

Enterprise Bill [HL]

[AS AMENDED IN GRAND COMMITTEE]

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[AS AMENDED IN GRAND COMMITTEE]

TO

Make provision relating to the promotion of enterprise and economic growth; and provision restricting exit payments in relation to public sector employment.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

THE SMALL BUSINESS COMMISSIONER

The Commissioner

1 Small Business Commissioner

- (1) A Small Business Commissioner is established. 5
- (2) The Commissioner’s principal functions are—
- (a) to provide general advice and information to small businesses (see section 3), and
 - (b) to consider complaints from small businesses relating to payment matters in connection with the supply of goods and services to larger businesses, and make recommendations (see sections 4 to 8). 10
- (3) Schedule 1 makes provision about the Commissioner.

“Small businesses”

2 Small businesses in relation to which the Commissioner has functions

- (1) In this Part “small business” means a relevant undertaking which— 15

-
- (a) has a headcount of staff of less than 50,
 - (b) if the business threshold condition applies to the relevant undertaking, meets that condition, and
 - (c) is not a public authority.
- (2) The Secretary of State may by regulations (“SBC scope regulations”) make further provision about the meaning of “small business” in this Part. 5
- (3) For the purposes of subsection (1)(b), the business threshold condition applies to a relevant undertaking if –
- (a) SBC scope regulations provide for that condition to apply in relation to all relevant undertakings, or 10
 - (b) the relevant undertaking falls within a description of undertakings to which SBC scope regulations apply that condition.
- (4) A relevant undertaking meets the business threshold condition if it has a turnover, or balance sheet total, of an amount less than or equal to the small business threshold. 15
- (5) SBC scope regulations may (amongst other things) make provision about –
- (a) the date (“the assessment date”) on which, or the period (“the assessment period”) for which, a relevant undertaking must meet a requirement of subsection (1)(a) or (b) in order to be a small business;
 - (b) the calculation of the headcount of staff, turnover or balance sheet total of a relevant undertaking at the assessment date or for the assessment period; 20
 - (c) the circumstances in which a relevant undertaking which has been established for less than a complete assessment period is to be regarded as meeting a requirement for that period. 25
- (6) SBC scope regulations may provide that a relevant undertaking of a specified description is not a small business even if it falls within the definition.
- (7) SBC scope regulations may –
- (a) make transitional or transitory provision or savings;
 - (b) make different provision for different purposes. 30
- (8) SBC scope regulations are to be made by statutory instrument.
- (9) A statutory instrument containing SBC scope regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (10) In this section – 35
- “balance sheet total”, “headcount of staff”, “turnover” and “small business threshold” have such meanings as may be specified;
 - “relevant undertaking” means a person who is carrying on one or more businesses and whose registered office or principal place of business is in the United Kingdom; 40
 - “specified” means specified in SBC scope regulations.

General advice and information

3 General advice and information

- (1) The Commissioner may publish, or give to small businesses, general advice or information that the Commissioner considers may be useful to small businesses in connection with their supply relationships with larger businesses. 5
- (2) In considering under subsection (1) what advice and information may be useful, the Commissioner must, in particular, consider how useful any advice or information would be for the purposes of encouraging small businesses to resolve disputes with larger businesses or preventing such disputes arising. 10
- (3) General advice or information published or given under subsection (1) may include general advice or information about—
 - (a) principles of the law of contract;
 - (b) other sources of rights or obligations in relation to the supply of goods or services; 15
 - (c) dispute resolution.
- (4) General advice or information published or given under subsection (1) may also include general advice or information about—
 - (a) complaint-handling bodies, ombudsmen, regulators or other persons (other than courts or tribunals) who, in connection with small businesses' supply relationships with larger businesses, may be able—
 - (i) to resolve or facilitate the resolution of disputes, or
 - (ii) to give other advice or assistance to small businesses; 20
 - (b) statutory rights to refer disputes in connection with such relationships for adjudication by a person other than a court or tribunal. 25
- (5) The Commissioner may publish, or give to small businesses, general advice or information about—
 - (a) complaint-handling bodies, ombudsmen, regulators or public authorities (other than courts or tribunals) who, in connection with the supply relationships of small businesses with public authorities, may be able—
 - (i) to resolve or facilitate the resolution of disputes, or
 - (ii) to give other advice or assistance to small businesses; 30
 - (b) statutory rights to refer disputes in connection with such relationships for adjudication by a person other than a court or tribunal. 35
- (6) Advice published or given under this section must be impartial, and information published or given under this section must be presented in an impartial manner.
- (7) The powers conferred on the Commissioner by this section to publish or give general advice or information may be exercised by making arrangements with any other person in accordance with which that person publishes or provides that advice or information. 40
- (8) The Commissioner may make recommendations to the Secretary of State about the publication, or provision to small businesses, by the Secretary of State of advice or information of a kind which the Commissioner is authorised to publish or give under this section. 45

- (9) Where a recommendation is made under subsection (8), the Secretary of State must inform the Commissioner whether anything is to be done in response to the recommendation and, if it is, give details of the action to be taken.
- (10) For the purposes of this section a small business has a “supply relationship” with a larger business or public authority if— 5
- (a) the small business has an agreement to supply, has supplied or may supply, goods or services to the larger business or public authority, or
 - (b) the larger business or public authority has an agreement to supply, has supplied or may supply, goods or services to the small business.
- (11) In this section— 10
- “dispute” includes any difference;
 - “larger business” means a person carrying on one or more businesses who—
 - (a) is not a small business,
 - (b) has a place of business in the United Kingdom, and 15
 - (c) is not a public authority.

Complaints scheme

4 The SBC complaints scheme

- (1) The Commissioner must establish, maintain and administer a scheme (in this Part referred to as “the SBC complaints scheme”) under which the Commissioner— 20
- (a) enquires into, considers and determines relevant complaints, and
 - (b) may make recommendations as to how the issues raised by those complaints may be remedied, resolved or mitigated or how similar issues may be prevented from arising in future. 25
- (2) The Commissioner must establish, maintain and administer the SBC complaints scheme in accordance with regulations made by the Secretary of State under section 7 (scheme regulations).
- (3) “Relevant complaint” means a complaint which— 30
- (a) is made by a small business (“the complainant”) which has an agreement to supply, or has supplied or may supply, goods or services to a larger business (“the respondent”),
 - (b) relates to a payment matter (see subsection (4)), and
 - (c) is not excluded from the scheme (see subsection (5)).
- (4) A complaint relates to a payment matter if it relates to— 35
- (a) a request or other act, or a failure to pay or other omission, in relation to a payment—
 - (i) for or in connection with the supply of goods or services, or
 - (ii) in connection with the relationship or possible relationship between the small business and the larger business so far as relevant to the supply, or 40 - (b) any provision made or proposed to be made in connection with the supply or that relationship which restricts, or purports to restrict, any right of the small business to make a complaint under the SBC

- complaints scheme or to have a complaint enquired into, considered or determined under the scheme.
- (5) A complaint is excluded from the scheme if—
- (a) it relates to the appropriateness of the price payable or proposed to be payable under a contract for the goods or services supplied or to be supplied by the small business under the contract by comparison with those goods or services, 5
 - (b) it concerns matters which are currently the subject of legal proceedings or adjudication proceedings,
 - (c) it falls within the jurisdiction of an ombudsman, regulator or public authority (other than the Commissioner, a court or a tribunal), 10
 - (d) the complainant has a statutory right to refer the complaint for adjudication by a person other than a court or tribunal,
 - (e) the complaint relates to—
 - (i) an act or omission which occurred before the appointed start date, or
 - (ii) an act or omission in accordance with a term of a contract entered into before that date, where that term has not been varied on or after that date, or15
 - (f) it is of a description specified by regulations made by the Secretary of State. 20
- (6) For the purposes of paragraph (e) of subsection (5), “the appointed start date” means the date appointed by the Secretary of State by regulations.
- (7) Regulations under this section may —
- (a) make transitory or transitional provision or savings; 25
 - (b) make different provision for different purposes.
- (8) Regulations under subsection (6) may appoint different dates for different areas.
- (9) Regulations under this section are to be made by statutory instrument.
- (10) A statutory instrument containing regulations under this section (other than regulations under subsection (6)) must not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 30
- (11) In this section “larger business” has the meaning given by section 3(11).
- 5 Enquiry into, consideration and determination of complaints** 35
- (1) This section applies where a complaint is to be determined under the SBC complaints scheme.
 - (2) The Commissioner may ask the complainant or the respondent to provide the Commissioner voluntarily with any information or documents relevant to the complaint. 40
 - (3) The Commissioner must give the respondent, and may give the complainant, an opportunity to make representations to the Commissioner.
 - (4) In enquiring into, considering and determining a complaint, the Commissioner must act impartially as between the complainant and the respondent.

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- (5) A complaint is to be determined under the SBC complaints scheme by reference to what is, in the Commissioner’s opinion, fair and reasonable in all the circumstances of the case.
- (6) The determination may contain one or more recommendations as to the steps that ought to be taken by the complainant or the respondent to remedy, resolve or mitigate any issue which is the subject of the complaint or to prevent a similar issue from arising in future. 5
- (7) Where a complaint has been determined, the Commissioner must prepare a written statement of the determination.
- (8) The statement must give the Commissioner’s reasons for the determination (including any recommendations). 10
- (9) If the determination does not contain any recommendations, the statement must contain the Commissioner’s reasons for this.
- (10) The Commissioner must give a copy of the statement to the complainant and the respondent. 15
- (11) A determination made under the SBC complaints scheme is not legally binding.
- 6 Reports on complaints**
- (1) The Commissioner may publish a report of the enquiry into, consideration and determination of a complaint under the SBC complaints scheme. 20
- (2) A report under subsection (1) must not identify the complainant, unless the complainant consents.
See also section 7(7) which requires provision to be made about factors to be taken into account when deciding whether to identify the respondent in a report. 25
- (3) A report identifies a person if it –
(a) mentions the person’s name, or
(b) includes any particulars which, in the Commissioner’s opinion, are likely to identify the person.
- (4) Before publishing a report under subsection (1), the Commissioner must give the respondent and the complainant an opportunity to make representations to the Commissioner about the proposed publication of the report (including, in the case of the respondent, about any proposal to identify the respondent in the report). 30
- 7 Scheme regulations** 35
- (1) The Secretary of State must make regulations (“scheme regulations”) about –
(a) the making of complaints for consideration under the SBC complaints scheme,
(b) the consideration and determination of, complaints by the Commissioner, and the making of any recommendations, and 40
(c) the preparation and publication of reports under section 6.
- (2) Scheme regulations must –

- (a) provide that a complaint (or part of a complaint) is, except in specified circumstances, to be dismissed if the Commissioner considers that the complainant has not previously communicated the substance of the complaint (or part) to the respondent and given the respondent a reasonable opportunity to deal with it; 5
 - (b) provide that a complaint is not to be entertained under the SBC complaints scheme unless the complainant has referred it under the scheme before the expiry of the applicable time limit (determined in accordance with the scheme regulations);
 - (c) provide that the Commissioner may extend that time limit in specified circumstances. 10
- (3) Scheme regulations may, among other things –
- (a) make provision about the content and form of a complaint and the manner in which it is to be made;
 - (b) allow the Commissioner to fix time limits for any aspect of the proceedings and to extend a time limit; 15
 - (c) provide that a complaint may, or may in specified circumstances, be dismissed, if or to the extent that the Commissioner considers –
 - (i) that the complaint is frivolous or vexatious,
 - (ii) that the complaint concerns matters which are more appropriately dealt with in another way, 20
 - (iii) that the complainant has not suffered, and is not likely to suffer, any financial loss, material distress, material inconvenience or other material adverse effect, as a result of the matter to which the complaint relates, 25
 - (iv) that the matter to which the complaint relates has been remedied,
 - (v) that the complainant is seeking an outcome other than a recommendation of the kind that can be made under the scheme, 30
 - (vi) that the complaint concerns matters that have been the subject of legal proceedings or adjudication proceedings,
 - (vii) that the matter to which the complaint relates has previously been considered under the SBC complaints scheme or by another complaints-handling body, ombudsman or regulator, 35
 - (viii) that any other condition specified by the scheme regulations is met, or
 - (ix) that there are other compelling reasons why it is inappropriate for the complaint to be dealt with under the SBC complaints scheme; 40
 - (d) provide that a complaint is to be dismissed if or to the extent that it becomes the subject of legal proceedings or adjudication proceedings;
 - (e) require the Commissioner to notify the person who makes a complaint under the scheme if the Commissioner considers that it is not a relevant complaint or it is dismissed in accordance with the scheme regulations; 45
 - (f) authorise or require the Commissioner to notify the person against whom a complaint is made if it is not a relevant complaint or it is dismissed in accordance with the scheme regulations.
- (4) For the purposes of regulations under subsections (2)(a) and (3)(c) and (d) it does not matter whether there has been a consideration of the merits of the complaint by the time it is dismissed. 50

