



House of Commons

NOTICES OF AMENDMENTS

given on

Thursday 11 October 2012

*For other Amendment(s) see the following page(s) of Supplement to Votes:
251 and 253-55*

CONSIDERATION OF BILL

ENTERPRISE AND REGULATORY REFORM BILL, AS AMENDED

Tribunal procedure: miscellaneous

Secretary Vince Cable

NC8

To move the following Clause:—

- (1) The Employment Tribunals Act 1996 is amended as follows.
- (2) In section 9 (pre-hearing reviews and preliminary matters), in subsection (2) (deposit orders), in paragraph (a)—
 - (a) omit “, if he wishes to continue to participate in those proceedings,”;
 - (b) after “an amount not exceeding £1,000” insert “as a condition of—
 - (i) continuing to participate in those proceedings,
or
 - (ii) pursuing any specified allegations or arguments”.
- (3) In section 13A (payments in respect of preparation time)—
 - (a) in subsection (3), after “shall also” insert “, subject to subsection (4),”;
 - (b) after subsection (3) insert—
 - “(4) Subsection (3) does not require the regulations to include provision to prevent an employment tribunal from making—
 - (a) an order of the kind mentioned in subsection (1), and
 - (b) an award of the kind mentioned in section 13(1)(a) that is limited to witnesses’ expenses.”
- (4) In section 42 (interpretation), in subsection (1), after the definition of “employment tribunal procedure regulations” insert—
 - ““representative” shall be construed in accordance with section 6(1) (in Part 1) or section 29(1) (in Part 2),”.

Enterprise and Regulatory Reform Bill, *continued**Listed buildings in England: agreements and orders granting listed building consent*

Secretary Vince Cable

NC9

To move the following Clause:—

- (1) The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.
- (2) In Chapter 2 of Part 1, after section 26 insert—

*“Buildings in England: heritage partnership agreements***26A Heritage partnership agreements**

- (1) A relevant local planning authority may make an agreement under this section (a “heritage partnership agreement”) with any owner of a listed building, or a part of such a building, situated in England.
- (2) Any of the following may also be a party to a heritage partnership agreement in addition to an owner and the relevant local planning authority—
 - (a) any other relevant local planning authority;
 - (b) the Secretary of State;
 - (c) the Commission;
 - (d) any person who has an interest in the listed building;
 - (e) any occupier of the listed building;
 - (f) any person involved in the management of the listed building;
 - (g) any other person who appears to the relevant local planning authority appropriate as having special knowledge of, or interest in, the listed building, or in buildings of architectural or historic interest more generally.
- (3) A heritage partnership agreement may contain provision—
 - (a) granting listed building consent under section 8(1) in respect of specified works for the alteration or extension of the listed building to which the agreement relates, and
 - (b) specifying any conditions to which the consent is subject.
- (4) The conditions to which listed building consent may be subject under subsection (3)(b) in respect of specified works are those that could be attached to listed building consent in respect of the works if consent were to be granted under section 16.
- (5) If a heritage partnership agreement contains provision under subsection (3), nothing in sections 10 to 26 and 28 applies in relation to listed building consent for the specified works, subject to any regulations under section 26B(2)(f).
- (6) A heritage partnership agreement may also—
 - (a) specify or describe works that would or would not, in the view of the parties to the agreement, affect the character of the listed building as a building of special architectural or historic interest;
 - (b) make provision about the maintenance and preservation of the listed building;
 - (c) make provision about the carrying out of specified work, or the doing of any specified thing, in relation to the listed building;

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- (d) provide for public access to the listed building and the provision to the public of associated facilities, information or services;
 - (e) restrict access to, or use of, the listed building;
 - (f) prohibit the doing of any specified thing in relation to the listed building;
 - (g) provide for a relevant public authority to make payments of specified amounts and on specified terms—
 - (i) for, or towards, the costs of any works provided for under the agreement; or
 - (ii) in consideration of any restriction, prohibition or obligation accepted by any other party to the agreement.
- (7) For the purposes of subsection (6)(g), each of the following, if a party to the agreement, is a relevant public authority—
- (a) the Secretary of State;
 - (b) the Commission;
 - (c) a relevant local planning authority.
- (8) In this section “specified” means specified or described in the heritage partnership agreement.
- (9) In this section and section 26B—
- “owner”, in relation to a listed building or a part of such a building, means a person who is for the time being —
- (a) the estate owner in respect of the fee simple in the building or part; or
 - (b) entitled to a tenancy of the building or part granted or extended for a term of years certain of which not less than seven years remain unexpired;
- “relevant local planning authority”, in relation to a listed building, means a local planning authority in whose area the building or any part of the building is situated.

26B Heritage partnership agreements: supplemental

- (1) A heritage partnership agreement—
- (a) must be in writing;
 - (b) must make provision for the parties to review its terms at intervals specified in the agreement;
 - (c) must make provision for its termination and variation;
 - (d) may relate to more than one listed building or part, provided that in each case a relevant local planning authority and an owner are parties to the agreement; and
 - (e) may contain incidental and consequential provisions.
- (2) The Secretary of State may by regulations make provision—
- (a) about any consultation that must take place before heritage partnership agreements are made or varied;
 - (b) about the publicity that must be given to heritage partnership agreements before or after they are made or varied;
 - (c) specifying terms that must be included in heritage partnership agreements;

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- (d) enabling the Secretary of State or any other person specified in the regulations to terminate by order a heritage partnership agreement or any provision of such an agreement;
 - (e) about the provision that may be included in an order made under regulations under paragraph (d), including provision enabling such orders to contain supplementary, incidental, transitory, transitional or saving provision;
 - (f) applying or reproducing, with or without modifications, any provision of sections 10 to 26 and 28 for the purposes of heritage partnership agreements;
 - (g) modifying any other provision of this Act as it applies in relation to heritage partnership agreements.
- (3) Regulations made under subsection (2)(a) may, in particular, include provision as to—
- (a) the circumstances in which consultation must take place;
 - (b) the types of listed building in respect of which consultation must take place;
 - (c) who must carry out the consultation;
 - (d) who must be consulted (including provision enabling the Commission to direct who is to be consulted in particular cases); and
 - (e) how the consultation must be carried out.
- (4) Listed building consent granted by a heritage partnership agreement (except so far as the agreement or regulations under subsection (2) otherwise provide) enures for the benefit of the building and of all persons for the time being interested in it.
- (5) Subject to subsection (4), a heritage partnership agreement cannot impose any obligation or liability, or confer any right, on a person who is not party to the agreement.
- (6) Section 84 of the Law of Property Act 1925 (power to discharge or modify restrictive covenant) does not apply to a heritage partnership agreement.”
- (3) After section 26B insert—

“Buildings in England: orders granting listed building consent

26C Listed building consent orders

- (1) The Secretary of State may by order (a “listed building consent order”) grant listed building consent under section 8(1) in respect of works of any description for the alteration or extension of listed buildings of any description in England.
- (2) The consent may be granted subject to conditions specified in the order.
- (3) Without prejudice to the generality of subsection (2), the conditions that may be specified include any conditions subject to which listed building consent may be granted under section 16.
- (4) A listed building consent order may (without prejudice to section 17(2)) give the local planning authority power to require details of works to be approved by them, and may grant consent subject to conditions with respect to—

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- (a) the making of an application to the authority for a determination as to whether such approval is required, and
 - (b) the outcome of such an application or the way it is dealt with.
- (5) A listed building consent order may enable the Secretary of State or the local planning authority to direct that consent granted by the order does not apply—
- (a) to a listed building specified in the direction;
 - (b) to listed buildings of a description specified in the direction;
 - (c) to listed buildings in an area specified in the direction.
- (6) An order may in particular make provision about the making, coming into force, variation and revocation of such a direction, including provision conferring powers on the Secretary of State in relation to directions by a local planning authority.
- (7) Nothing in sections 10 to 26 applies in relation to listed building consent granted by a listed building consent order; but that does not affect the application of sections 20, 21 and 22 in relation to an application for approval required by a condition to which consent is subject.

