.html](http://services.parliament.uk/bills/2015-16/financeno2.html)
- [Commissioners for Revenue and Customs Act 2005 -](#)

<http://www.legislation.gov.uk/ukpga/2005/11/contents>

Part 5: Late Payment of Insurance Claims

- [Insurance Contract Law: Business Disclosure; Warranties; Insurers' Remedies for Fraudulent Claims; and Late Payment](http://www.lawcom.gov.uk/wp-content/uploads/2015/11/Report-Insurance-contract-law.pdf) - <http://www.lawcom.gov.uk/wp-content/uploads/2015/11/Report-Insurance-contract-law.pdf>
- [Insurance Act 2015](http://www.legislation.gov.uk/ukpga/2015/4/enacted) - <http://www.legislation.gov.uk/ukpga/2015/4/enacted>
- [Consumer Protection from Unfair Trading Regulations 2008](http://www.legislation.gov.uk/ukdsi/2008/9780110811574) - <http://www.legislation.gov.uk/ukdsi/2008/9780110811574>

Part 6: Non-Domestic Rating

- [Commissioners for Revenue and Customs Act 2005](http://www.legislation.gov.uk/ukpga/2005/11/contents) - <http://www.legislation.gov.uk/ukpga/2005/11/contents>
- [Administration of Business Rates in England](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308504/PU1623_administration_of_business_rates_discussion_paper.pdf) – https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308504/PU1623_administration_of_business_rates_discussion_paper.pdf
- [Business Rates Interim Findings](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385276/business_rates_interim_findings_10122014.pdf) - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385276/business_rates_interim_findings_10122014.pdf
- [Local Government Finance Act 1988](http://www.legislation.gov.uk/ukpga/1988/41/contents) - <http://www.legislation.gov.uk/ukpga/1988/41/contents>
- [Consultation Document on Check, Challenge, Appeal](https://www.gov.uk/government/consultations/reforming-business-rates-appeals-check-challenge-appeal) - <https://www.gov.uk/government/consultations/reforming-business-rates-appeals-check-challenge-appeal>

Part 7: Sunday Working

- [Consultation on devolving decision making on Sunday trading hours to local areas](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/451376/BIS-15-359-consultation-on-devolving-sunday-trading-rules.pdf) - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/451376/BIS-15-359-consultation-on-devolving-sunday-trading-rules.pdf
- [Government response](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498773/bis-16-2-sunday-trading-government-response.pdf) to Consultation on devolving decision making on Sunday trading hours to local areas - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498773/bis-16-2-sunday-trading-government-response.pdf
- [Employment Rights Act 1996](http://www.legislation.gov.uk/ukpga/1996/18/contents) - <http://www.legislation.gov.uk/ukpga/1996/18/contents>
- [Sunday Trading Act 1994](http://www.legislation.gov.uk/ukpga/1994/20/contents) - <http://www.legislation.gov.uk/ukpga/1994/20/contents>
- [Employment Act 2002](http://www.legislation.gov.uk/ukpga/2002/22/contents) - <http://www.legislation.gov.uk/ukpga/2002/22/contents>

Part 8: Other Enterprise Related Provisions

Industrial Development

- [Industrial Development Act \(IDA\) 1982](http://www.legislation.gov.uk/ukpga/1982/52) - <http://www.legislation.gov.uk/ukpga/1982/52>
- Government [response](#) to Revision of 1982 Industrial Development Act consultation -
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/259542/bis-12-761-revision-industrial-development-act-1982-government-response.pdf

UK Government Investments

- Announcement on [machinery of Government change to create UK Government Investments Limited](#) - <https://www.gov.uk/government/news/government-creates-new-company-to-deliver-record-asset-sales-programme>
- [“Managing Public Money”](#) - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_-jan15.pdf

UK Green Investment Bank

- [Companies Act 2006](#) - <http://www.legislation.gov.uk/ukpga/2006/46/contents>
- [Enterprise and Regulatory Reform Act 2013](#) - <http://www.legislation.gov.uk/ukpga/2013/24/contents>
- [“Future of UK Green Investment Bank plc”](#) - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/477493/BIS-15-630-future-of-the-uk-green-investment-bank.pdf
- [Environmental Audit Committee inquiry into the Future of Green Investment Bank and Government Response](#) - <https://www.parliament.uk/business/committees/committees-a-z/commons-select/environmental-audit-committee/inquiries/parliament-2015/future-of-the-green-investment-bank/>

Pubs Code

- [Small Business, Enterprise and Employment Act 2015](http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted) - <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted>
- Consultations on the implementation of the Pubs Code, Part 1 and Part 2 - <https://www.gov.uk/government/consultations/pubs-code-and-adjudicator-market-rent-only-option-and-rent-assessments>
<https://www.gov.uk/government/consultations/pubs-code-and-adjudicator-fees-enforcement-and-other-parts-of-the-code>

Part 9: Public Sector Employment: Restrictions on Exit Payments

- The Government announced on 23 May 2015 that it intended to [end six figure exit payments for public sector workers](https://www.gov.uk/government/news/government-ends-six-figure-exit-payouts) - <https://www.gov.uk/government/news/government-ends-six-figure-exit-payouts>
- [Small Business, Enterprise and Employment Act 2015](http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted) - <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted>
- [Local Government Pension Scheme Regulations 2013](http://www.legislation.gov.uk/uksi/2013/2356/made) - <http://www.legislation.gov.uk/uksi/2013/2356/made>