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- (5) Scheme regulations must also specify matters which are to be taken into account, or are to be taken into account in specified circumstances, by the Commissioner in determining under the scheme whether an act or omission was fair and reasonable.
Those matters must include any relevant law. 5
- (6) But nothing in this section requires or authorises scheme regulations to specify that particular practices are to be regarded by the Commissioner, in making that determination, as “fair” or “unfair”.
- (7) Scheme regulations must make provision about factors which are to be taken into account, or are to be taken into account in specified circumstances, by the Commissioner when deciding whether to identify the respondent in a report under section 6(1). 10
- (8) Scheme regulations may –
 (a) confer a discretion on the Commissioner,
 (b) make transitional or transitory provision or savings, 15
 (c) make different provision for different purposes.
- (9) Before making scheme regulations the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (10) Regulations under this section are to be made by statutory instrument.
- (11) A statutory instrument containing regulations under this section must not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 20
- (12) In this section –
 “relevant complaint” has the meaning given by section 4(3);
 “specified” means specified in scheme regulations. 25
- 8 Confidentiality**
- (1) The Commissioner may not make a disclosure of information that the Commissioner considers is likely to cause someone to think that a particular person has made a complaint under the SBC complaints scheme, except where subsection (2) applies. 30
- (2) This subsection applies if –
 (a) the Commissioner has obtained the consent of the person concerned,
 (b) the disclosure is made by the Commissioner to the respondent in relation to the complaint or in a report published under section 6,
 (c) the disclosure is required for the purposes of any legal obligation, 35
 (d) the disclosure is required, under rules of court or rules of a tribunal, or an order of a court or tribunal, for the purposes of legal proceedings of any description, or
 (e) the information has already been made available to the public from other sources. 40

Reports and reviews

9 Annual report

- (1) After the end of each reporting period, the Commissioner must prepare and publish a report which –
 - (a) describes what the Commissioner has done during the period, 5
 - (b) contains a summary of the matters which the Commissioner considers to be the most significant matters raised by small businesses with the Commissioner during the period, and
 - (c) states the Commissioner’s recommendations (if any) as to how any of these matters might be addressed. 10
- (2) As well as publishing the report, the Commissioner must send a copy to the Secretary of State.
- (3) The Secretary of State must lay a copy of the report before Parliament.
- (4) In this section “reporting period” means –
 - (a) the period beginning with the day on which section 1 comes into force and ending with the following 31 March, and 15
 - (b) each successive period of 12 months.

10 Review of Commissioner’s performance

- (1) The Secretary of State must review the Commissioner’s performance for each review period. 20
- (2) For the purposes of subsection (1), the Secretary of State may direct the Commissioner to provide the Secretary of State with information specified in the direction.
- (3) The first review period is the period beginning with the day on which section 1 comes into force and ending 2 years after the following 31 March. 25
- (4) Subsequent review periods are each successive period of 3 years after the first review period.
- (5) A review must, in particular, assess how effective the Commissioner has been in carrying out his or her functions, and in doing so may, in particular, assess the impact of the Commissioner’s actions on –
 - (a) improving payment practices in commercial transactions;
 - (b) the awareness of small businesses of, or the use by small businesses of, alternative dispute resolution procedures. 30
- (6) As soon as practicable after a review period, the Secretary of State must –
 - (a) publish a report of the findings of the review for that period, and 35
 - (b) lay a copy of the report before Parliament.

*Power to abolish***11 Power to abolish the Commissioner**

- (1) The Secretary of State may, by regulations, abolish the office of Small Business Commissioner if, as a result of a review under section 10, the Secretary of State is satisfied that— 5
- (a) it is no longer necessary for there to be a Small Business Commissioner carrying out the functions under this Part, or
 - (b) the Commissioner’s role has not been sufficiently effective to justify the office’s continued existence.
- (2) For the purposes of subsection (1)(b), the Secretary of State must, in particular, take account of the Commissioner’s role in— 10
- (a) carrying out any of the functions under this Part,
 - (b) improving payment practices in commercial transactions, and
 - (c) improving the awareness of small businesses of alternative dispute resolution procedures. 15
- (3) For the purposes of giving effect to the abolition of the office of Small Business Commissioner, the regulations may amend or repeal this Part or any provision made by or under any other enactment (whether passed or made before or after this Act).
- (4) Regulations under this section may make incidental, supplemental, consequential, transitional or transitory provision or savings. 20
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 25

*Definitions***12 Definitions used in Part 1**

In this Part—

- “adjudication” includes arbitration;
- “the Commissioner” means the Small Business Commissioner; 30
- “the complainant” has the same meaning as in section 4;
- “legal proceedings” means civil or criminal proceedings in or before a court or tribunal;
- “public authority” means—

 - (a) a public authority within the meaning of section 3(1) of the Freedom of Information Act 2000, or
 - (b) a Scottish public authority within the meaning of section 3(1) of the Freedom of Information (Scotland) Act 2002; 35

- “SBC complaints scheme” has the meaning given by section 4(1);
- “small business” has the meaning given by section 2; 40
- “the respondent” has the same meaning as in section 4.

PART 2

REGULATORS

Business impact target

13 Extension of target to provisions made by regulators

- (1) Section 22 of the Small Business, Enterprise and Employment Act 2015 (definition of “qualifying regulatory provisions” etc) is amended as follows. 5
- (2) In subsection (6)(c) (“statutory provision” includes a provision which has effect by virtue of the exercise of a function conferred on a Minister of the Crown by an Act) –
 - (a) after “Minister of the Crown” insert “or a relevant regulator”; 10
 - (b) after “by”, in the second place, insert “or under”.
- (3) After subsection (8) insert –
 - “(9) In this section a “relevant regulator” means a body or other person specified in regulations made by the Secretary of State.
 - (10) Regulations under subsection (9) are subject to affirmative resolution procedure.” 15
- (4) Schedule 2 makes amendments consequential on subsections (1) to (3), and related amendments.
- (5) The amendments made by this section and Schedule 2 apply in relation to the whole of the relevant period in which this section comes into force. 20
- (6) The first regulations made under section 22(9) of the 2015 Act (as inserted by subsection (3)) apply in relation to the whole of the relevant period in which they come into force.
- (7) If those regulations come into force in a reporting period mentioned in any of section 23(7)(b) to (d) of the 2015 Act then, in respect of past reporting periods –
 - (a) section 24A(3) of the 2015 Act (as inserted by paragraph 4 of Schedule 2) does not apply;
 - (b) the required documents (see subsection (2) of that section) must be given to the Secretary of State no later than two weeks after the end of the reporting period in which the regulations come into force. 30
- (8) Subsequent regulations made under section 22(9) of the 2015 Act may make provision corresponding to subsections (6) and (7) in respect of the relevant period in which the regulations come into force.
- (9) In this section –
 - “relevant period” has the meaning given by section 21(7) of the 2015 Act;
 - “reporting period” has the same meaning as in section 23 of the 2015 Act (see subsection (7) of that section);
 - “the 2015 Act” means the Small Business, Enterprise and Employment Act 2015. 40

*Reporting requirements***14 Duty to report on effect of regulators’ code**

After section 23 of the Legislative and Regulatory Reform Act 2006 insert –

“23A Code of practice: performance reports and information requirements

- | | | |
|------|---|----|
| (1) | A relevant regulator must prepare and publish a performance report in respect of each reporting period. | 5 |
| (2) | A performance report is a report about the effect of performance of the duties in section 22 (duties to have regard to code of practice) on the way the relevant regulator exercised its relevant functions. | |
| (3) | A relevant regulator is a person with regulatory functions to which section 22 applies, other than a local authority. | 10 |
| (4) | A performance report must include – | |
| | (a) the relevant regulator’s assessment – | |
| | (i) of the views of persons carrying on businesses about the effect mentioned in subsection (2), and | 15 |
| | (ii) of the impact on such persons of that effect; | |
| | (b) a description of the effect the relevant regulator expects performance of the duties in section 22 to have on the way it exercises its relevant functions in future. | |
| (5) | In preparing and publishing a performance report a relevant regulator must follow any guidance given from time to time by a Minister of the Crown, unless the regulator considers that there is a good reason not to do so. | 20 |
| (6) | Guidance under subsection (5) may, in particular, include guidance as to – | 25 |
| | (a) information or other matters to be included in a performance report; | |
| | (b) information to be obtained for the purposes of a performance report; | |
| | (c) the means by which information should be obtained for the purposes of a performance report. | 30 |
| (7) | A performance report must be published no later than three months after the end of the reporting period concerned. | |
| (8) | A reporting period is a period of 12 months, except as provided by subsection (13)(b). | 35 |
| (9) | A new reporting period begins immediately after the end of each reporting period. | |
| (10) | A relevant regulator must give to a Minister of the Crown any information that the Minister may from time to time request which relates to – | 40 |
| | (a) the effect of performance of the duties in section 22 on the way the relevant regulator performs, has performed, or is expected to perform, its relevant functions, | |

-
- (b) the views of persons carrying on businesses about the effect mentioned in paragraph (a) or the impact on such persons of that effect, or
- (c) any aspect of a performance report in relation to which it appears to the Minister that guidance under subsection (5) has not been followed. 5
- (11) This section is subject to any express restriction on disclosure imposed by another enactment (ignoring any restriction which allows disclosure if authorised by an enactment).
- (12) In this section – 10
- “local authority” means –
- (a) a county or district council in England;
- (b) a London borough council;
- (c) the Common Council of the City of London;
- (d) the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple; 15
- (e) the Council of the Isles of Scilly;
- (f) a port health authority in England;
- (g) an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities for Greater London and metropolitan counties); 20
- (h) a county or county borough council in Wales;
- (i) a fire and rescue authority in Wales;
- (j) a port health authority in Wales;
- (k) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994; 25
- (l) a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972;
- “relevant functions” means functions in the exercise of which a relevant regulator is required by section 22 to have regard to the code of practice under subsection (1) of that section. 30
- (13) A relevant regulator’s first reporting period –
- (a) begins –
- (i) on the day on which section 14 of the Enterprise Act 2016 comes into force, or 35
- (ii) in the case of a person that becomes a relevant regulator after that day, on the day on which the person becomes a relevant regulator;
- (b) is of a length determined by the relevant regulator, but is not to exceed 12 months.” 40