26D Local listed building consent orders

- (1) A local planning authority for any area in England may by order (a “local listed building consent order”) grant listed building consent under section 8(1) in respect of works of any description for the alteration or extension of listed buildings.
- (2) Regulations under this Act may provide that subsection (1) does not apply to listed buildings of any description or in any area.
- (3) The consent granted by a local listed building consent order may relate—
- (a) to all listed buildings in the area of the authority or any part of that area;
 - (b) to listed buildings of any description in that area or any part of that area.
- (4) The consent may be granted subject to conditions specified in the order.
- (5) Without prejudice to the generality of subsection (4), the conditions that may be specified include any subject to which listed building consent may be granted under section 16.
- (6) A local listed building consent order may enable the local planning authority to direct that the consent granted by the order in respect of works of any description does not apply—
- (a) to a listed building specified in the direction;
 - (b) to listed buildings of a description specified in the direction;
 - (c) to listed buildings in an area specified in the direction.
- (7) An order may in particular make provision about the making, coming into force, variation and revocation of such a direction, including provision conferring powers on the Secretary of State.
- (8) Nothing in sections 10 to 26 applies in relation to listed building consent granted by a local listed building consent order; but that does not affect the application of sections 20, 21 and 22 in relation to an application for approval required by a condition to which consent is subject.

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- (9) Schedule 2A makes provision in connection with local listed building consent orders.

26E Powers of Secretary of State in relation to local orders

- (1) At any time before a local listed building consent order is adopted by a local planning authority the Secretary of State may direct that the order (or any part of it) is not to be adopted without the Secretary of State's approval.
- (2) If the Secretary of State gives a direction under subsection (1)—
- (a) the authority must not take any step in connection with the adoption of the order until they have submitted the order or the part to the Secretary of State and the Secretary of State has decided whether to approve it;
 - (b) the order has no effect unless it (or the part) has been approved by the Secretary of State.
- (3) In considering an order or part submitted under subsection (2)(a) the Secretary of State may take account of any matter the Secretary of State thinks relevant.
- (4) It is immaterial whether any such matter was taken account of by the local planning authority.
- (5) The Secretary of State—
- (a) may approve or reject an order or part of an order submitted under subsection (2)(a);
 - (b) must give reasons for that decision.
- (6) The Secretary of State—
- (a) may at any time before a local listed building consent order is adopted by the local planning authority, direct them to modify it in accordance with the direction;
 - (b) must give reasons for any such direction.
- (7) The local planning authority—
- (a) must comply with a direction under subsection (6);
 - (b) must not adopt the order unless the Secretary of State gives notice of being satisfied that they have complied with the direction.
- (8) The Secretary of State—
- (a) may at any time by order revoke a local listed building consent order if of the opinion that it is expedient to do so;
 - (b) must give reasons for doing so.
- (9) The Secretary of State—
- (a) must not make an order under subsection (8) without consulting the local planning authority;
 - (b) if proposing to make such an order, must serve notice on the local planning authority.
- (10) A notice under subsection (9)(b) must specify the period (which must not be less than 28 days from the date of its service) within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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- (11) The Secretary of State must give the authority such an opportunity if they require it within the period specified in the notice.

26F Considerations in making orders

- (1) In considering whether to make a listed building consent order or local listed building consent order the Secretary of State or local planning authority must have special regard to the desirability of preserving—
- (a) listed buildings of a description to which the order applies,
 - (b) their setting, or
 - (c) any features of special architectural or historic interest which they possess.
- (2) Before making a listed building consent order the Secretary of State must consult the Commission.

26G Effect of revision or revocation of order on incomplete works

- (1) A listed building consent order or local listed building consent order may include provision permitting the completion of works if—
- (a) listed building consent is granted by the order in respect of the works, and
 - (b) the listed building consent is withdrawn after the works are started but before they are completed.
- (2) Listed building consent granted by an order is withdrawn—
- (a) if the order is revoked;
 - (b) if the order is varied or (in the case of a local listed building consent order) revised so that it ceases to grant listed building consent in respect of the works or materially changes any condition or limitation to which the grant of listed building consent is subject;
 - (c) if a direction applying to the listed building is issued under powers conferred under section 26C(5) or 26D(6).”
- (4) After section 28 insert—

“28A Compensation where consent formerly granted by order is granted conditionally or refused

- (1) Section 28 also has effect (subject to subsections (2) and (3)) where—
- (a) listed building consent granted by a listed building consent order or a local listed building consent order is withdrawn (whether by the revocation or amendment of the order or by the issue of a direction), and
 - (b) on an application for listed building consent made within the prescribed period after the withdrawal, consent for works formerly authorised by the order is refused or is granted subject to conditions other than those imposed by the order.
- (2) Section 28 does not have effect by virtue of subsection (1) if—
- (a) the works authorised by the order were started before the withdrawal, and
 - (b) the order included provision in pursuance of section 26G permitting the works to be completed after the withdrawal.
- (3) Section 28 does not have effect by virtue of subsection (1) if—

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- (a) notice of the withdrawal was published in the prescribed manner and within the prescribed period before the withdrawal, and
 - (b) the works authorised by the order were not started before the notice was published.
- (4) Where section 28 has effect by virtue of subsection (1), references in section 28(2) and (3) to the revocation or modification of listed building consent are references to the withdrawal of the listed building consent by revocation or amendment of the order or by issue of the direction.”
- (5) Schedule [*Local listed building consent orders: procedure*] (which inserts Schedule 2A to the Planning (Listed Buildings and Conservation Areas) Act 1990) has effect.’.

Listed buildings in England: certificates of lawfulness

Secretary Vince Cable

NC10

To move the following Clause:—

- ‘(1) In the Planning (Listed Buildings and Conservation Areas) Act 1990 after section 26G insert—

*“Buildings in England: certificates of lawfulness***26H Certificate of lawfulness of proposed works**

- (1) A person who wishes to ascertain whether proposed works for the alteration or extension of a listed building in England would be lawful may make an application to the local planning authority specifying the building and describing the works.
- (2) For the purposes of this section works would be lawful if they would not affect the character of the listed building as a building of special architectural or historic interest.
- (3) If on an application under this section the local planning authority are provided with information satisfying them that the works described in the application would be lawful at the time of the application, they must issue a certificate to that effect; and in any other case they must refuse the application.
- (4) A certificate under this section must—
 - (a) specify the building to which it relates;
 - (b) describe the works concerned;
 - (c) give the reasons for determining that the works would be lawful; and
 - (d) specify the date of the application for the certificate.
- (5) The lawfulness of any works for which a certificate is in force under this section is to be conclusively presumed unless there is a material change, before the works are begun, in any of the matters relevant to determining their lawfulness.

26I Certificates under section 26H: supplementary

- (1) An application for a certificate under section 26H must be made in such manner as may be prescribed by regulations under this Act.

Enterprise and Regulatory Reform Bill, *continued*

- (2) An application must include such particulars, and be verified by such evidence, as may be required—
 - (a) by the regulations,
 - (b) by any directions given under the regulations, or
 - (c) by the local planning authority.
- (3) Regulations under this Act may make provision about how applications for a certificate under section 26H are to be dealt with by local planning authorities.
- (4) In particular, regulations may provide for requiring the authority—
 - (a) to give to any applicant within a prescribed period such notice as may be prescribed as to the manner in which the application has been dealt with; and
 - (b) to give to the Secretary of State, and to such other persons as may be prescribed, prescribed information with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.
- (5) A certificate under section 26H may be issued--
 - (a) for the whole or part of the listed building specified in the application; and
 - (b) for all or part of the works described in the application;and must be in such form as may be prescribed.
- (6) A local planning authority may revoke a certificate under section 26H if, on the application for the certificate—
 - (a) a statement was made or document used which was false in a material particular; or
 - (b) any material information was withheld.
- (7) Regulations under this section may make provision for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.

26J Offences

- (1) A person is guilty of an offence if, for the purpose of procuring a particular decision on an application (whether or not by that person) for the issue of a certificate under section 26H, the person—
 - (a) knowingly or recklessly makes a statement which is false or misleading in a material particular;
 - (b) with intent to deceive, uses any document which is false or misleading in a material particular; or
 - (c) with intent to deceive, withholds any material information.
- (2) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (3) Notwithstanding section 127 of the Magistrates' Courts Act 1980, a magistrates' court may try an information in respect of an offence under subsection (1) whenever laid.