Annex A - Territorial extent and application

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Sections 1-16	Yes	Yes	Yes	Yes
Section 17	No	Yes	No	No
Sections 18-19	Yes	Yes	Yes	Yes
Section 20	Yes	Yes	Yes	Yes
Section 21	No	Yes	No	No
Sections 22-25	Yes	No	No	No
Section 26	Yes	Yes	Yes	Yes
Section 27	Yes	No	No	No
Sections 28-29	Yes	Yes	Yes	Yes
Section 30-32	Yes	Yes	No	No
Section 33	Yes	Yes	Yes	No
Sections 34-38	Yes	Yes	Yes	Yes
Sections 39-40	Yes	Yes	No	No
Sections 41-46	Yes	Yes	Yes	Yes
Schedule 1	Yes	Yes	In part	Yes
Schedules 2-3	Yes	Yes	Yes	Yes
Schedule 4	Yes	No	No	No
Schedule 5	Yes	Yes	Yes	No
Schedule 6	Yes	Yes	Yes	Yes

Annex B - Hansard References

402 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Lords</i>		
Introduction	16 September 2015	Vol. 764 Col. 1849
Second Reading	12th October 2015	Vol. 765 Col. 12
Grand Committee	26th October 2015	Vol. 765 Col. GC 105
	28th October 2015	Vol. 765 Col. GC 195
	2nd November 2015	Vol. 765 Col. GC 253
	4th November 2015	Vol. 765 Col. GC 317
Report	25 November 2015	Vol. 767 Col. 731
	30 November 2015	Vol. 767 Col. 939
Third Reading	15 December 2015	Vol. 767 Col. 1982
<i>House of Commons</i>		
Introduction	16 December 2015	No debate
Second Reading	02 February 2016	Vol. 605 Col. 808
Public Bill Committee	09 February 2016	1st sitting
		2nd sitting
	11 February 2016	3rd sitting
		4th sitting
	23 February 2016	5th sitting
6th sitting		
25 February 2016	7th sitting	
	8th sitting	
Report	08 March 2016	Vol. 607 Col. 142
	09 March 2016	Vol. 607 Col. 316
Third Reading	09 March 2016	Vol. 607 Col. 377
Legislative Grand Committee (English Votes for English Laws)	09 March 2015	Vol. 607 Col. 376
Lords Consideration of Commons Amendments	19 April 2016	Vol. 771 Col. 547
Royal Assent	04 May 2016	House of Commons Vol. 609 Col. 184
		House of Lords Vol. 771 Col. 1417

These Explanatory Notes relate to the Enterprise Act 2016 (c. 12) which received Royal Assent on 4 May 2016

Annex C - Progress of Bill Table

403 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 4	Clause 4	Clause 4	Clause 4	Clause 4	Clause 4
Section 5	Clause 5	Clause 5	Clause 5	Clause 5	Clause 5
Section 6	Clause 6	Clause 6	Clause 6	Clause 6	Clause 6
Section 7	Clause 7	Clause 7	Clause 7	Clause 7	Clause 7
Section 8	Clause 8	Clause 8	Clause 8	Clause 8	Clause 8
Section 9	Clause 9	Clause 9	Clause 9	Clause 9	Clause 9
Section 10	Clause 10	Clause 10	Clause 10	Clause 10	Clause 10
Section 11	Clause 11	Clause 11	Clause 11	Clause 11	Clause 11
Section 12			Clause 12	Clause 12	Clause 12
Section 13	Clause 12	Clause 12	Clause 13	Clause 13	Clause 13
Section 14	Clause 13	Clause 13	Clause 14	Clause 14	Clause 14
Section 15	Clause 14	Clause 14	Clause 15	Clause 15	Clause 15
Section 16	Clause 15	Clause 15	Clause 16	Clause 16	Clause 16
Section 17					Clause 17
Section 18	Clause 16	Clause 16	Clause 17	Clause 17	Clause 18
Section 19			Clause 18	Clause 18	Clause 19
Section 20	Clause 17	Clause 17	Clause 19	Clause 19	Clause 20
Section 21					Clause 21
Section 22					Clause 22
Section 23					Clause 23
Section 24	Clause 18	Clause 18	Clause 20	Clause 20	Clause 24
Section 25	Clause 19	Clause 19	Clause 21	Clause 21	Clause 25
Section 26					Clause 26
Section 27					Clause 27
Section 28	Clause 20	Clause 20	Clause 22	Clause 22	Clause 28
Section 29	Clause 21	Clause 21	Clause 23	Clause 23	Clause 29
Section 30				Clause 24	Clause 30
Section 31	Clause 22	Clause 22	Clause 24	Clause 25	Clause 31

These Explanatory Notes relate to the Enterprise Act 2016 (c. 12) which received Royal Assent on 4 May 2016

Section 32	Clause 23	Clause 23	Clause 25	Clause 26	Clause 32
Section 33					Clause 33
Section 34	Clause 24	Clause 24	Clause 26	Clause 27	Clause 34
Section 35	Clause 25	Clause 25	Clause 27	Clause 28	Clause 35
Section 36			Clause 28	Clause 29	Clause 36
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Section 38			Clause 30	Clause 31	Clause 38
Section 39			Clause 32	Clause 33	Clause 39
Section 40			Clause 33	Clause 34	Clause 40
Section 41	Clause 26	Clause 26	Clause 34	Clause 35	Clause 41
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Section 43	Clause 28	Clause 28	Clause 36	Clause 37	Clause 43
Section 44	Clause 29	Clause 29	Clause 37	Clause 38	Clause 44
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