15 Duty to report on effect of economic growth duty

- (1) After section 110 of the Deregulation Act 2015 insert –

“110A Duty under section 108: performance reports and information requirements

- | | | |
|-----|--|----|
| (1) | A person with regulatory functions to which section 108 applies (a “regulator”) must prepare and publish a performance report in respect of each reporting period. | 5 |
| (2) | A performance report is a report about the effect of performance of the duty under section 108(1) on the way the regulator exercised its functions to which that section applies (its “relevant functions”). | 10 |
| (3) | A performance report must include – | |
| | (a) the regulator’s assessment – | |
| | (i) of the views of persons carrying on businesses about the effect mentioned in subsection (2), and | |
| | (ii) of the impact on such persons of that effect; | 15 |
| | (b) a description of the effect the regulator expects performance of the duty under section 108(1) to have on the way it exercises its relevant functions in future. | |
| (4) | In preparing and publishing a performance report a regulator must follow any guidance given from time to time by a Minister of the Crown, unless the regulator considers that there is a good reason not to do so. | 20 |
| (5) | Guidance under subsection (4) may, in particular, include guidance as to – | |
| | (a) information or other matters to be included in a performance report; | 25 |
| | (b) information to be obtained for the purposes of a performance report; | |
| | (c) the means by which information should be obtained for the purposes of a performance report. | 30 |
| (6) | A performance report must be published no later than three months after the end of the reporting period concerned. | |
| (7) | A reporting period is a period of 12 months, except as provided by subsection (12)(b). | |
| (8) | A new reporting period begins immediately after the end of each reporting period. | 35 |
| (9) | A regulator must give to a Minister of the Crown any information that the Minister may from time to time request which relates to – | |
| | (a) the effect of performance of the duty under section 108(1) on the way the regulator performs, has performed, or is expected to perform, its relevant functions, | 40 |
| | (b) the views of persons carrying on businesses about the effect mentioned in paragraph (a) or the impact on such persons of that effect, or | |

- (c) any aspect of a performance report in relation to which it appears to the Minister that guidance under subsection (4) has not been followed.
- (10) A regulator is not required by this section to include in a performance report, or to give to a Minister of the Crown, information about the exercise of functions in relation to a particular person. 5
- (11) This section is subject to any express restriction on disclosure imposed by another enactment (ignoring any restriction which allows disclosure if authorised by an enactment).
- (12) A regulator’s first reporting period – 10
- (a) begins –
- (i) on the day on which section 15 of the Enterprise Act 2016 comes into force, or
- (ii) in the case of a person that becomes a regulator (see subsection (1)) after that day, on the day on which the person becomes a regulator; 15
- (b) is of a length determined by the regulator, but is not to exceed 12 months.”
- (2) In section 111 of that Act (interpretation of sections 108 to 110) –
- (a) in the heading and subsection (1) for “110” substitute “110A”, and 20
- (b) in subsection (4) for “and 110” substitute “to 110A”.

Application of regulators’ principles and code

16 Removal of restrictions

Omit subsection (5) of section 24 of the Legislative and Regulatory Reform Act 2006 (which prevents the regulators’ principles and code from being applied to regulatory functions of the Gas and Electricity Markets Authority, the Office of Communications, the Office of Rail Regulation or the Water Services Regulation Authority). 25

PART 3

EXTENSION OF THE PRIMARY AUTHORITY SCHEME 30

17 Extending the primary authority scheme under RESA 2008

- (1) For Part 2 of the Regulatory Enforcement and Sanctions Act 2008 (co-ordination of regulatory enforcement) substitute –

“PART 2

REGULATORY ENFORCEMENT 35

Introductory

22A “Regulated person” and “regulated group”

- (1) A person is a “regulated person” for the purposes of this Part if the Secretary of State is satisfied that –

-
- (a) the person carries on, or proposes to carry on, an activity, and
- (b) a qualifying regulator has a relevant function which is, or would be, exercisable in relation to the person in respect of the activity.
- (2) A group of persons is a “regulated group” for the purposes of this Part if the Secretary of State is satisfied that – 5
- (a) a member of the group carries on, or proposes to carry on, an activity, and
- (b) a qualifying regulator has a relevant function which is, or would be, exercisable in relation to the member in respect of the activity. 10
- 22B “Qualifying regulator”**
- (1) In this Part, “qualifying regulator” means –
- (a) a local authority, or
- (b) a specified regulator. 15
- (2) In this Part, “local authority” means a local authority in England, Wales, Scotland or Northern Ireland.
- (3) In this Part –
- (a) references to a local authority in England or Wales have the same meaning as in Part 1; 20
- (b) references to a local authority in Scotland are to a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;
- (c) references to a local authority in Northern Ireland are to a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972. 25
- (4) In this Part, “specified regulator” means a person (other than a local authority) who –
- (a) has regulatory functions, and
- (b) is specified for the purposes of this Part by regulations made by the Secretary of State. 30
- (5) Regulations under subsection (4)(b) require the consent of the Welsh Ministers to specify a regulator whose functions relate only to Welsh ministerial matters.
- 22C “Relevant function”** 35
- (1) In this Part, “relevant function” –
- (a) in relation to a local authority in England or Wales, has the same meaning as in Part 1;
- (b) in relation to a local authority in Scotland, means a regulatory function exercised by that authority and specified for the purposes of this Part by regulations made by the Secretary of State; 40
- (c) in relation to a local authority in Northern Ireland, means a regulatory function exercised by that authority and specified for the purposes of this Part by regulations made by the Secretary of State; 45

- (d) in relation to a specified regulator, means a regulatory function exercised by that regulator and specified for the purposes of this Part by regulations made by the Secretary of State.
- (2) Regulations under subsection (1)(b) or (c) may only specify a regulatory function – 5
- (a) which is a relevant function for the purposes of Part 1 in relation to local authorities in England or Wales or both, or
- (b) which, for the purposes of local authorities in Scotland or Northern Ireland, is equivalent to such a function.
- (3) Regulations under subsection (1)(d) may only specify a regulatory function – 10
- (a) which is a relevant function for the purposes of Part 1 in relation to local authorities in England or Wales or both, or
- (b) which, for the purposes of the specified regulator, is equivalent to such a function. 15
- (4) Regulations under subsection (1)(b) or (d) may not specify a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters.
- (5) Regulations under subsection (1)(c) or (d) may not specify a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters. 20
- (6) Regulations under subsection (1)(d) require the consent of the Welsh Ministers to specify a regulatory function, so far as exercisable in Wales, which relates to a Welsh ministerial matter.
- (7) Regulations under subsection (1)(d) may make different provision for – 25
- (a) different purposes;
- (b) different areas.

Primary authorities

- 23A Primary authorities for regulated persons and regulated groups** 30
- (1) For the purposes of this Part, the Secretary of State –
- (a) may nominate, in relation to a regulated person, a qualifying regulator to be the “primary authority” for the exercise of the partnership functions in relation to that person;
- (b) may nominate, in relation to a regulated group, a qualifying regulator to be the “primary authority” for the exercise of the partnership functions in relation to the members of the group. 35
- (2) The “partnership functions” are the functions specified by the nomination under subsection (1) as covered by it.
- (3) A function may be so specified only if condition A or B is met. 40
- (4) Condition A is that the function –
- (a) is a relevant function of the primary authority, and
- (b) is, or (in the case of an activity proposed to be carried on) would be, exercisable by the primary authority in relation to the regulated person or a member of the regulated group. 45

- (5) Condition B is that the function –
- (a) is a relevant function of a qualifying regulator other than the primary authority,
 - (b) is, or (in the case of an activity proposed to be carried on) would be, exercisable by that other regulator in relation to the regulated person or a member of the regulated group, and
 - (c) is equivalent to a relevant function of the primary authority.
- (6) The Secretary of State may from time to time revise the specification of partnership functions included in a nomination under subsection (1) if –
- (a) the requirements of subsections (3) to (5) are met in relation to the revised specification,
 - (b) in the case of a nomination under subsection (1)(a), the primary authority and the regulated person have agreed in writing to the revision, and
 - (c) in the case of a nomination under subsection (1)(b), the primary authority and the co-ordinator of the regulated group have agreed in writing to the revision.
- (7) This Part applies to a revised specification of partnership functions as it applies to a specification of partnership functions under subsection (1); and references in this Part to the partnership functions include partnership functions in the revised specification.

23B Nomination of primary authorities

- (1) The Secretary of State may only nominate a qualifying regulator as a primary authority under section 23A(1)(a) (a “direct primary authority”) if the regulator and the regulated person have agreed in writing to the nomination.
- (2) The Secretary of State may only nominate a qualifying regulator as a primary authority under section 23A(1)(b) (a “co-ordinated primary authority”) if –
- (a) there is a co-ordinator of the regulated group, and
 - (b) the regulator and the co-ordinator have agreed in writing to the nomination.
- (3) The Secretary of State may at any time revoke a nomination under section 23A(1).
- (4) The Secretary of State must –
- (a) maintain, or cause to be maintained, a register of nominations under section 23A(1), and
 - (b) make the register available for inspection free of charge.

23C “Co-ordinator” of a regulated group

- (1) For the purposes of this Part, there is a “co-ordinator” of a regulated group if there is a person nominated by the Secretary of State to be the co-ordinator of the group.
- (2) The Secretary of State may only nominate a person under subsection (1) if the person has agreed in writing to the nomination.

- (3) The Secretary of State may at any time revoke a nomination under subsection (1).
- (4) If at any time the co-ordinator of a regulated group is unable to act, the Secretary of State may nominate another person to exercise the functions of the co-ordinator of the group under this Part. 5
- (5) Subsections (2) and (3) apply to a nomination under subsection (4) as they apply to a nomination under subsection (1).
- (6) The Secretary of State must secure that the register of nominations maintained and made available under section 23B(4) includes, in relation to each co-ordinated primary authority, the name of – 10
 - (a) the co-ordinator of the regulated group concerned, and
 - (b) any person nominated under subsection (4) to exercise the co-ordinator’s functions.

23D Membership of a regulated group

- (1) This section applies where a qualifying regulator is nominated as a co-ordinated primary authority. 15
- (2) The co-ordinator of the regulated group concerned must –
 - (a) maintain, or cause to be maintained, a list of members of the group, and
 - (b) secure, as far as is reasonably practicable, that the list is accurate and kept up-to-date. 20
- (3) The list must include in relation to each member –
 - (a) the member’s name and address,
 - (b) when the person became a member, and
 - (c) if applicable, when the person ceased to be a member. 25
- (4) The co-ordinator of the regulated group must make a copy of the list available free of charge, on request, to –
 - (a) the Secretary of State,
 - (b) the primary authority, and
 - (c) a qualifying regulator who has a function which is both a relevant function of the regulator and a partnership function. 30
- (5) The copy must be made available as soon as is reasonably practicable and in any event not later than the end of the third working day after the day on which the request is received by the co-ordinator.
- (6) For the purposes of this Part, the list is conclusive as to whether a person is a member of the group at a particular time. 35

23E Application of sections 24A to 28B

- (1) The following provisions apply in each case where a qualifying regulator has been nominated under section 23A(1) as a primary authority – 40
 - (a) section 24A (primary authority advice and guidance);
 - (b) sections 25A to 25D and Schedule 4A (enforcement action);
 - (c) sections 26A to 26C (inspection plans);
 - (d) section 27A (power for primary authority to recover costs);
 - (e) section 28A (support of primary authority by other regulators); 45

- (f) section 28B (other regulators to act consistently with primary authority advice etc).
- (2) References in those provisions to “the primary authority”, “a partnership function” and other terms defined in or for the purposes of this Part are to be read accordingly. 5
- (3) But see sections 29A to 29D in relation to cases where more than one qualifying regulator has been nominated as the primary authority for the exercise of the same function in relation to the same person.