Enterprise and Regulatory Reform Bill, *continued*
26K Appeals against refusal or failure to give decision on application

- (1) Where an application is made to a local planning authority for a certificate under section 26H and—
 - (a) the application is refused or is refused in part, or
 - (b) the authority do not give notice to the applicant of their decision on the application within such period as may be prescribed by an order under section 26I or within such extended period as may at any time be agreed in writing between the applicant and the authority,
 the applicant may by notice appeal to the Secretary of State.
- (2) A notice of appeal under this section—
 - (a) must be served within such time and in such manner as may be prescribed by an order made by the Secretary of State;
 - (b) must be accompanied by such information as may be prescribed by such an order.
- (3) The time prescribed for the service of a notice of appeal under this section must not be less than—
 - (a) 28 days from the date of notification of the decision on the application; or
 - (b) in the case of an appeal under subsection (1)(b), 28 days from—
 - (i) the end of the period prescribed as mentioned in subsection (1)(b), or
 - (ii) as the case may be, the extended period mentioned in subsection (1)(b).
- (4) On an appeal under this section, the Secretary of State must grant the appellant a certificate under section 26H or, in the case of a refusal in part, modify the certificate granted by the authority on the application, if and so far as the Secretary of State is satisfied—
 - (a) in the case of an appeal under subsection (1)(a), that the authority's refusal is not well-founded, or
 - (b) in the case of an appeal under subsection (1)(b), that if the authority had refused the application their refusal would not have been well-founded.
- (5) If and so far as the Secretary of State is satisfied that the authority's refusal is or, as the case may be, would have been well-founded, the Secretary of State must dismiss the appeal.
- (6) Where the Secretary of State grants a certificate under section 26H on an appeal under this section, the Secretary of State must give notice to the local planning authority of that fact.
- (7) References in this section to a refusal of an application in part include a modification or substitution of the description in the application of the works concerned.
- (8) Schedule 3 applies to an appeal under this section.”.

Enterprise and Regulatory Reform Bill, *continued*

Osborne estate

Secretary Vince Cable

NC11

To move the following Clause:—

- ‘(1) Section 1 of the Osborne Estate Act 1902 is amended as follows.
- (2) In subsection (3) (land to be managed in accordance with Crown Lands Act 1851) omit “as if it had been committed to their management under section twenty-two of the Crown Lands Act, 1851”.
- (3) Omit subsection (4)(b) (part of house and grounds to be used for the benefit of officers and their families).
- (4) Omit the following provisions (which relate to land no longer forming part of the Osborne estate)—
 - (a) in subsection (3) the words from “and the part” to “Barton House and grounds”;
 - (b) in subsection (4) the words from “And the Commissioners” to the end.
- (5) The Osborne Estate Act 1914 (which gives power to extend the classes of persons who may benefit under section 1(4)(b) of the Osborne Estate Act 1902) is repealed.’.

Equality Act 2010: third party harassment of employees and applicants

Secretary Vince Cable

NC12

To move the following Clause:—

‘In section 40 of the Equality Act 2010 (employees and applicants: harassment) omit subsections (2) to (4).’.

Equality Act 2010: obtaining information for proceedings

Secretary Vince Cable

NC13

To move the following Clause:—

- ‘(1) In the Equality Act 2010, omit section 138 (obtaining information, etc).
- (2) That does not affect section 138 for the purposes of proceedings that relate to a contravention occurring before this section comes into force.’.

Civil liability for breach of health and safety duties

Secretary Vince Cable

NC14

To move the following Clause:—

- ‘(1) Section 47 of the Health and Safety at Work etc. Act 1974 (civil liability) is amended as set out in subsections (2) to (7).
- (2) In subsection (1), omit paragraph (b) (including the “or” at the end of that paragraph).
- (3) For subsection (2) substitute—

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- “(2) Breach of a duty imposed by a statutory instrument containing (whether alone or with other provision) health and safety regulations shall not be actionable except to the extent that regulations under this section so provide.
- (2A) Breach of a duty imposed by an existing statutory provision shall not be actionable except to the extent that regulations under this section so provide (including by modifying any of the existing statutory provisions).
- (2B) Regulations under this section may make provision about the extent to which breach of a duty imposed by other health and safety legislation is actionable (including by modifying that legislation).
- (2C) The reference in subsection (2B) to “other health and safety legislation” is to—
- (a) any provision of an enactment which relates to any matter relevant to any of the general purposes of this Part but is not among the relevant statutory provisions; and
 - (b) any provision of an instrument made or having effect under any such enactment as is mentioned in paragraph (a) other than a provision of a statutory instrument that contains (with other provision) health and safety regulations.
- (2D) Regulations under this section may include provision for—
- (a) a defence to be available in any action for breach of the duty mentioned in subsection (2), (2A) or (2B);
 - (b) any term of an agreement which purports to exclude or restrict any liability for such a breach to be void.”

(4) In subsection (3), omit the words from “, whether brought by virtue of subsection (2)” to the end.

(5) In subsection (4)—

 - (a) for “and (2)” substitute “, (2) and (2A)”, and
 - (b) for “(3)” substitute “(2D)(a)”.

(6) Omit subsections (5) and (6).

(7) After subsection (6) insert—

“(7) The power to make regulations under this section shall be exercisable by the Secretary of State.

(8) The Secretary of State must obtain the consent of the Welsh Ministers before making any regulations by virtue of subsection (2B) that contain provision which would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly.”

(8) In section 82 of the Health and Safety at Work etc. Act 1974 (general provisions as to regulations)—

 - (a) in subsection (3), after “subsection (4)” insert “or (5)”, and
 - (b) after subsection (4) insert—

“(5) A statutory instrument containing (whether alone or with other provision) regulations made by virtue of section 47(2B) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

(9) Where, on the commencement of this section, there is in force an Order in Council made under section 84(3) of the Health and Safety at Work etc. Act 1974 that

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applies to matters outside Great Britain any of the provisions of that Act that are amended by this section, that Order is to be taken as applying those provisions as so amended.

- (10) The amendments made by this section do not apply in relation to breach of a duty which it would be within the legislative competence of the Scottish Parliament to impose by an Act of that Parliament.
- (11) The amendments made by this section do not apply in relation to breach of a duty where that breach occurs before the commencement of this section.’.

Estate agency work

Secretary Vince Cable

NC15

To move the following Clause:—

‘In section 1 of the Estate Agents Act 1979 (estate agency work), for subsection (4) substitute—

- “(4) This Act does not apply to the following things when done by a person who does no other things which fall within subsection (1) above—
 - (a) publishing advertisements or disseminating information;
 - (b) providing a means by which—
 - (i) a person who wishes to acquire or dispose of an interest in land can, in response to such an advertisement or dissemination of information, make direct contact with a person who wishes to dispose of or, as the case may be, acquire an interest in land;
 - (ii) the persons mentioned in sub-paragraph (i) can continue to communicate directly with each other.”’.

Adjudicators

Secretary Vince Cable

NC16

To move the following Clause:—

- ‘(1) In Part 14 of the Insolvency Act 1986 (public administration (England and Wales)), before section 399 and the cross-heading which precedes it insert—

“Adjudicators

398A Appointment etc of adjudicators and assistants

- (1) The Secretary of State may appoint persons to the office of adjudicator.
- (2) A person appointed under subsection (1)—
 - (a) is to be paid out of money provided by Parliament such salary as the Secretary of State may direct,
 - (b) holds office on such other terms and conditions as the Secretary of State may direct, and
 - (c) may be removed from office by a direction of the Secretary of State.

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- (3) A person who is authorised to act as an official receiver may not be appointed under subsection (1).
- (4) The Secretary of State may appoint officers of the Secretary of State's department to assist adjudicators in the carrying out of their functions."
- (2) In Part 9 of that Act (bankruptcy), before Chapter 1 insert the Chapter set out in Schedule [*Adjudicators: bankruptcy applications by debtors and bankruptcy orders*] (adjudicators: bankruptcy applications by debtors and bankruptcy orders).
- (3) Schedule [*Adjudicators: minor and consequential amendments*] (adjudicators: minor and consequential amendments) has effect.?