Advice and guidance

24A Primary authority advice and guidance 10

- (1) The primary authority, if it is a direct primary authority, has the function of—
 - (a) giving advice and guidance to the regulated person in relation to each partnership function;
 - (b) giving advice and guidance, in relation to each partnership function, to other qualifying regulators as to how they should exercise it in relation to the regulated person. 15
- (2) The primary authority, if it is a co-ordinated primary authority, has the function of—
 - (a) giving advice and guidance to the co-ordinator of the regulated group in relation to each partnership function; 20
 - (b) giving advice and guidance, in relation to each partnership function, to other qualifying regulators as to how they should exercise it in relation to a member of the group.
- (3) The primary authority may make arrangements with the regulated person or the co-ordinator of the regulated group as to how the authority will discharge its functions under subsection (1) or (2). 25
- (4) In the case of a co-ordinated primary authority, the co-ordinator of the regulated group must notify any advice or guidance given to the co-ordinator under subsection (2)(a) to those members of the group to whom the co-ordinator considers it may be relevant. 30
- (5) Advice or guidance may be given under subsection (1)(b) or (2)(b) only with the consent of the Secretary of State.
- (6) Subsections (1)(b) and (2)(b) do not require advice and guidance to be given to a qualifying regulator in relation to a partnership function if it is not a relevant function of that regulator. 35

Enforcement action

25A “Enforcement action”

- (1) In this Part, “enforcement action” means—
 - (a) action which relates to securing compliance with a restriction, requirement or condition in the event of breach (or putative breach) of a restriction, requirement or condition; 40

- (b) action taken with a view to or in connection with the imposition of a sanction (criminal or otherwise) in respect of an act or omission;
 - (c) action taken in connection with the pursuit of a remedy conferred by an enactment in respect of an act or omission. 5
 - (2) But the Secretary of State may by regulations, with the consent of the Welsh Ministers, specify –
 - (a) action which is to be regarded as enforcement action for the purposes of this Part or any provision of this Part specified in the regulations; 10
 - (b) action which is not to be regarded as enforcement action for the purposes of this Part or any provision of this Part specified in the regulations.
 - (3) Regulations under subsection (2) may make different provision for different purposes. 15
- 25B Enforcement action by primary authority**
 - (1) This section applies if –
 - (a) the primary authority proposes to take enforcement action against the regulated person or a member of the regulated group pursuant to a relevant function of the primary authority which is a partnership function, and 20
 - (b) in the case of proposed enforcement action against a member of the regulated group, the primary authority is aware that the member belongs to the group.
 - But see section 25D (which imposes a duty to prescribe circumstances in which this section does not apply). 25
 - (2) The primary authority –
 - (a) must notify the regulated person or the member in writing before taking the proposed enforcement action, and
 - (b) may not take the action during the referral period mentioned in paragraph 5(2) of Schedule 4A (period in which the regulated person or the member may refer the action to the Secretary of State) unless notified in writing by the regulated person or the member that no such reference is to be made. 30
 - (3) Parts 1 and 3 of Schedule 4A contain provision for questions arising under this section to be referred to the Secretary of State. 35
 - (4) Where another enactment limits the period within which the primary authority may take the proposed enforcement action, any time during which it is prohibited under this section or paragraph 5(7) of Schedule 4A from taking the action is to be disregarded in calculating that period. 40
- 25C Enforcement action other than by primary authority**
 - (1) This section applies if –
 - (a) a qualifying regulator other than the primary authority proposes to take enforcement action against the regulated person or a member of the regulated group pursuant to a relevant function of the regulator which is a partnership function, and 45

- (b) in the case of proposed enforcement action against a member of the regulated group, the regulator is aware that the member belongs to the group.
But see section 25D (which imposes a duty to prescribe circumstances in which this section does not apply). 5
- (2) The qualifying regulator (the “enforcing authority”) –
- (a) must notify the primary authority in writing before taking the proposed enforcement action, and
- (b) may not take the action during the relevant period.
- (3) If – 10
- (a) the enforcing authority fails to notify the primary authority under subsection (2)(a) of the proposed enforcement action, but
- (b) the primary authority is notified of it by the regulated person or the member or the co-ordinator of the regulated group,
the primary authority must notify the enforcing authority in writing that the enforcing authority is prohibited by subsection (2)(b) from taking the action during the relevant period. 15
- (4) If the primary authority determines, within the relevant period, that the proposed enforcement action is inconsistent with advice or guidance previously given by it (generally or specifically), it may direct the enforcing authority in writing not to take the action. 20
- (5) Any such direction must be given as soon as is reasonably practicable, and in any event within the relevant period.
- (6) If the enforcing authority is not directed under subsection (4) not to take the proposed enforcement action, and continues to propose to take the action – 25
- (a) it must inform the regulated person or the member, and
- (b) it may not take the action during the referral period mentioned in paragraph 5(4) of Schedule 4A (period in which the regulated person or the member may refer the action to the Secretary of State) unless notified in writing by the regulated person or the member that no such reference is to be made. 30
- (7) Parts 2 and 3 of Schedule 4A contain provision for questions arising under this section to be referred to the Secretary of State.
- (8) Where another enactment limits the period within which the enforcing authority may take the proposed enforcement action, any time during which it is prohibited under this section or paragraph 5(7) of Schedule 4A from taking the action is to be disregarded in calculating the period. 35
- (9) For the purposes of this section, the “relevant period” means the period which – 40
- (a) begins when the primary authority is notified under subsection (2)(a) of the proposed enforcement action or the enforcing authority is notified under subsection (3) that it is prohibited from taking the action during the relevant period, and
- (b) ends – 45
- (i) at the end of the fifth working day after the day on which the period begins, or at such later time as the Secretary of State may direct, or

- (ii) if earlier, when the enforcing authority is notified in writing by the primary authority that no direction is to be given under subsection (4) (unless the notification states that the primary authority has referred the action to the Secretary of State under paragraph 4(1) of Schedule 4A or that it intends to do so). 5

25D Enforcement action: exceptions

- (1) The Secretary of State must by regulations, with the consent of the Welsh Ministers, prescribe – 10
 - (a) circumstances in which section 25B, and Schedule 4A so far as relating to cases within section 25B, do not apply, and
 - (b) circumstances in which section 25C, and Schedule 4A so far as relating to cases within section 25C, do not apply.
- (2) In particular, the Secretary of State must exercise the power under subsection (1) to secure that those provisions do not apply – 15
 - (a) where the enforcement action is required urgently to avoid a significant risk of serious harm to –
 - (i) human health,
 - (ii) the environment (including the health of animals or plants), or 20
 - (iii) the financial interests of consumers;
 - (b) where the application of those provisions would be wholly disproportionate.
- (3) Where a qualifying regulator other than the primary authority takes enforcement action against the regulated person or a member of the regulated group in circumstances prescribed under subsection (1)(b), the qualifying regulator must inform the primary authority of the enforcement action as soon as it reasonably can. 25

Inspection plans

- #### **26A Inspection plans** 30
- (1) Where a partnership function consists of or includes a function of inspection (an “inspection function”), the primary authority may make an inspection plan in accordance with this section.
 - (2) An “inspection plan” is a plan containing recommendations as to how the inspection function should be exercised by an inspecting regulator in relation to the regulated person or a member of the regulated group. 35
 - (3) A person is an “inspecting regulator” if –
 - (a) the person is a qualifying regulator, and
 - (b) the inspection function is a relevant function of the person.
 - (4) An inspection plan may, in particular – 40
 - (a) set out what an inspection should consist of;
 - (b) set out the frequency with which inspections should be carried out;
 - (c) set out the circumstances in which they should be carried out;

- (d) require the inspecting regulator to provide the primary authority with a report on the inspecting regulator’s exercise of the inspection function.
- (5) Before making an inspection plan the primary authority must consult the regulated person or the co-ordinator of the regulated group. 5
- (6) When making an inspection plan the primary authority must take into account any relevant recommendations relating to inspections which are published pursuant to a regulatory function by a person other than an inspecting regulator.
- (7) When it has made an inspection plan, the primary authority may apply to the Secretary of State for consent to the plan. 10
- (8) If the Secretary of State consents to a plan under subsection (7), the primary authority must notify the plan to –
- (a) the regulated person or the co-ordinator of the regulated group, and
- (b) other inspecting regulators. 15
- (9) If, in the case of a regulated group, an inspection plan is notified to the co-ordinator under subsection (8)(a), the co-ordinator must –
- (a) notify the plan to those members of the group to whom the co-ordinator considers it may be relevant, 20
- (b) prepare a list of the names and addresses of those members,
- (c) secure, as far as is reasonably practicable, that the list is accurate and kept up-to-date,
- (d) provide the primary authority with the list, including any updates to it, and 25
- (e) notify any member whose name is included in the list or removed from it of the inclusion or removal.
- (10) If a list or update is provided to the primary authority under subsection (9)(d), the primary authority must notify the list or update to other inspecting regulators. 30

26B Effect of inspection plans

- (1) If the Secretary of State consents under section 26A(7) to an inspection plan in respect of an inspection function, the primary authority must have regard to the plan when it exercises the inspection function in relation to –
- (a) the regulated person, or
- (b) a member of the regulated group whose name is included in the list provided to the primary authority (and, where applicable, updated) under section 26A(9)(d). 35
- (2) If an inspection plan of the primary authority is notified to an inspecting regulator under section 26A(8)(b), the inspecting regulator may not exercise the inspection function in relation to the regulated person or a member of the regulated group otherwise than in accordance with the plan, unless –
- (a) the inspecting regulator has notified the primary authority in writing of the way in which it proposes to exercise the function, and the primary authority has notified the regulator in writing 45

- that the primary authority consents to that proposed exercise,
or
- (b) in the case of a regulated group, the member’s name is not included in the list notified to the inspecting regulator (and, where applicable, updated) under section 26A(10). 5
- (3) A notification by an inspecting regulator under subsection (2)(a) must include reasons for exercising the function otherwise than in accordance with the plan.
- (4) A primary authority is to be treated as having given the notification of consent described in subsection (2)(a) if – 10
- (a) it is notified by the inspecting regulator as described in that subsection, and
- (b) it fails to notify the inspecting regulator in writing, before the end of the fifth working day after the day on which it received the notification, whether it consents as described in that subsection. 15

26C Revocation and revision of inspection plans

- (1) A primary authority may, with the consent of the Secretary of State, revoke an inspection plan made by it under section 26A.
- (2) If a primary authority revokes an inspection plan, it must notify the following that the plan is no longer in effect – 20
- (a) the regulated person or the co-ordinator of the regulated group;
- (b) other inspecting regulators.
- (3) Where the revocation of an inspection plan is notified to the co-ordinator of a regulated group under subsection (2)(a), the co-ordinator must notify the revocation to those members of the group to whom the co-ordinator considers it may be relevant. 25
- (4) A primary authority may from time to time revise an inspection plan made by it under section 26A.
- (5) Sections 26A and 26B and this section apply to a revised plan as they apply to a plan made under section 26A; and references in this Part to an inspection plan include the revised plan. 30

Primary authority’s costs

27A Power to charge

- (1) The primary authority – 35
- (a) may, in the case of a regulated person, charge the person such fees as the authority considers to represent the costs reasonably incurred by it in the exercise of its functions under this Part in relation to the person;
- (b) may, in the case of a regulated group, charge the co-ordinator such fees as the authority considers to represent the costs reasonably incurred by it in the exercise of its functions under this Part in relation to the regulated group. 40

- (2) The reference in subsection (1)(b) to functions in relation to the regulated group includes functions in relation to the co-ordinator or a member of the group.

Other regulators

- 28A Support of primary authority by other regulators** 5
- (1) This section applies to a person who has regulatory functions and who—
- (a) is specified as a “supporting regulator” by the Secretary of State by regulations, and
 - (b) has a function which is not a relevant function of the person but which—
 - (i) is a designated function of the person, and
 - (ii) is, or is relevant to the exercise of, a partnership function. 10
- (2) The supporting regulator may do anything which it considers appropriate for the purpose of supporting the primary authority in the preparation of—
- (a) advice or guidance under section 24A in relation to the partnership function, or
 - (b) an inspection plan in relation to the partnership function. 15 20
- (3) If the supporting regulator provides support under subsection (2), it must, in the exercise of the designated function in relation to the regulated person or a member of the regulated group, act consistently with any advice or guidance under section 24A, or any inspection plan—
- (a) which is subsequently given or made in relation to the partnership function, and
 - (b) to which the supporting regulator has consented. 25
- (4) But, in the case of a regulated group, the duty under subsection (3) applies to the exercise of the designated function in relation to a member of the group only if the supporting regulator is aware that the member belongs to the group. 30
- (5) The duty under subsection (3) is a duty to act consistently so far as it is possible for the supporting regulator to do so in accordance with its other functions. 35
- (6) If—
- (a) the supporting regulator provides support under subsection (2), and
 - (b) the regulated person or the co-ordinator of the regulated group has agreed in writing to the provision of that support, 40
- the supporting regulator may charge the regulated person or the co-ordinator such fees as it considers to represent the costs reasonably incurred by it in providing that support.
- (7) In the case of a regulated group, the co-ordinator of the group must make the following available free of charge, on request, to the supporting regulator— 45

- (a) a copy of the group membership list maintained under section 23D(2);
 - (b) a copy of a list under section 26A(9) of group members to whom an inspection plan may be relevant.
- (8) The copy must be made available as soon as is reasonably practicable and in any event not later than the end of the third working day after the day on which the request is received by the co-ordinator. 5
- (9) Regulations under subsection (1)(a) require the consent of the Welsh Ministers to specify a person whose functions relate only to Welsh ministerial matters. 10
- (10) In this section, “designated function”, in relation to a supporting regulator, means a regulatory function exercised by that regulator and specified by the Secretary of State by regulations.
- (11) Regulations under subsection (10) –
 - (a) may not specify a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters; 15
 - (b) may not specify a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters; 20
 - (c) require the consent of the Welsh Ministers to specify a regulatory function, so far as exercisable in Wales, which relates to a Welsh ministerial matter.
- (12) Regulations under subsection (10) may make different provision for –
 - (a) different purposes; 25
 - (b) different areas.
- (13) A supporting regulator who, apart from subsection (2), has power to provide the support described in that subsection, is not prevented by that power from exercising the power conferred by subsection (2).
- 28B Other regulators to act consistently with primary authority advice etc 30**
 - (1) This section applies to a person who has regulatory functions and who –
 - (a) is specified as a “complementary regulator” by the Secretary of State by regulations, and
 - (b) has a function which is not a relevant function of the person, but which – 35
 - (i) is a designated function of the person,
 - (ii) is, or is equivalent to, a partnership function, and
 - (iii) is exercisable by the person in relation to the regulated person or a member of the regulated group. 40
 - (2) The complementary regulator must act consistently with primary authority advice and guidance in the exercise of the designated function in relation to the regulated person or a member of the regulated group.
 - (3) But, in the case of a regulated group, the duty under subsection (2) applies to the exercise of the designated function in relation to a 45

- member of the group only if the complementary regulator is aware that the member belongs to the group.
- (4) The duty under subsection (2) is a duty to act consistently so far as it is possible for the complementary regulator to do so in accordance with its other functions. 5
- (5) In subsection (2), “primary authority advice and guidance” means—
- (a) advice and guidance given by the primary authority under section 24A to the regulated person or the co-ordinator of the regulated group in relation to the partnership function,
 - (b) advice and guidance given by the primary authority under that section to qualifying regulators as to how they should exercise the partnership function in relation to the regulated person or a member of the regulated group, and 10
 - (c) an inspection plan made by the primary authority in respect of the exercise of the partnership function in relation to the regulated person or a member of the regulated group. 15
- (6) In the case of a regulated group, the co-ordinator of the group must make the following available free of charge, on request, to the complementary regulator—
- (a) a copy of the group membership list maintained under section 23D(2); 20
 - (b) a copy of a list under section 26A(9) of group members to whom an inspection plan may be relevant.
- (7) The copy must be made available as soon as is reasonably practicable and in any event not later than the end of the third working day after the day on which the request is received by the co-ordinator. 25
- (8) Regulations under subsection (1)(a) require the consent of the Welsh Ministers to specify a regulator whose functions relate only to Welsh ministerial matters.
- (9) In this section, “designated function”, in relation to a complementary regulator, means a regulatory function exercised by that regulator and specified for the purposes of this section by the Secretary of State by regulations. 30
- (10) Regulations under subsection (9) specifying a function other than a partnership function must identify the partnership function to which the designated function is equivalent. 35
- (11) Regulations under subsection (9)—
- (a) may not specify a regulatory function so far as exercisable in Scotland, if or to the extent that the function relates to matters which are not reserved matters; 40
 - (b) may not specify a regulatory function so far as exercisable in Northern Ireland, if or to the extent that the function relates to matters which are transferred matters;
 - (c) require the consent of the Welsh Ministers to specify a regulatory function, so far as exercisable in Wales, which relates to a Welsh ministerial matter. 45
- (12) Regulations under subsection (9) may make different provision for—
- (a) different purposes;

- (b) different areas.

Cases with more than one primary authority

29A Primary authority enforcement action inconsistent with another authority’s advice etc

- (1) This section applies if – 5
 - (a) a qualifying regulator nominated as the primary authority for the exercise of a function in relation to a person notifies the person, under section 25B(2)(a), of enforcement action that it proposes to take against the person pursuant to the function, and 10
 - (b) within the referral period, the person notifies the primary authority that the person considers the action to be inconsistent with advice or guidance previously given (generally or specifically) by another qualifying regulator nominated as the primary authority for the exercise of the function in relation to the person. 15
- (2) Section 25C (but not section 29C) applies in relation to the proposed enforcement action as if the primary authority which gave the notification under section 25B(2)(a) were an enforcing authority under section 25C; and section 25B no longer applies in relation to the action. 20
- (3) “Referral period” in this section means the referral period mentioned in paragraph 5(2) of Schedule 4A (period in which the regulated person or the member may refer the proposed enforcement action to the Secretary of State).

29B Concurrent duties to notify primary authorities of enforcement action 25

- (1) This section applies if –
 - (a) a qualifying regulator is nominated as a co-ordinated primary authority for the exercise of a function in relation to a person,
 - (b) an enforcing authority proposes to take enforcement action against the person pursuant to the function, and 30
 - (c) because of the nomination mentioned in paragraph (a), the enforcing authority is (ignoring this section) required under section 25C(2)(a) to notify the co-ordinated primary authority of the proposed enforcement action.
- (2) That requirement to notify the co-ordinated primary authority does not apply if condition A or B is met. 35
- (3) Condition A is that under section 25C(2)(a) the enforcing authority is required to notify another qualifying regulator of the proposed enforcement action because of that other qualifying regulator’s nomination as a direct primary authority for the exercise of the function in relation to the person. 40
- (4) Condition B is that –
 - (a) condition A is not met,
 - (b) the enforcing authority is (ignoring this section) required under section 25C(2)(a) to notify at least one other qualifying regulator of the proposed enforcement action because of that other 45

- regulator’s nomination as a co-ordinated primary authority for the exercise of the function in relation to the person, and
- (c) the enforcing authority has so notified that other regulator or (if there is more than one) it has so notified at least one of them.
- 29C Enforcement action notified to a primary authority inconsistent with another authority’s advice etc** 5
- (1) This section applies if—
- (a) a qualifying regulator is nominated as the primary authority for the exercise of a function in relation to a person,
- (b) that primary authority (“PA1”) is notified under section 25C(2)(a) of enforcement action that an enforcing authority proposes to take against the person pursuant to the function, and 10
- (c) PA1 decides not to give a direction under section 25C(4) directing the enforcing authority not to take the enforcement action, and does not refer the action to the Secretary of State under paragraph 4(1) of Schedule 4A. 15
- (2) PA1 must, within the relevant period, take reasonable steps to find out if the person—
- (a) has received advice or guidance given (generally or specifically) by another qualifying regulator nominated as the primary authority for the exercise of the function in relation to the person (“PA2”), and 20
- (b) considers that the proposed enforcement action is inconsistent with that advice or guidance. 25
- (3) If PA1 is of the view that the requirements of subsection (2)(a) and (b) are met it must, within the relevant period—
- (a) refer the proposed enforcement action to PA2, and
- (b) notify the enforcing authority and the person that it has done so.
- (4) If subsection (3) applies, section 25C(3) to (9) (but not this section) applies as if— 30
- (a) PA1 were a qualifying regulator other than the primary authority, and
- (b) the reference of the proposed enforcement action by PA1 to PA2 under subsection (3)(a) were a notification given by the enforcing authority to PA2 under section 25C(2)(a). 35
- (5) “Relevant period” in this section has the same meaning as in section 25C (see subsection (9) of that section).
- 29D Overlapping inspection plans**
- (1) This section applies if, for a primary authority or another inspecting regulator, there is more than one relevant inspection plan in respect of the exercise of the same inspection function in relation to the same person. 40
- (2) An inspection plan is “relevant” in relation to an inspecting regulator if— 45
- (a) it is a plan made by it (as a primary authority) to which the Secretary of State has consented under section 26A(7), or

- (b) it is a plan notified to it (as a relevant qualifying regulator) under section 26A(8)(b).
- (3) If—
 - (a) the inspecting regulator is a direct primary authority for the exercise of the inspection function in relation to the person, and 5
 - (b) there is a relevant inspection plan made by the regulator in relation to the exercise of the function in relation to the person, section 26B(2) (duty of inspecting regulator to act in accordance with plans notified by the primary authority) does not apply in relation to the inspecting regulator by reason of it being notified of any other relevant inspection plan under section 26A(8)(b) in relation to the exercise of the function in relation to the person. 10
- (4) Subsection (5) applies if—
 - (a) the inspecting regulator is a co-ordinated primary authority for the exercise of the inspection function in relation to the person, and 15
 - (b) there is a relevant inspection plan which is made by a direct primary authority for the exercise of the function in relation to the person and notified to the inspecting regulator under section 26A(8)(b). 20
- (5) Where this subsection applies—
 - (a) subsection (1) of section 26B (duty of primary authority to have regard to its own inspection plan) does not apply to the inspecting regulator (as primary authority) in relation to any relevant inspection plan made by it in respect of the exercise of the function in relation to the person; 25
 - (b) in the application of subsection (2) of that section to the exercise of the function in relation to the person by the inspecting regulator, the reference to the inspection plan in that subsection is to the plan mentioned in subsection (4)(b) only. 30
- (6) If—
 - (a) the inspecting regulator is a co-ordinated primary authority for the exercise of the inspection function in relation to the person,
 - (b) there is a relevant inspection plan made by the regulator in respect of the exercise of the function in relation to the person, and 35
 - (c) subsection (5) does not apply, subsection (2) of section 26B does not apply in relation to the exercise of the function by the inspecting regulator in relation to the person.
- (7) If none of subsections (3) to (6) apply, but more than one relevant inspection plan is notified to the inspecting regulator under section 26A(8)(b) in relation to the exercise of the inspection function in relation to the person, in section 26B(2) the reference to the plan is to be read— 40
 - (a) if one of those plans is made by a direct primary authority for the exercise of the function in relation to the person, as a reference to that plan, and 45
 - (b) otherwise, as a reference to any one of the plans notified to the regulator.