Power to provide for equal pay audits

Secretary Vince Cable

NC17

To move the following Clause:—

- '(1) The Equality Act 2010 is amended as follows.
- (2) After section 139 insert—

“139A Equal pay audits

- (1) Regulations may make provision requiring an employment tribunal to order the respondent to carry out an equal pay audit in any case where the tribunal finds that there has been an equal pay breach.
- (2) An equal pay breach is—
 - (a) a breach of an equality clause, or
 - (b) a contravention in relation to pay of section 39(2), 49(6) or 50(6), so far as relating to sex discrimination.
- (3) An equal pay audit is an audit designed to identify action to be taken to avoid equal pay breaches occurring or continuing.
- (4) The regulations may make further provision about equal pay audits, including provision about—
 - (a) the content of an audit;
 - (b) the powers and duties of a tribunal for deciding whether its order has been complied with;
 - (c) any circumstances in which an audit may be required to be published or may be disclosed to any person.
- (5) The regulations must provide for an equal pay audit not to be ordered where the tribunal considers that—
 - (a) an audit completed by the respondent in the previous 3 years meets requirements prescribed for this purpose,
 - (b) it is clear without an audit whether any action is required to avoid equal pay breaches occurring or continuing,
 - (c) the breach the tribunal has found gives no reason to think that there may be other breaches, or
 - (d) the disadvantages of an equal pay audit would outweigh its benefits.

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- (6) The regulations may make provision for a failure to comply with an order to be enforced, otherwise than as an offence, by such means as are prescribed.
- (7) The first regulations under this section must provide for the requirement to impose an order for an equal pay audit not to apply in relation to a respondent whose business is defined in the regulations as a start-up or micro-business unless further provision is made under this section.”
- (3) In section 207(6) (exercise of power to make subordinate legislation: power to amend enactments) after “37,” and after “in the case of section” insert “139A,”.
- (4) In section 208(5) (subordinate legislation by Ministers of the Crown etc: affirmative procedure) after paragraph (e) insert—
 “(ea) regulations under section 139A (equal pay audits);”.’.

Secretary Vince Cable

NS1

To move the following Schedule:—

‘LOCAL LISTED BUILDING CONSENT ORDERS: PROCEDURE

In the Planning (Listed Buildings and Conservation Areas) Act 1990, after Schedule 2 insert—

“SCHEDULE 2A

Section 26D

LOCAL LISTED BUILDING CONSENT ORDERS: PROCEDURE

Preparation

- 1 (1) A local listed building consent order must be prepared in accordance with such procedure as is prescribed by regulations under this Act.
- (2) The regulations may include provision as to—
 - (a) the preparation, submission, approval, adoption, revision, revocation and withdrawal of a local listed building consent order;
 - (b) notice, publicity, and inspection by the public;
 - (c) consultation with and consideration of views of such persons and for such purposes as are prescribed;
 - (d) the making and consideration of representations.

Revision

- 2 (1) The local planning authority may at any time prepare a revision of a local listed building consent order.
- (2) An authority must prepare a revision of a local listed building consent order—
 - (a) if the Secretary of State directs them to do so, and
 - (b) in accordance with such timetable as the Secretary of State directs.
- (3) This Schedule applies to the revision of a local listed building consent order as it applies to the preparation of the order.

Enterprise and Regulatory Reform Bill, *continued*

- (4) A local listed building consent order may not be varied except by revision under this paragraph.

Order to be adopted

- 3 A local listed building consent order is of no effect unless it is adopted by resolution of the local planning authority.

Annual report

- 4 (1) While a local listed building consent order is in force the local planning authority must prepare reports containing such information as is prescribed as to the extent to which the order is achieving its purposes.
- (2) A report under this paragraph must—
- (a) be in respect of a period—
 - (i) which the authority considers appropriate in the interests of transparency,
 - (ii) which begins with the end of the period covered by the authority's most recent report under this paragraph (or, in the case of the first report, with the day the order comes into force), and
 - (iii) which is not longer than 12 months or such shorter period as is prescribed;
 - (b) be in such form as is prescribed;
 - (c) contain such other matter as is prescribed.
- (3) The authority must make its reports under this section available to the public.”.

Secretary Vince Cable

NS2

To move the following Schedule:—

‘ADJUDICATORS: BANKRUPTCY APPLICATIONS BY DEBTORS AND BANKRUPTCY ORDERS

“CHAPTER A1

ADJUDICATORS: BANKRUPTCY APPLICATIONS BY DEBTORS AND BANKRUPTCY ORDERS

263H Bankruptcy applications to the adjudicator

- (1) An individual may make an application to an adjudicator in accordance with this Chapter for a bankruptcy order to be made against him or her.
- (2) An individual may make a bankruptcy application only on the ground that the individual is unable to pay his or her debts.

263I Debtors against whom an adjudicator may make a bankruptcy order

- (1) An adjudicator has jurisdiction to determine a bankruptcy application only if—

Enterprise and Regulatory Reform Bill, *continued*

- (a) the centre of the debtor's main interests is in England and Wales, or
 - (b) the centre of the debtor's main interests is not in a member state of the European Union which has adopted the EC Regulation, but the test in subsection (2) is met.
- (2) The test is that—
- (a) the debtor is domiciled in England and Wales, or
 - (b) at any time in the period of three years ending with the day on which the application is made to the adjudicator, the debtor—
 - (i) has been ordinarily resident, or has had a place of residence, in England and Wales, or
 - (ii) has carried on business in England and Wales.
- (3) The reference in subsection (2) to the debtor carrying on business includes—
- (a) the carrying on of business by a firm or partnership of which the debtor is a member, and
 - (b) the carrying on of business by an agent or manager for the debtor or for such a firm or partnership.
- (4) In this section, references to the centre of the debtor's main interests have the same meaning as in Article 3 of the EC Regulation.

263J Conditions applying to bankruptcy application

- (1) A bankruptcy application must include—
- (a) such particulars of the debtor's creditors, debts and other liabilities, and assets, as may be prescribed, and
 - (b) such other information as may be prescribed.
- (2) A bankruptcy application is not to be regarded as having been made unless any fee or deposit required in connection with the application by an order under section 415 has been paid to such person, and within such period, as may be prescribed.
- (3) A bankruptcy application may not be withdrawn.
- (4) A debtor must notify the adjudicator if, at any time before a bankruptcy order is made against the debtor or the adjudicator refuses to make such an order—
- (a) the debtor becomes able to pay his or her debts, or
 - (b) a bankruptcy petition has been presented to the court in relation to the debtor.

263K Determination of bankruptcy application

- (1) After receiving a bankruptcy application, an adjudicator must determine whether the following requirements are met—
- (a) the adjudicator had jurisdiction under section 263I to determine the application on the date the application was made,
 - (b) the debtor is unable to pay his or her debts at the date of the determination,
 - (c) no bankruptcy petition is pending in relation to the debtor at the date of the determination, and

Enterprise and Regulatory Reform Bill, *continued*

- (d) no bankruptcy order has been made in respect of any of the debts which are the subject of the application at the date of the determination.
- (2) If the adjudicator is satisfied that each of the requirements in subsection (1) are met, the adjudicator must make a bankruptcy order against the debtor.
- (3) If the adjudicator is not so satisfied, the adjudicator must refuse to make a bankruptcy order against the debtor.
- (4) The adjudicator must make a bankruptcy order against the debtor or refuse to make such an order before the end of the prescribed period (“the determination period”).

263L Adjudicator’s requests for further information

- (1) An adjudicator may at any time during the determination period request from the debtor information that the adjudicator considers necessary for the purpose of determining whether a bankruptcy order must be made.
- (2) The adjudicator may specify a date before which information requested under subsection (1) must be provided; but that date must not be after the end of the determination period.
- (3) If the rules so prescribe, a request under subsection (1) may include a request for information to be given orally.
- (4) The rules may make provision enabling or requiring an adjudicator to request information from persons of a prescribed description in prescribed circumstances.

263M Making of bankruptcy order

- (1) This section applies where an adjudicator makes a bankruptcy order as a result of a bankruptcy application.
- (2) The order must be made in the prescribed form.
- (3) The adjudicator must—
 - (a) give a copy of the order to the debtor, and
 - (b) give notice of the order to persons of such description as may be prescribed.

263N Refusal to make a bankruptcy order: review and appeal etc.

- (1) Where an adjudicator refuses to make a bankruptcy order on a bankruptcy application, the adjudicator must give notice to the debtor—
 - (a) giving the reasons for the refusal, and
 - (b) explaining the effect of subsections (2) to (5).
- (2) If requested by the debtor before the end of the prescribed period, the adjudicator must review the information which was available to the adjudicator when the determination that resulted in the refusal was made.
- (3) Following a review under subsection (2) the adjudicator must—
 - (a) confirm the refusal to make a bankruptcy order, or

Enterprise and Regulatory Reform Bill, *continued*

- (b) make a bankruptcy order against the debtor.
- (4) Where the adjudicator confirms a refusal under subsection (3), the adjudicator must give notice to the debtor—
 - (a) giving the reasons for the confirmation, and
 - (b) explaining the effect of subsection (5).
- (5) If the refusal is confirmed under subsection (3), the debtor may appeal against the refusal to the court before the end of the prescribed period.

2630 False representations and omissions

- (1) It is an offence knowingly or recklessly to make any false representation or omission in—
 - (a) making a bankruptcy application to an adjudicator, or
 - (b) providing any information to an adjudicator in connection with a bankruptcy application.
- (2) It is an offence knowingly or recklessly to fail to notify an adjudicator of a matter in accordance with a requirement imposed by or under this Part.
- (3) It is immaterial for the purposes of an offence under this section whether or not a bankruptcy order is made as a result of the application.
- (4) It is not a defence in proceedings for an offence under this section that anything relied on, in whole or in part, as constituting the offence was done outside England and Wales.
- (5) Proceedings for an offence under this section may only be instituted—
 - (a) by the Secretary of State, or
 - (b) by or with the consent of the Director of Public Prosecutions.”

Secretary Vince Cable

NS3

To move the following Schedule:—

‘ADJUDICATORS: MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 The Insolvency Act 1986 is amended in accordance with this Schedule.
- 2 In section 253 (application for interim order), omit subsection (5).
- 3 In section 255 (cases in which interim order can be made), in subsection (1)(b) for “petition for his own bankruptcy” substitute “make a bankruptcy application”.
- 4 (1) Section 256A (debtor’s proposal and nominee’s report) is amended as follows.
 - (2) In subsection (1) omit the words from “unless” to the end.
 - (3) In subsection (3) for “petition for his own bankruptcy” substitute “make a bankruptcy application”.
- 5 For the heading to Chapter 1 of Part 9 substitute “The court: bankruptcy petitions and bankruptcy orders”.
- 6 In section 264 (who may present a bankruptcy petition), in subsection (1) omit paragraph (b).
- 7 For section 265 (conditions to be satisfied in respect of debtor) substitute—

Enterprise and Regulatory Reform Bill, *continued***“265 Creditor’s petition: debtors against whom the court may make a bankruptcy order**

- (1) A bankruptcy petition may be presented to the court under section 264(1)(a) only if—
- (a) the centre of the debtor’s main interests is in England and Wales, or
 - (b) the centre of the debtor’s main interests is not in a member state of the European Union which has adopted the EC Regulation, but the test in subsection (2) is met.
- (2) The test is that—
- (a) the debtor is domiciled in England and Wales, or
 - (b) at any time in the period of three years ending with the day on which the petition is presented, the debtor—
 - (i) has been ordinarily resident, or has had a place of residence, in England and Wales, or
 - (ii) has carried on business in England and Wales.
- (3) The reference in subsection (2) to the debtor carrying on business includes—
- (a) the carrying on of business by a firm or partnership of which the debtor is a member, and
 - (b) the carrying on of business by an agent or manager for the debtor or for such a firm or partnership.
- (4) In this section, references to the centre of the debtor’s main interests have the same meaning as in Article 3 of the EC Regulation.”
- 8 In section 266 (bankruptcy petitions: other preliminary conditions), in subsection (4) omit “, (b)”.
- 9 (1) Sections 272 to 274A (and the cross-heading immediately preceding those sections) (debtor’s petition) are repealed.
- (2) In consequence of the repeal of section 274A by paragraph (1), omit paragraph 3 of Schedule 20 to Tribunals Courts and Enforcement Act 2007 (debt relief Orders: consequential amendments).
- 10 For the cross-heading immediately before section 278 substitute—

“CHAPTER 1A

COMMENCEMENT AND DURATION OF BANKRUPTCY”.

- 11 In section 278 (commencement and continuance), in paragraph (b) (discharge of bankruptcy order) omit “the following provisions of”.
- 12 In section 279 (duration of bankruptcy), in subsection (6) for “adjudged” substitute “made”.
- 13 In section 282 (court’s power to annul bankruptcy order), in subsection (2)—
- (a) omit “, (b)”,
 - (b) after “section 264(1)” insert “or on a bankruptcy application”, and
 - (c) in paragraph (a) after “pending” insert “or the application was ongoing”.
- 14 In section 283 (definition of bankrupt’s estate), in subsection (5)(a) for “adjudged” substitute “made”.
- 15 (1) Section 284 (restrictions on dispositions of property) is amended as follows.
- (2) In subsection (1) for “adjudged” substitute “made”.

Enterprise and Regulatory Reform Bill, *continued*

- (3) In subsection (3) for “presentation of the petition for the bankruptcy order” substitute “making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy petition”.
- (4) In subsection (4), in paragraph (a) before “petition” insert “bankruptcy application had been made or (as the case may be) that the bankruptcy”.
- 16 (1) Section 285 (restriction on proceedings and remedies) is amended as follows.
- (2) In subsection (1)—
- (a) after “when” insert “proceedings on a bankruptcy application are ongoing or”, and
- (b) for “adjudged” substitute “made”.
- (3) In subsection (2) after “proof that” insert “a bankruptcy application has been made or”.
- 17 (1) Section 286 is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (8), for “adjudged” substitute “made”.
- 18 In section 288 (statement of affairs), in subsection (1) for “debtor’s petition” substitute “bankruptcy application”.
- 19 In section 290 (public examination of bankrupt), in subsection (4)(a) for “adjudged” substitute “made”.
- 20 (1) Section 297 (appointment of trustee of bankrupt’s estate: special cases) is amended as follows.
- (2) Omit subsection (4).
- (3) In subsection (6) omit “(4) or”.
- 21 (1) Section 320 (court order vesting disclaimed property) is amended as follows.
- (2) In subsection (2)(c) before “bankruptcy” insert “bankruptcy application was made or (as the case may be) the”.
- (3) In subsection (3)(c) before “bankruptcy” insert “bankruptcy application was made or (as the case may be) the”.
- 22 In section 321 (orders under section 320 in respect of leaseholds), in subsection (1)(a) before “bankruptcy” insert “bankruptcy application was made or (as the case may be) the”.
- 23 In section 323 (mutual credit and set-off), in subsection (3) before “a bankruptcy” insert “proceedings on a bankruptcy application relating to the bankrupt were ongoing or that”.
- 24 In section 334 (stay of distribution in case of second bankruptcy), in subsection (2) before “presentation of the petition” insert “making of the application or (as the case may be) the”.
- 25 (1) Section 336 (rights of occupation etc of bankrupt’s spouse or civil partner) is amended as follows.
- (2) In subsection (1) for “presentation of the petition for the bankruptcy order” substitute “making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy petition”.
- (3) In subsection (2) for “adjudged” substitute “made”.
- 26 In section 337 (rights of occupation of bankrupt), in subsection (1)—
- (a) in paragraph (a) for “adjudged” substitute “made”, and
- (b) in paragraph (b) before “bankruptcy petition” insert “bankruptcy application was made or (as the case may be) the”.
- 27 In section 339 (transactions at an undervalue), in subsection (1) for “adjudged” substitute “made”.
- 28 In section 340 (preferences), in subsection (1) for “adjudged” substitute “made”.