*General***30A Guidance and directions**

- (1) The Secretary of State may give guidance to any one or more qualifying regulators, supporting regulators, complementary regulators or co-ordinators about the operation of this Part. 5
- (2) The guidance may include, in particular, guidance to qualifying regulators about –
- (a) arrangements under section 24A(3) for the giving of advice or guidance by primary authorities;
 - (b) enforcement action referred to the Secretary of State under paragraph 1(1), 2(1), 3(1) or 4(1) of Schedule 4A; 10
 - (c) the notification of inspection plans under section 26A(8);
 - (d) the charging of fees under section 27A.
- (3) The guidance may include, in particular, guidance to supporting regulators about – 15
- (a) the circumstances in which a function is relevant to the exercise of a partnership function for the purposes of section 28A;
 - (b) the charging of fees under section 28A(6).
- (4) A qualifying regulator, supporting regulator, complementary regulator or co-ordinator must have regard to any guidance given to it under this section. 20
- (5) Before giving guidance under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (6) The Secretary of State may not give guidance under subsection (2)(d) or (3) without consulting the Welsh Ministers. 25
- (7) The Secretary of State may at any time vary or revoke guidance given under this section.
- (8) The Secretary of State must publish guidance given under this section and any variation or revocation of the guidance.
- (9) A qualifying regulator must comply with a direction given to it under this Part. 30

30B Periods of time under Part 2

The Secretary of State may by regulations amend any provision of this Part which specifies a period within which, or a time before which, anything must, must not or may be done. 35

30C Regulations under Part 2

- (1) Regulations under this Part must be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 22B, 28B(1)(a) or 30B (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament. 40

- (3) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

30D Interpretation of Part 2

- (1) In this Part – 5
- “complementary regulator” means a complementary regulatory under section 28B;
 - “co-ordinated primary authority” has the meaning given in section 23B(2);
 - “co-ordinator” has the meaning given in section 23C(1); 10
 - “direct primary authority” has the meaning given in section 23B(1);
 - “enforcement action” has the meaning given in section 25A;
 - “enforcing authority” has the meaning given in section 25C(2);
 - “inspection function” has the meaning given in section 26A(1); 15
 - “inspection plan” has the meaning given in sections 26A(2) and 26C(5);
 - “inspecting regulator” has the meaning given in section 26A(3);
 - “local authority” has the meaning given in section 22B(2) and (3);
 - “Northern Ireland” has the same meaning as in the Northern Ireland Act 1998; 20
 - “partnership function” has the meaning given in section 23A(2) and (7);
 - “primary authority” means a qualifying regulator nominated as a primary authority under section 23A(1); 25
 - “qualifying regulator” has the meaning given in section 22B(1);
 - “regulated group” has the meaning given in section 22A(2);
 - “regulated person” has the meaning given in section 22A(1);
 - “relevant function” has the meaning given in section 22C(1);
 - “reserved matter” has the same meaning as in the Scotland Act 1998; 30
 - “Scotland” has the same meaning as in the Scotland Act 1998;
 - “specified regulator” has the meaning given in section 22B(4);
 - “supporting regulator” means a supporting regulator under section 28A; 35
 - “transferred matter” has the same meaning as in the Northern Ireland Act 1998;
 - “Wales” has the same meaning as in the Government of Wales Act 2006;
 - “working day” has the meaning given in subsection (2). 40
- (2) In this Part, “working day” means a day other than –
- (a) a Saturday or Sunday,
 - (b) Christmas Day or Good Friday, or
 - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the relevant part of the United Kingdom. 45
- (3) For the purposes of subsection (2)(c), the “relevant part” of the United Kingdom is –

- (a) in relation to section 23D(5), 28A(8) or 28B(7) (period in which co-ordinator must make available a list of group members or of group members to whom an inspection plan may be relevant), the part where the co-ordinator of the group is;
 - (b) in any other case, the part where the primary authority is.” 5
- (2) For Schedule 4 to the Regulatory Enforcement and Sanctions Act 2008 (enforcement action: references to the Secretary of State) substitute Schedule 4A set out in Schedule 3 to this Act.

PART 4

APPRENTICESHIPS 10

18 Public sector apprenticeship targets

- (1) In Chapter A1 of Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (apprenticeships: England), after section A8 insert –
- “A9 Public sector apprenticeship targets**
- (1) The Secretary of State may by regulations set apprenticeship targets for prescribed public bodies. 15
 - (2) An “apprenticeship target”, in relation to a public body, is a target relating to the number of persons (“apprentices”) who work for the body under an apprenticeship agreement.
 - (3) Public bodies for which apprenticeship targets are set under this section must have regard to – 20
 - (a) the targets, and
 - (b) any applicable guidance issued by the Secretary of State in relation to the targets.
 - (4) The Secretary of State may require a public body to provide any information that the Secretary of State needs for the purpose of exercising functions under this section. 25
 - (5) Regulations under this section may set apprenticeship targets for –
 - (a) a prescribed public body,
 - (b) a prescribed part of a public body, 30
 - (c) a prescribed group of public bodies, or
 - (d) public bodies of a prescribed description.

A reference in this section to a public body includes a reference to a prescribed part of a public body or a prescribed group of public bodies.
 - (6) The regulations must specify the period to which each apprenticeship target relates. 35
 - (7) In this section –
 - “apprenticeship agreement” means –
 - (a) an approved English apprenticeship agreement;
 - (b) an apprenticeship agreement within the meaning given in section 32 as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015; 40

“public body” means –

- (a) a public authority, or
- (b) a body or other person that is not a public authority but has functions of a public nature and is funded wholly or partly from public funds.

5

A10 Further provision about apprenticeship targets

- (1) A public body for which an apprenticeship target is set must –
 - (a) publish and send to the Secretary of State the information specified in subsection (2), and
 - (b) send to the Secretary of State any other prescribed information, within six months after the end of each reporting period of the body in the target period. 10
- (2) The information referred to in subsection (1)(a) is –
 - (a) the number of employees whose employment by the body began in the reporting period in question (“figure A”); 15
 - (b) the number of apprentices who began to work for the body in that period and whose apprenticeship agreements also began in that period (“figure B”);
 - (c) figure B expressed as a percentage of figure A;
 - (d) the number of employees that the body has at the end of that period (“figure C”); 20
 - (e) the number of apprentices who work for the body at the end of that period (“figure D”);
 - (f) figure D expressed as a percentage of figure C;
 - (g) if that reporting period is the first reporting period in the target period, the number of apprentices who worked for the body immediately before that period. 25
- (3) The information that may be prescribed under subsection (1)(b) includes –
 - (a) information about action that the body has taken to meet an apprenticeship target set for it; 30
 - (b) if the public body has failed to meet an apprenticeship target set for it, an explanation of why the target has not been met;
 - (c) information about action that the body proposes to take to meet an apprenticeship target set for the body for a period that has not yet expired (“a future target”); 35
 - (d) if the body considers that a future target is not likely to be met, an explanation of why that is so.
- (4) Regulations may specify how the information is to be published or sent.
- (5) A body’s “reporting periods” in the target period are – 40
 - (a) so much of the first financial year of the body to end in the target period as falls within that period,
 - (b) each subsequent financial year of the body which falls wholly within the target period, and
 - (c) if the target period ends during a financial year of the body, so much of that financial year as falls within that period. 45

- (6) But, where the target period in relation to a body does not exceed 12 months, the Secretary of State may direct in writing that for the purposes of this section the body is to be treated as having one reporting period which coincides with the target period.
- (7) Where, by virtue of section A9(5)(c) or (d) a target is set for more than one public body, regulations may specify which body’s financial year is to be used to determine the reporting periods under subsection (5). 5
- (8) In this section –
 “apprenticeship agreement” has the meaning given by section A9(7); 10
 “apprenticeship target” has the meaning given by section A9(2);
 “public body” has the meaning given by section A9(7);
 “target period”, in relation to an apprenticeship target, means the period specified under section A9(6) as the period to which the target relates.” 15
- (2) In section 262(6) of that Act (regulations etc subject to affirmative resolution procedure), before paragraph (aa) insert –
 “(za) the first regulations under section A9;
 (zb) the first regulations under section A10;”.
- 19 Only statutory apprenticeships to be described as apprenticeships** 20
- (1) In Chapter A1 of Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (apprenticeships: England), after section A10 (inserted by section 18) insert –
“A11 Only statutory apprenticeships to be described as apprenticeships
- (1) A person (“P”) providing or offering any course or training that is, or is to be, undertaken (wholly or partly) in England commits an offence if – 25
 (a) in the course of business P describes the course or training as an apprenticeship, and
 (b) the course or training is not a statutory apprenticeship.
- (2) No offence is committed under subsection (1) where the course or training is, or is to be, provided to an individual under or in pursuance of a contract of employment between the individual and P. 30
- (3) In subsection (1) “statutory apprenticeship” means any course or training that is, or is to be, provided under –
 (a) an approved English apprenticeship; 35
 (b) an apprenticeship agreement within the meaning given in section 32;
 (c) an arrangement to undertake any other kind of working –
 (i) in relation to which alternative English completion conditions apply under section 1(5), and 40
 (ii) in connection with which training is to be provided in accordance with an apprenticeship framework within the meaning given in section 12; or
 (d) arrangements made under –
 (i) section 2 of the Employment and Training Act 1973, 45
 (ii) section 17B(1)(a) of the Jobseekers Act 1995,

- (iii) section 2(3) of the Enterprise and New Towns (Scotland) Act 1990, or
 - (iv) section 1 of the Employment and Training Act (Northern Ireland) 1950,that are identified by the person making the arrangements as arrangements for the provision of apprenticeships. 5
- (4) The reference to section 32 in subsection (3)(b) includes a reference to that section as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015; and a reference to a section in subsection (3)(c) is a reference to the section as it so applies. 10
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (6) Where an offence under this section committed by a body corporate –
 - (a) is committed with the consent or connivance of an officer of the body corporate, or
 - (b) is attributable to neglect on the part of an officer of the body corporate,the officer also commits the offence and is liable to be proceeded against and punished accordingly. 20
- (7) Every local weights and measures authority in England –
 - (a) has a duty to enforce the provisions of this section within their area;
 - (b) must make to the Secretary of State, whenever he or she so directs, a report on the exercise of the authority’s functions under this section. 25A report under paragraph (b) must be in such form, and contain such particulars, as the Secretary of State may direct.
- (8) Proceedings for an offence under this section may be instituted only –
 - (a) by or on behalf of a local weights and measures authority in England,
 - (b) by or on behalf of the Secretary of State, or
 - (c) with the consent of the Director of Public Prosecutions.30
- (9) In this section –
 - “contract of employment” has the same meaning as in the Employment Rights Act 1996 (see section 230(2) of that Act); 35
 - “offering”, in relation to any course or training, includes offering or marketing it to the public generally or to any section of the public;
 - “officer”, in relation to a body corporate, means – 40
 - (a) a director, manager, secretary or similar officer of the body, or a person purporting to act in such capacity;
 - (b) a governor of an educational institution conducted by the body.
- (10) The reference in subsection (1) to describing any course or training as an apprenticeship includes a reference to describing an individual who undertakes it as an apprentice.” 45

- (2) In Schedule 5 to the Consumer Rights Act 2015 (investigatory powers etc), in paragraph 10, at the appropriate place insert –

“section A11(7)(a) of the Apprenticeships, Skills, Children and Learning Act 2009;”.

PART 5

5

LATE PAYMENT OF INSURANCE CLAIMS

20 Insurance contracts: implied term about payment of claims

- (1) After section 13 of the Insurance Act 2015 (remedies for fraudulent claims: group insurance) insert –

“PART 4A

10

LATE PAYMENT OF CLAIMS

13A Implied term about payment of claims

- (1) It is an implied term of every contract of insurance that if the insured makes a claim under the contract, the insurer must pay any sums due in respect of the claim within a reasonable time. 15
- (2) A reasonable time includes a reasonable time to investigate and assess the claim.
- (3) What is reasonable will depend on all the relevant circumstances, but the following are examples of things which may need to be taken into account – 20
- (a) the type of insurance,
 - (b) the size and complexity of the claim,
 - (c) compliance with any relevant statutory or regulatory rules or guidance,
 - (d) factors outside the insurer’s control. 25
- (4) If the insurer shows that there were reasonable grounds for disputing the claim (whether as to the amount of any sum payable, or as to whether anything at all is payable) – 30
- (a) the insurer does not breach the term implied by subsection (1) merely by failing to pay the claim (or the affected part of it) while the dispute is continuing, but
 - (b) the conduct of the insurer in handling the claim may be a relevant factor in deciding whether that term was breached and, if so, when.
- (5) Remedies (for example, damages) available for breach of the term implied by subsection (1) are in addition to and distinct from – 35
- (a) any right to enforce payment of the sums due, and
 - (b) any right to interest on those sums (whether under the contract, under another enactment, at the court’s discretion or otherwise).” 40
- (2) In section 22 of that Act (application etc of Parts 2 to 5), after subsection (3)

insert –

“(3A) Part 4A applies only in relation to contracts of insurance entered into after that Part has come into force, and variations to such contracts.”