Enterprise and Regulatory Reform Bill, *continued*

- 29 In section 341 (meaning of “relevant time” under sections 339 and 340), in subsection (1)(a) for “presentation of the bankruptcy petition on which the individual is adjudged” substitute “making of the bankruptcy application as a result of which, or (as the case may be) the presentation of the bankruptcy petition on which, the individual is made”.
- 30 (1) Section 342 (orders under sections 339 and 340) is amended as follows.
 (2) In subsection (1) for “adjudged” substitute “made”.
 (3) In subsection (5)—
 (a) for paragraph (a) substitute—
 “(a) of the fact that the bankruptcy application as a result of which, or (as the case may be) the bankruptcy petition on which, the individual in question is made bankrupt has been made or presented; or”, and
 (b) in paragraph (b) for “adjudged” substitute “made”.
- 31 In section 342A (recovery of excessive pension contributions), in subsection (1) for “adjudged” substitute “made”.
- 32 In section 343 (extortionate credit transactions), in subsection (1) for “adjudged” substitute “made”.
- 33 (1) Section 344 (avoidance of general assignment of book debts) is amended as follows.
 (2) In subsection (1) for “adjudged” substitute “made”.
 (3) In subsection (2) before “presentation” insert “making of the bankruptcy application or (as the case may be) the”.
- 34 In section 345 (contracts to which bankrupt is a party), in subsection (1) for “adjudged” substitute “made”.
- 35 (1) Section 346 (enforcement procedures) is amended as follows.
 (2) In subsections (1) and (2) for “adjudged” substitute “made”.
 (3) In subsection (3)—
 (a) in paragraph (b) before “bankruptcy” insert “bankruptcy application has been made or a”, and
 (b) in paragraph (c) before “on that petition” insert “as a result of that application or”.
 (4) In subsection (4)(a) after “while” insert “proceedings on a bankruptcy application are ongoing or (as the case may be)”.
- 36 (1) Section 347 (distress, etc) is amended as follows.
 (2) In subsection (2)—
 (a) after “individual to whom” insert “a bankruptcy application or”, and
 (b) before “on that petition” insert “as a result of that application or”.
 (3) In subsection (3) for “adjudged” substitute “made”.
- 37 In section 348 (apprenticeships, etc), in subsection (1)(a) for “petition on which the order was made” substitute “application for the order was made or (as the case may be) the petition for the order”.
- 38 In section 350 (application of Chapter 6 of Part 9: bankruptcy offences), in subsection (1) after “applies” insert “—
 (a) where an adjudicator has made a bankruptcy order as a result of a bankruptcy application, or
 (b) ”.
- 39 (1) Section 351 (definitions for the purposes of Chapter 6 of Part 9) is amended as follows.
 (2) In paragraph (b) before “presentation” insert “making of the bankruptcy application or (as the case may be) the”.

Enterprise and Regulatory Reform Bill, *continued*

- (3) Omit paragraph (c), and the preceding “and”.
- 40 (1) Section 354 (concealment of property) is amended as follows.
 - (2) In subsection (1)(c) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
 - (3) In subsection (3)(a) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
- 41 (1) Section 355 (concealment of books and papers; falsification) is amended as follows.
 - (2) In subsection (2)(d) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
 - (3) In subsection (3)(b) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
- 42 In section 356 (false statements), in subsection (2)(c) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
- 43 In section 358 (absconding), in paragraph (b) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
- 44 (1) Section 359 (fraudulent dealing with property obtained on credit) is amended as follows.
 - (2) In subsection (1) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
 - (3) In subsection (2) before “petition” insert “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy”.
- 45 In section 360 (obtaining credit and engaging in business), in subsection (1)(b) for “adjudged” substitute “made”.
- 46 (1) Section 364 (power of arrest) is amended as follows.
 - (2) In subsection (1)(a) after “to whom a” insert “bankruptcy application or a”.
 - (3) In subsection (2) before “presentation” insert “making of the bankruptcy application or the”.
- 47 In section 376 (time limits), after “anything” insert “(including anything in relation to a bankruptcy application)”.
- 48 (1) Section 381 (definition of “bankrupt” and associated terminology) is amended as follows.
 - (2) In subsection (1) for “adjudged” (in both places where it occurs) substitute “made”.
 - (3) After subsection (1) insert—
 - “(1A) “Bankruptcy application” means an application to an adjudicator for a bankruptcy order.”
 - (4) In subsection (2) for “adjudging” substitute “making”.
- 49 In section 383 (definition of “creditor” etc.), in subsection (1)(b)—
 - (a) after “to whom a” insert “bankruptcy application or”, and
 - (b) after “that” insert “application or”.
- 50 In section 384 (definitions of “prescribed” and “the rules”), in subsection (1) omit “section 273;”.
- 51 In section 385 (miscellaneous definitions), in subsection (1)—
 - (a) before the definition of “the court” insert—
 - ““adjudicator” means a person appointed by the Secretary of State under section 398A;”
 - (b) in the definition of “the debtor”, in paragraph (b)—

Enterprise and Regulatory Reform Bill, *continued*

- (i) before “bankruptcy petition” insert “bankruptcy application or a”, and
 - (ii) after “to whom the” insert “application or”,
 - (c) omit the definition of “debtor’s petition”, and
 - (d) before the definition of “dwelling house” insert—
“determination period” has the meaning given in section 263K(4);”.
- 52 In section 387 (meaning of “the relevant date”), in subsection (6)(a) after “after” insert “the making of the bankruptcy application or (as the case may be)”.
- 53 In section 389A (authorisation of nominees and supervisors), in subsection (3)(a) for “adjudged” substitute “made”.
- 54 In section 390 (persons not qualified to act as insolvency practitioners), in subsection (4)(a) for “adjudged” substitute “made”.
- 55 In section 415 (fees orders), after subsection (1) insert—
“(1A) An order under subsection (1) may make different provision for different purposes, including by reference to the manner or form in which proceedings are commenced.”
- 56 In section 421A (insolvent estates: joint tenancies), in subsection (9) in the definition of “value lost to the estate”, for “adjudged” substitute “made”.
- 57 In section 424 (who may apply for an order under section 423 in respect of transactions entered into at an undervalue), in subsection (1)(a) for “adjudged” substitute “made”.
- 58 In Schedule 4ZA (conditions for making a debt relief order), for paragraph 3 substitute—
“3 A bankruptcy application under Part 9—
(a) has not been made before the determination date; or
(b) has been so made, but proceedings on the application have been finally disposed of before that date.”
- 59 (1) In Schedule 4A (bankruptcy restrictions orders), paragraph 2 is amended as follows.
(2) In sub-paragraph (2)—
(a) in paragraph (a), for the words from “petition” to the end substitute “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy petition and ending with the date of the application for the bankruptcy restrictions order”, and
(b) in paragraph (j), for “presentation of the petition” substitute “the making of the bankruptcy application or (as the case may be) the presentation of the bankruptcy petition”.
- (3) In sub-paragraph (4) omit the definition of “before petition”.
- 60 In Schedule 6 (categories of preferential debts), in paragraph 14(1) for “adjudged” substitute “made”.
- 61 (1) Schedule 9 (provisions capable of inclusion in individual insolvency rules) is amended as follows.
(2) After paragraph 4 insert—
“*Adjudicators*
4A Provision for regulating the practice and procedure of adjudicators.
4B Provision about the form and content of a bankruptcy application (including an application for a review of an adjudicator’s determination).”

Enterprise and Regulatory Reform Bill, continued

(3) After paragraph 4B (as inserted by sub-paragraph (2)) insert—

“Appeals against determinations by adjudicators

4C Provision about the making and determining of appeals to the court against a determination by an adjudicator, including provision—

- (a) enabling the court to make a bankruptcy order on such an appeal, and
- (b) about where such appeals lie.”

(4) After paragraph 24 insert—

“24A Provision requiring official receivers—

- (a) to keep files and other records relating to bankruptcy applications, and
- (b) to make those files and records available for inspection by persons of a prescribed description.”

62 (1) In the Table in Schedule 10 (punishment of offences), insert the following entry after the entry relating to section 262A(1)—

“263O	False representations or omissions in connection with a bankruptcy application.	1. On indictment 2. Summary	1. 7 years or a fine, or both. 2. 12 months or the statutory maximum, or both.”
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(2) In the application of the entry inserted by sub-paragraph (1) in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (limit on magistrates’ court powers to impose imprisonment), the reference in the fourth column to “12 months” is to be read as a reference to “6 months”.

Secretary Vince Cable

1

Page 2, line 8 [Clause 2], leave out ‘in the United Kingdom’ and insert ‘(whether in the United Kingdom or elsewhere)’.

Secretary Vince Cable

2

Page 2, line 18 [Clause 2], leave out from ‘section’ to end of line 19 and insert ‘—

- (a) is to be made by statutory instrument, and
- (b) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.’.

Secretary Vince Cable

3

Page 2, line 37 [Clause 3], leave out ‘in the United Kingdom’ and insert ‘(whether in the United Kingdom or elsewhere)’.

Secretary Vince Cable

4

Page 3, line 27 [Clause 5], leave out from ‘treated’ to ‘as’ in line 28.

Enterprise and Regulatory Reform Bill, *continued*

- Secretary Vince Cable 5
- Page 3, line 29 [*Clause 5*], leave out ‘that Act’ and insert ‘the Companies Act 2006 for the purposes of the application to it of—
- (a) Chapters 4 and 4A of Part 10 of that Act, and
 - (b) Parts 15 and 16 of that Act (in respect of a financial year).’.
- Secretary Vince Cable 6
- Page 4, line 18 [*Clause 7*], leave out ‘send’ and insert ‘provide’.
- Secretary Vince Cable 7
- Page 5, line 33 [*Clause 7*], leave out ‘sending’ and insert ‘providing’.
- Secretary Vince Cable 8
- Page 8 [*Clause 12*], leave out lines 22 to 27 and insert—
- ‘(1) Evidence of pre-termination negotiations is inadmissible in any proceedings on a complaint under section 111.
This is subject to subsections (2) to (4).
 - (1A) In subsection (1) “pre-termination negotiations” means any offer made or discussions held, before the termination of the employment in question, with a view to it being terminated on terms agreed between the employer and the employee.’.
- Secretary Vince Cable 9
- Page 8, line 36, [*Clause 12*], leave out from beginning to second ‘to’ in line 37 and insert ‘Subsection (1) does not affect the admissibility, on any question as to costs or expenses, of evidence relating’.
- Secretary Vince Cable 10
- Page 8 [*Clause 12*], leave out lines 40 to 43.
- Secretary Vince Cable 11
- Page 9 [*Clause 13*], leave out lines 8 to 10 and insert—
- ‘(b) the lower of—
 - (i) a specified amount, and
 - (ii) a specified number multiplied by a week’s pay of the individual concerned.’.
- Secretary Vince Cable 12
- Page 9, line 11 [*Clause 13*], after ‘(2)(a)’ insert ‘or (b)(i)’.
- Secretary Vince Cable 13
- Page 9, line 13 [*Clause 13*], after ‘(2)(a)’ insert ‘or (b)(i)’.

Enterprise and Regulatory Reform Bill, *continued*

Secretary Vince Cable	14
Page 9, line 16 [<i>Clause 13</i>], after ‘(2)(b)’ insert ‘(ii)’.	
Secretary Vince Cable	15
Page 9, line 38 [<i>Clause 13</i>], after ‘13(2)(b)’ insert ‘(ii)’.	
Secretary Vince Cable	16
Page 12, line 23 [<i>Clause 17</i>], leave out paragraph (c).	
Secretary Vince Cable	17
Page 12, line 35 [<i>Clause 17</i>], at end insert—	
‘(2A) In section 49 of the National Minimum Wage Act 1998 (restrictions on contracting out)—	
(a) in subsections (3) and (4), for “compromise” (in each place where it occurs) substitute “settlement”;	
(b) after subsection (8) insert—	
“(8A) In the application of this section in relation to Northern Ireland, subsections (3) and (4) above shall have effect as if for “settlement agreements” (in each place) there were substituted “compromise agreements.””.	
Secretary Vince Cable	18
Page 37, line 20 [<i>Clause 40</i>], at end insert—	
‘(6) After section 188A (as inserted by subsection (5) above) insert—	
“188B Defences to commission of cartel offence	
(1) In a case where the arrangements would (operating as the parties intend) affect the supply in the United Kingdom of a product or service, it is a defence for an individual charged with an offence under section 188(1) to show that, at the time of the making of the agreement, he or she did not intend that the nature of the arrangements would be concealed from customers at all times before they enter into agreements for the supply to them of the product or service.	
(2) It is a defence for an individual charged with an offence under section 188(1) to show that, at the time of the making of the agreement, he or she did not intend that the nature of the arrangements would be concealed from the CMA.	
(3) It is a defence for an individual charged with an offence under section 188(1) to show that, before the making of the agreement, he or she took reasonable steps to ensure that the nature of the arrangements would be disclosed to professional legal advisers for the purposes of obtaining advice about them before their making or (as the case may be) their implementation.”’.	

Enterprise and Regulatory Reform Bill, *continued*

- Secretary Vince Cable 19
- Page 37, line 20 [*Clause 40*], at end insert—
 ‘() After section 190 of the 2002 Act insert—
“190A Cartel offence: prosecution guidance
- (1) The CMA must prepare and publish guidance on the principles to be applied in determining, in any case, whether proceedings for an offence under section 188(1) should be instituted.
 - (2) The CMA may at any time issue revised or new guidance.
 - (3) Guidance published by the CMA under this section is to be published in such manner as it considers appropriate.
 - (4) In preparing guidance under this section the CMA must consult—
 - (a) the Director of the Serious Fraud Office;
 - (b) the Lord Advocate; and
 - (c) such other persons as it considers appropriate.”’.
- Secretary Vince Cable 20
- Page 37, line 21 [*Clause 40*], leave out ‘this section’ and insert ‘subsections (1) to (6)’.
- Secretary Vince Cable 21
- Page 42, line 38 [*Clause 50*], leave out ‘, other than the Scottish Ministers,’.
- Secretary Vince Cable 22
- Page 42, line 39 [*Clause 50*], at end insert ‘except to the extent that—
- (a) the power or duty is exercisable by the Scottish Ministers, or
 - (b) the power or duty is exercisable by any other person within devolved competence (within the meaning of the Scotland Act 1998).’.
- Secretary Vince Cable 23
- Page 47, line 17 [*Clause 57*], at end insert—
- ‘() But regulations under this section may make only such provision as may be made under subsection (2) of section 2 of the European Communities Act 1972 or such provision as could be made under that subsection if paragraph 1(1)(d) of Schedule 2 to that Act did not apply.’.
- Secretary Vince Cable 24
- Page 47, line 33 [*Clause 57*], at end insert—
- ‘() But regulations under this section may make only such provision as may be made under subsection (2) of section 2 of the European Communities Act 1972 or such provision as could be made under that subsection if paragraph 1(1)(d) of Schedule 2 to that Act did not apply.’.

Enterprise and Regulatory Reform Bill, *continued*

- Secretary Vince Cable 25
- Page 52, line 8 [*Clause 61*], leave out from ‘begins’ to ‘or’ in line 9 and insert ‘on or after the day on which section 61 of the Enterprise and Regulatory Reform Act 2012 comes into force’.
- Secretary Vince Cable 26
- Page 53, line 19 [*Clause 62*], at end insert—
 ‘ “quoted company” has the same meaning as in Part 15 of this Act;’.
- Secretary Vince Cable 27
- Page 53, line 22 [*Clause 62*], leave out from ‘person’ to ‘other’ in line 23 and insert
- (a) holding, agreeing to hold or having held office as director of a company, or
 - (b) holding, agreeing to hold or having held, during a period when the person is or was such a director—
 - (i) any other office or employment in connection with the management of the affairs of the company, or
 - (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.’.
- Secretary Vince Cable 28
- Page 54, line 27 [*Clause 62*], after ‘be’ insert ‘or has been’.
- Secretary Vince Cable 29
- Page 58, line 4 [*Clause 63*], at end insert—
 ‘(12) In that Schedule, in the first column, after “quoted company”, insert—
 “—in Chapter 4A of Part 10 section 226A(1)”.’.
- Secretary Vince Cable 30
- Page 58, line 13 [*Clause 64*], leave out from ‘begin’ to ‘, and’ in line 14 and insert ‘on or after the day on which that section of this Act comes into force’.
- Secretary Vince Cable 31
- Page 59, line 34 [*Clause 68*], leave out ‘17(1)(c)’ and insert ‘17(2A)’.
- Secretary Vince Cable 32
- Page 60, line 14 [*Clause 68*], after ‘50,’ insert ‘[*Osborne estate*]’.
- Secretary Vince Cable 33
- Page 60, line 14 [*Clause 68*], after ‘54’ insert ‘and [*Estate agency work*]’.