21 Contracting out of the implied term about payment of claims

- (1) After section 16 of the Insurance Act 2015 (contracting out: non-consumer contracts) insert – 5

“16A Contracting out of the implied term about payment of claims: consumer and non-consumer insurance contracts

- (1) A term of a consumer insurance contract, or of any other contract, which would put the consumer in a worse position as respects any of the matters provided for in section 13A than the consumer would be in by virtue of the provisions of that section (so far as relating to consumer insurance contracts) is to that extent of no effect. 10
- (2) A term of a non-consumer insurance contract, or of any other contract, which would put the insured in a worse position as respects deliberate or reckless breaches of the term implied by section 13A than the insured would be in by virtue of that section is to that extent of no effect. 15
- (3) For the purposes of subsection (2) a breach is deliberate or reckless if the insurer – 20
- (a) knew that it was in breach, or
- (b) did not care whether or not it was in breach.
- (4) A term of a non-consumer insurance contract, or of any other contract, which would put the insured in a worse position as respects any of the other matters provided for section 13A than the insured would be in by virtue of the provisions of that section (so far as relating to non-consumer insurance contracts) is to that extent of no effect, unless the requirements of section 17 have been satisfied in relation to the term. 25
- (5) In this section references to a contract include a variation.
- (6) This section does not apply in relation to a contract for the settlement of a claim arising under an insurance contract.” 30
- (2) In section 17(1) of that Act (the transparency requirements), after “16(2)” insert “or 16A(4)”.

PART 6

NON-DOMESTIC RATING

22 Disclosure of HMRC information in connection with non-domestic rating 35

- (1) The Local Government Finance Act 1988 is amended as follows.

- (2) In Part 3 (non-domestic rating), after section 63 insert –

“63A Disclosure of Revenue and Customs information

- (1) An officer of the Valuation Office of Her Majesty’s Revenue and Customs may disclose Revenue and Customs information to a qualifying person for a qualifying purpose. 5
- (2) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (3) Each of the following is a “qualifying person” –
- (a) a billing authority;
 - (b) a major precepting authority; 10
 - (c) a person authorised to exercise any function of an authority within paragraph (a) or (b) relating to non-domestic rating;
 - (d) a person providing services to an authority within paragraph (a) or (b) relating to non-domestic rating;
 - (e) the Secretary of State; 15
 - (f) the Welsh Ministers;
 - (g) a prescribed person.
- (4) Each of the following is a “qualifying purpose” –
- (a) enabling or assisting the qualifying person to whom the disclosure is made, or any other qualifying person, to carry out any functions conferred by or under this Part which are not functions of the Secretary of State or the Welsh Ministers; 20
 - (b) enabling or assisting the Secretary of State or the Welsh Ministers to carry out functions conferred by or under section 53 or 54 (central non-domestic rating), or by or under Schedule 9 so far as relating to central non-domestic rating lists; 25
 - (c) any other prescribed purpose relating to non-domestic rating.
- (5) In this section –
- “prescribed” means –
 - (a) in relation to England, prescribed by regulations made by the Secretary of State, and
 - (b) in relation to Wales, prescribed by regulations made by the Welsh Ministers; - “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005. 35
- (6) Regulations under this section may only be made with the consent of the Commissioners for Her Majesty’s Revenue and Customs.

63B Restrictions on onward disclosure of Revenue and Customs information 40

- (1) Information disclosed under section 63A or this section may not be further disclosed unless that further disclosure is –
- (a) to a qualifying person for a qualifying purpose,
 - (b) for the purposes of the initiation or conduct of any proceedings relating to the enforcement of any obligation imposed by or under this Part of this Act, 45

- (c) in pursuance of a court order,
 - (d) with the consent of each person to whom the information relates, or
 - (e) required or permitted under any other enactment.
- (2) Information may not be disclosed under subsection (1)(a) to a qualifying person within section 63A(3)(c), (d), (e), (f) or (g) except with the consent of the Commissioners for Her Majesty’s Revenue and Customs (which may be general or specific). 5
- (3) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose. 10
- (4) A person commits an offence if the person contravenes subsection (1) or (2) by disclosing information relating to a person whose identity –
- (a) is specified in the disclosure, or
 - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under this section of disclosing information to prove that the person reasonably believed – 15
- (a) that the disclosure was lawful, or
 - (b) that the information had already lawfully been made available to the public. 20
- (6) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both. 25
- (7) A prosecution for an offence under this section may be instituted only by or with the consent of the Director of Public Prosecutions.
- (8) In relation to an offence under this section committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (6)(a) to 12 months is to be taken as a reference to 6 months. 30
- (9) This section is without prejudice to the pursuit of any remedy or the taking of any action in relation to a contravention of subsection (1) or (2) (whether or not subsection (4) applies to the contravention). 35
- (10) In this section –
- “qualifying person” has the same meaning as in section 63A;
 - “qualifying purpose” has the same meaning as in that section.”
- (3) In section 143 (orders and regulations), in subsection (4ZA) after “section” insert “63A or”. 40

23 Alteration of non-domestic rating lists

- (1) Section 55 of the Local Government Finance Act 1988 (non-domestic rating: alteration of lists) is amended as follows.

(2) After subsection (4) insert –

“(4A) In relation to an English list, the provision that may be included in the regulations by virtue of subsection (4) includes –

- (a) provision about the steps that must be taken before a person may make a proposal for an alteration of the list (which may include steps designed to ensure the person checks the accuracy and completeness of any information on which any decision by the valuation officer has been based and gives the valuation officer an opportunity to consider the results of those checks and alter the list); 5
- (b) provision restricting the circumstances in which any of those steps may be taken and provision about the timing of any step; 10
- (c) provision for valuation officers to impose financial penalties on persons who, in, or in connection with, proposals for the alteration of the list, knowingly, recklessly or carelessly provide information which is false in a material particular. 15

(4B) If provision is made by virtue of subsection (4A)(c) –

- (a) the maximum amount of any penalty that may be specified in, or determined in accordance with, the regulations is £500;
- (b) the regulations must require any sum received by a valuation officer by way of penalty to be paid into the Consolidated Fund; 20
- (c) the regulations may include provision for any penalty to be recovered by the valuation officer concerned as a civil debt due to the officer;
- (d) the regulations must include provision enabling a person on whom a financial penalty is imposed to appeal against the imposition of the penalty or its amount to the valuation tribunal.” 25

(3) After subsection (5) insert –

“(5A) In relation to a proposal made by a person to alter an English list, the provision that may be included in regulations by virtue of subsection (5) includes provision – 30

- (a) about the grounds on which an appeal may be made;
- (b) about the matters which are not to be taken into account by the valuation tribunal as part of an appeal; 35
- (c) about the circumstances in which new evidence may be admitted on an appeal, and about the conduct of an appeal in relation to such evidence;
- (d) about the payment of fees by ratepayers in relation to appeals, the payment of those fees into the Consolidated Fund and the circumstances in which those fees are to be refunded. 40

This subsection is without prejudice to the powers to make regulations conferred by Part 3 of Schedule 11 (tribunals: procedure, orders, etc).”

(4) For subsection (8) substitute –

“(8) In this section – 45

“English list” means –

- (a) a local non-domestic rating list that has to be compiled for a billing authority in England, or

- (b) the central non-domestic rating list that has to be compiled for England;
- “valuation tribunal” means –
 - (a) in relation to England, the Valuation Tribunal for England; 5
 - (b) in relation to Wales, a valuation tribunal established under paragraph 1 of Schedule 11.”
- (5) In section 143 of that Act (orders and regulations), after subsection (3C) insert –
 - “(3D) Any power to make regulations conferred by section 55 (alteration of non-domestic rating lists) is exercisable by statutory instrument. 10
 - (3E) A statutory instrument which contains (whether alone or with other provision) regulations made by virtue of section 55(4A)(c) or (4B) (alteration of non-domestic rating lists: financial penalties) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 15
 - (3F) Any other statutory instrument containing regulations under section 55 is subject to annulment in pursuance of a resolution of either House of Parliament.”

PART 7

20

INDUSTRIAL DEVELOPMENT

24 Allowable assistance under Industrial Development Act 1982

In section 8(8) of the Industrial Development Act 1982 (allowable assistance per project) –

- (a) for “the Secretary of State pays or undertakes to pay” substitute “are paid, or undertaken to be paid;” 25
- (b) after “shall not exceed £10 million” insert “in the case of payments made, or undertakings given by, the Scottish Ministers, or £30 million in any other case”;
- (c) after “the said sum of £10 million” insert “or £30 million”. 30

25 Grants etc towards electronic communications services and networks

- (1) The Industrial Development Act 1982 is amended as follows.
- (2) In section 13 (improvement of basic services), in the heading, at the end insert “in development areas and intermediate areas”.
- (3) After that section insert – 35
 - “**13A Improvement of electronic communications networks and services etc**
 - (1) This section applies if it appears to the Secretary of State that adequate provision has not been made for an area in respect of electronic communications facilities.
 - (2) The Secretary of State may, with the consent of the Treasury, make a grant or loan towards the cost of improving an electronic communications facility if – 40

- (a) the Secretary of State considers that doing so is likely to contribute to the development of industry in the area, or
- (b) the Secretary of State considers that doing so is likely to benefit the area in any other way (for example, by improving social or economic inclusion), and the grant or loan is made to an undertaking that is, or is to be, carried on in the area. 5
- (3) In this section –
- (a) “area” means the United Kingdom or a part or area of the United Kingdom;
- (b) “electronic communications facility” means an electronic communications network, electronic communications service or associated facility, as defined by section 32 of the Communications Act 2003. 10
- (4) The power conferred by this section is in addition to any other powers of the Secretary of State to make grants or loans.” 15
- (4) In section 16(1)(a) (Secretary of State’s accounts), for “13 and 14” substitute “13 to 14”.
- (5) In section 20(3) (extent) –
- (a) for “and 12” substitute “, 12 and 13A”;
- (b) after “sections 15” insert “, 16”. 20

PART 8

PUBLIC SECTOR EMPLOYMENT: RESTRICTIONS ON EXIT PAYMENTS

26 Restriction on public sector exit payments

- (1) Before section 154 of the Small Business, Enterprise and Employment Act 2015 (but after the italic heading preceding that section) insert – 25
- “153A Regulations to restrict public sector exit payments**
- (1) Regulations may make provision to secure that the total amount of exit payments made to a person in respect of a relevant public sector exit does not exceed £95,000.
- (2) Where provision is made under subsection (1) it must also secure that if, in any period of 28 consecutive days, two or more relevant public sector exits occur in respect of the same person, the total amount of exit payments made to the person in respect of those exits does not exceed the amount provided for in subsection (1). 30
- (3) An exit payment is in respect of a relevant public sector exit if it is made – 35
- (a) to an employee of a prescribed public sector authority in consequence of the employee leaving employment, or
- (b) to a holder of a prescribed public sector office in consequence of the office-holder leaving office. 40
- (4) An exit payment is a payment of a prescribed description.
- (5) The descriptions of payment which may be prescribed include –

-
- (a) any payment on account of dismissal by reason of redundancy (read in accordance with section 139 of the Employment Rights Act 1996);
- (b) any payment on voluntary exit;
- (c) any payment to reduce or eliminate an actuarial reduction to a pension on early retirement or in respect of the cost to a pension scheme of such a reduction not being made; 5
- (d) any severance payment or other ex gratia payment;
- (e) any payment in respect of an outstanding entitlement;
- (f) any payment of compensation under the terms of a contract; 10
- (g) any payment in lieu of notice;
- (h) any payment in the form of shares or share options.
- (6) In this section a reference to a payment made to a person includes a reference to a payment made in respect of that person to another person. 15
- (7) For the purposes of subsection (2), a public sector exit occurs when the person leaves the employment or office in question (regardless of when any exit payment is made).
- (8) Regulations may include –
- (a) provision which exempts from any provision made under subsection (1) exit payments, or exit payments of a prescribed description, made in prescribed circumstances; 20
- (b) provision which, in consequence of provision made under subsection (1), amends a relevant public sector scheme so as to make any duty or power under the scheme to make exit payments subject to any restriction imposed by regulations under subsection (1) (taking account of any relaxation of such a restriction which may be made under section 153C); 25
- (c) provision which makes an amendment of any provision made by or under an enactment (whenever passed or made) which is necessary or expedient in consequence of any provision made by or under this section. 30
- (9) Regulations may substitute a different amount for the amount for the time being specified in subsection (1).
- (10) Nothing in this section applies in relation to payments made by authorities who wholly or mainly exercise functions which could be conferred by provision included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998). 35
- (11) In this section – 40
- “enactment” includes an Act of the Scottish Parliament, a Measure or Act of the National Assembly for Wales and Northern Ireland legislation;
- “prescribed” means prescribed by regulations under this section;
- “relevant public sector scheme” means – 45
- (a) a scheme under section 1 of the Superannuation Act 1972 (civil servants);
- (b) a scheme under section 7 of that Act (local government workers);