Enterprise and Regulatory Reform Bill, *continued*

- Secretary Vince Cable 34
- Page 60, line 15 [*Clause 68*], at end insert—
 ‘() section [*Civil liability for breach of health and safety duties*] extends only to England and Wales and Scotland except that it also extends to Northern Ireland so far as Parts 1 and 4 of the Health and Safety at Work etc. Act 1974 extend there.’
- Secretary Vince Cable 35
- Page 60, line 16 [*Clause 68*], leave out ‘section’ and insert ‘sections’.
- Secretary Vince Cable 36
- Page 60, line 16 [*Clause 68*], after ‘52’ insert ‘, [*Equality Act 2010: third party harassment of employees and applicants*] and [*Equality Act 2010: obtaining information for proceedings*]’.
- Secretary Vince Cable 37
- Page 60, line 16 [*Clause 68*], leave out ‘extends’ and insert ‘and paragraphs 1, 52 to 54, 56 and 61 of Schedule [*Adjudicators: minor and consequential amendments*] extend’.
- Secretary Vince Cable 38
- Page 60, line 17 [*Clause 68*], leave out ‘section’ and insert ‘sections’.
- Secretary Vince Cable 39
- Page 60, line 17 [*Clause 68*], before ‘51’ insert ‘[*Listed buildings in England: agreements and orders granting listed building consent*]’.
- Secretary Vince Cable 40
- Page 60, line 17 [*Clause 68*], before ‘51’ insert ‘[*Listed buildings in England: certificates of lawfulness*]’.
- Secretary Vince Cable 41
- Page 60, line 17 [*Clause 68*], after ‘51’ insert ‘ and [*Adjudicators*]’.
- Secretary Vince Cable 42
- Page 60, line 17 [*Clause 68*], leave out first ‘Schedule’ and insert ‘Schedules’.
- Secretary Vince Cable 43
- Page 60, line 17 [*Clause 68*], before ‘16’ insert ‘and [*Local listed building consent orders: procedure*]’.

Enterprise and Regulatory Reform Bill, continued

- Secretary Vince Cable 44
- Page 60, line 17 [*Clause 68*], after ‘17’ insert ‘, Schedule [*Adjudicators: bankruptcy applications by debtors and bankruptcy orders*] and paragraphs 2 to 51, 55, 57 to 60 and 62 of Schedule [*Adjudicators: minor and consequential amendments*]’.
- Secretary Vince Cable 45
- Page 60, line 22 [*Clause 68*], at end insert ‘except that section [*Power to provide for equal pay audits*] extends only to England and Wales and Scotland’.
- Secretary Vince Cable 46
- Page 60, line 26 [*Clause 69*], at end insert—
‘() section [*Osborne estate*];’.
- Secretary Vince Cable 47
- Page 60, line 26 [*Clause 69*], at end insert—
‘() section [*Power to provide for equal pay audits*];’.
- Secretary Vince Cable 48
- Page 224, line 29 [*Schedule 16*], leave out paragraph 9.
- Secretary Vince Cable 49
- Page 227, line 16 [*Schedule 16*], at end insert—
- ‘9A In section 32(1)(a) (purchase notice on refusal or conditional grant of consent)—
 - (a) for “listed building consent in respect of a building” substitute “on an application for listed building consent in respect of a building, consent”;
 - (b) before “is revoked” insert “such consent granted on an application”.
 - 9B In section 62(2) (validity of certain orders and decisions), after paragraph (a) insert—
 - “(aa) any decision to approve or reject a local listed building consent order or part of such an order;
 - (ab) any decision on an appeal under section 26K;”.
- Secretary Vince Cable 50
- Page 227, line 33 [*Schedule 16*], at end insert—
- ‘11A In section 82(3) (application of Act to land and works of local planning authorities) for “to 29” substitute “to 26, 28, 29”.
 - 11B In section 82A(2) (application to the Crown), after paragraph (c) insert—
“(ca) section 26J;”.
 - 11C In section 88(2)(c) (rights of entry) after “11” insert “, 26J”.
 - 11D (1) Section 93 (regulations and orders) is amended as follows.
 - (2) In subsection (4) after “8(5),” insert “26C,”.
 - (3) In subsection (5) after “section” insert “26C,”.

Enterprise and Regulatory Reform Bill, *continued*

- 11E (1) Schedule 3 (determination of certain appeals by person appointed by Secretary of State) is amended as follows.
- (2) In paragraph 1(1), 2(8)(a) and 3(3) after “20” insert “, 26K”.
- (3) In paragraph 2(1) after paragraph (a) (before “and” at the end) insert—
 “(aa) in relation to an appeal under section 26K, as the Secretary of State has under section 26K(4) to (6);”.

John McDonnell

51

Page 5, line 43 [*Clause 7*], at end insert—

- ‘(e) preventing an employer or ex-employer of a prospective Claimant from applying for costs against the prospective Claimant under the Employment Tribunal Rules or other measures to provide an incentive to employers or ex-employers to take part in the conciliation process.’

John McDonnell

52

Page 7, line 27 [*Clause 11*], after (2) insert ‘With the consent of the parties but not otherwise.’.

John McDonnell

53

Page 7 [*Clause 11*], leave out lines 29 to 38.

John McDonnell

54

Page 8 [*Clause 11*], leave out lines 1 to 10.

John McDonnell

55

Page 14, line 27 [*Clause 21*], leave out ‘or similar to’.

John McDonnell

56

Page 43, line 27, leave out Clause 52.

John McDonnell

57

Page 65, line 22 [*Schedule 2*], leave out ‘one month’ and insert ‘six months’.

Richard Fuller

58

Page 10, line 1, leave out Clause 14.

Richard Fuller

59

Page 10, line 11 [*Clause 14*], after ‘features’, insert—

- ‘(c) and where the employer employs in excess of 10 employees at the time of the claim first being submitted to ACAS as per section 7 of this Act.’

Enterprise and Regulatory Reform Bill, *continued*

Richard Fuller 60
 Page 13, line 24 [*Clause 19*], after ‘United Kingdom’, insert ‘and to promote choice in the local retail sector’.

Richard Fuller 61
 Page 13, line 24 [*Clause 19*], after ‘United Kingdom’, insert ‘and to promote growth of locally-owned businesses’.

Richard Fuller 62
 Page 13, line 24 [*Clause 19*], after ‘United Kingdom’, insert ‘and to promote the establishment of new businesses’.

Richard Fuller 63
 Page 43, line 1 [*Clause 50*], leave out ‘may’ and insert ‘must’.

Richard Fuller 64
 Page 43, line 5 [*Clause 50*], after ‘specified period’, insert ‘, or’.

Richard Fuller 65
 Page 43, line 6 [*Clause 50*], after ‘specified period’, insert ‘, or’.

Richard Fuller 66
 Page 43, line 10 [*Clause 50*], leave out line 10 and insert ‘If the provision is made by virtue of subsection (2)(a), it includes’.

Richard Fuller 67
 Page 43, line 19 [*Clause 50*], leave out ‘may’ and insert ‘must if necessary’.

Investment in local businesses

Richard Fuller NC18
 To move the following Clause:—

‘The Secretary of State for Business, Innovation and Skills shall conduct a review of how his Department can encourage local investment in local businesses, and lay a copy of the report before the House of Commons before 1 December 2012.’

Enterprise and Regulatory Reform Bill, *continued**European regulation on business*

Richard Fuller

NC19

To move the following Clause:—

‘The Secretary of State for Business, Innovation and Skills shall produce a report each year following commencement of this Act to demonstrate how the Government has applied the “one in, one out” regulatory principle to European regulations on business in that year.’.