(c)	a scheme under section 9 of that Act (teachers);	
(d)	a scheme under section 10 of that Act (health service workers);	
(e)	a scheme under section 1 of the Public Service Pensions Act 2013 (schemes for persons in public service);	5
(f)	a scheme under section 26 of the Fire Services Act 1947 or section 34 of the Fire and Rescue Services Act 2004 (fire and rescue workers);	
(g)	a scheme under section 1 of the Police Pensions Act 1976 or section 48 of the Police and Fire Reform (Scotland) Act 2012 (members of police forces);	10
(h)	any other prescribed scheme (whether established by or under an enactment or otherwise).	
153B	Supplementary provision about regulations under section 153A	
(1)	Subject to subsection (2), the power to make regulations under section 153A is exercisable –	15
(a)	by the Scottish Ministers, in relation to payments made by a relevant Scottish authority;	
(b)	by the Treasury, in relation to any other payments.	
(2)	Where the relevant Scottish authority is the Scottish Administration (or a part of it) the power to make regulations under section 153A is exercisable by the Treasury (instead of the Scottish Ministers) –	20
(a)	in relation to payments made to the holders of offices in the Scottish Administration which are not ministerial offices (read in accordance with section 126(8) of the Scotland Act 1998), and	25
(b)	in relation to payments made to members of the staff of the Scottish Administration (read in accordance with section 126(7)(b) of that Act).	
(3)	The power to make provision of the kind mentioned in section 153A(8)(b) (power to amend public sector schemes), so far as exercisable by the Treasury, is also exercisable concurrently by any other Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) with the consent of the Treasury.	30
(4)	Regulations to which subsection (5) applies –	
(a)	if made by the Treasury, are subject to the affirmative resolution procedure;	35
(b)	if made by the Scottish Ministers, are subject to the affirmative procedure.	
(5)	The regulations mentioned in subsection (4) are –	
(a)	the first regulations under section 153A(1) made by the Scottish Ministers,	40
(b)	the first regulations under section 153A(1) made by the Treasury,	
(c)	any regulations under section 153A(8)(c) (power to make consequential amendments of Acts) which amend primary legislation,	45
(d)	any regulations under section 153A(9) (power to change the specified amount), and	

- (e) any regulations under paragraph (h) of the definition of “relevant public sector scheme” in section 153A(11).
- (6) Any other regulations under section 153A –
 - (a) if made by the Treasury or a Minister of the Crown, are subject to the negative resolution procedure; 5
 - (b) if made by the Scottish Ministers, are subject to the negative procedure.
- (7) In this section –
 - “primary legislation” means –
 - (a) an Act of Parliament; 10
 - (b) an Act of the Scottish Parliament;
 - “relevant Scottish authority” means –
 - (a) the Scottish Parliamentary Corporate Body, or
 - (b) any authority which wholly or mainly exercises functions within devolved competence (within the meaning of section 54 of the Scotland Act 1998). 15

153C Power to relax restriction on public sector exit payments

- (1) A Minister of the Crown may relax any restriction imposed by regulations made by the Treasury under section 153A.
- (2) The Scottish Ministers may relax any restriction imposed by regulations made by the Scottish Ministers under section 153A. 20
- (3) A requirement may be relaxed –
 - (a) in respect of a particular employee or office-holder or a description of employees or office-holders;
 - (b) in relation to the whole or any part of an exit payment, or a description of exit payments. 25
- (4) Regulations under section 153A made by the Treasury may –
 - (a) make provision for the power under subsection (1) to be exercisable on behalf of a Minister of the Crown by a person specified in the regulations; 30
 - (b) make provision for a requirement to be relaxed only –
 - (i) with the consent of the Treasury, or
 - (ii) following compliance with any directions given by the Treasury;
 - (c) make provision as to the publication of information about any relaxation of a requirement granted. 35
- (5) Regulations under section 153A made by the Scottish Ministers may –
 - (a) make provision for the power under subsection (2) to be exercisable on behalf of the Scottish Ministers by a person specified in the regulations; 40
 - (b) where provision is made by virtue of paragraph (a), make provision for a requirement to be relaxed only –
 - (i) with the consent of the Scottish Ministers, or
 - (ii) following compliance with any directions given by the Scottish Ministers; 45

- (c) make provision as to the publication of information about any relaxation of a requirement granted.
- (6) Regulations under section 153A(1) made by the Treasury may make provision for the power conferred on a Minister of the Crown by subsection (1) to be exercised instead by the Welsh Ministers, in relation to exit payments made by an authority who wholly or mainly exercises functions which could be conferred by provision falling within the legislative competence of the National Assembly for Wales (as defined in section 108 of the Government of Wales Act 2006). 5
- (7) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.” 10
- (2) Schedule 4 makes amendments consequential on subsection (1), and related provision.

PART 9

GENERAL PROVISIONS 15

27 Consequential amendments, repeals and revocations

- (1) The Secretary of State or the Treasury may by regulations make such provision as appears to the Secretary of State or the Treasury to be appropriate in consequence of this Act.
- (2) The power conferred by subsection (1) includes power – 20
- (a) to make transitional, transitory or saving provision;
 - (b) to amend, repeal, revoke or otherwise modify any provision made by or under an enactment (including an enactment passed or made in the same Session as this Act).
- (3) Regulations under this section are to be made by statutory instrument. 25
- (4) An instrument containing regulations under this section which amend, repeal or revoke any provision of primary legislation may not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.
- (5) Subject to that, an instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (6) In this section –
- “enactment” includes any provision of primary legislation;
- “primary legislation” means – 35
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, and
 - (d) Northern Ireland legislation.

28 Transitional, transitory or saving provision 40

The Secretary of State or the Treasury may by regulations made by statutory instrument make such transitional, transitory or saving provision as the

Secretary of State or the Treasury considers appropriate in connection with the coming into force of any provision of this Act.

29 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed – 5
 - (a) any power to make regulations under Part 1 (Small Business Commissioner);
 - (b) section 13 (extension of business impact target to provisions made by regulators) for the purpose of enabling the exercise of the power to make regulations under subsection (9) of section 22 of the Small Business, Enterprise and Employment Act 2015 (as inserted by section 13); 10
 - (c) section 17 and Schedule 3 (extension of primary authority scheme) for the purpose of enabling the exercise of any power to make regulations under any provision of the Regulatory Enforcement and Sanctions Act 2008 inserted by that section or Schedule; 15
 - (d) this Part.
- (2) The following provisions of this Act come into force at the end of the period of 2 months beginning with the day on which this Act is passed – 20
 - (a) section 13 (extension of business impact target to provisions made by regulators) (so far as not already in force under subsection (1));
 - (b) section 16 (application of regulators' principles and code: removal of restrictions);
 - (c) section 18 (public sector apprenticeship targets);
 - (d) section 22 (disclosure of HMRC information in connection with non-domestic rating); 25
 - (e) section 23 (alteration of non-domestic rating lists);
 - (f) sections 24 and 25 (industrial development);
 - (g) Schedule 2 (business impact target: consequential and related amendments). 30
- (3) Sections 20 and 21 (late payment of insurance claims) come into force at the end of the period of one year beginning with the day on which this Act is passed (and section 23(2) of the Insurance Act 2015 (which provides for the coming into force of provisions of that Act) does not apply to the provisions inserted into that Act by those sections). 35
- (4) Section 26 and Schedule 4 (restriction on public sector exit payments) come into force on such day as the Treasury may by regulations appoint.
- (5) The remaining provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.
- (6) Regulations under this section are to be made by statutory instrument. 40
- (7) Regulations under this section may appoint different days –
 - (a) for different purposes;
 - (b) for different areas.

30 Extent

- (1) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland –
 - (a) Part 1 (Small Business Commissioner);
 - (b) Part 5 (late payment of insurance claims); 5
 - (c) section 25 (grants etc towards electronic communications services and networks), except subsection (2);
 - (d) paragraphs 4 and 5(2) and (3) of Schedule 4 (public sector exit payments: amendments of public sector schemes);
 - (e) this Part. 10
- (2) Section 25(2) extends to England and Wales and Scotland.
- (3) Any amendment, repeal or revocation made by this Act has the same extent as the enactment amended, repealed or revoked.

31 Short title

This Act may be cited as the Enterprise Act 2015. 15

SCHEDULES

SCHEDULE 1

Section 1

THE SMALL BUSINESS COMMISSIONER

Appointment of Commissioner

- 1 The Commissioner is to be appointed by the Secretary of State. 5

Deputy Commissioners

- 2 The Secretary of State may appoint one or more Deputy Commissioners.
- 3 The Commissioner may delegate any of the Commissioner's functions to a Deputy Commissioner.

Term of office etc

10

- 4 A person holds and vacates office as the Commissioner or a Deputy Commissioner in accordance with the terms of the appointment, but –
- (a) the initial term of office may not be more than 4 years,
 - (b) a person may be appointed for no more than 2 further terms of office (whether as the Commissioner or a Deputy Commissioner), 15
 - (c) a further term may not be more than 3 years,
 - (d) the person may resign by giving written notice to the Secretary of State, and
 - (e) the Secretary of State may dismiss the person if satisfied that the person is unable, unwilling or unfit to perform his or her functions. 20

Remuneration

- 5 The Secretary of State may pay to or in respect of the person holding office as the Commissioner or a Deputy Commissioner –
- (a) remuneration;
 - (b) allowances; 25
 - (c) sums by way of or in respect of pensions.

Staff, premises etc

- 6 The Secretary of State may provide staff, premises, facilities or other assistance to the Commissioner.

Acting as Commissioner during vacancy etc

30

- 7 (1) The nominated person is to act as Commissioner –

	(a) during any vacancy in the office of Commissioner, or	
	(b) if the Commissioner is disqualified.	
(2)	The nominated person means –	
	(a) if there is only one Deputy Commissioner who is not disqualified, that Deputy Commissioner,	5
	(b) if there is more than one Deputy Commissioner who is not disqualified, such of them as the Secretary of State appoints to act as Commissioner,	
	(c) if neither paragraph (a) nor (b) applies, a member of staff provided under paragraph 6 who is appointed by the Secretary of State to act as Commissioner.	10
(3)	For the purposes of this paragraph a person is “disqualified” if the person is absent, subject to suspension or unable to act (whether as a result of arrangements under paragraph 8 or otherwise).	
<i>Conflicts of interest</i>		15
8	(1) The Commissioner must make procedural arrangements for dealing with any conflict of interest affecting –	
	(a) the Commissioner,	
	(b) a Deputy Commissioner,	
	(c) a member of staff acting as the Commissioner under paragraph 7(2)(c), or	20
	(d) any other staff working for the Commissioner.	
(2)	The Commissioner must consult the Secretary of State before making or revising the arrangements.	
(3)	The Commissioner must publish a summary of the arrangements.	25
<i>Validity of acts</i>		
9	A defect in appointment does not affect the validity of things done by the Commissioner, a Deputy Commissioner or a member of staff acting as the Commissioner under paragraph 7(2)(c).	
<i>Status</i>		30
10	The Commissioner carries out functions on behalf of the Crown.	
11	Service as the Commissioner or a Deputy Commissioner is not service in the civil service of the state.	
<i>Incidental powers</i>		
12	The Commissioner may do anything that is calculated to facilitate the carrying out of the Commissioner’s functions or is conducive or incidental to the carrying out of those functions.	35
<i>Exemption from liability for damages</i>		
13	(1) The following are exempt from liability in damages for anything done or omitted in the exercise or purported exercise of their functions –	40

- (a) the Commissioner,
 - (b) a Deputy Commissioner,
 - (c) a member of staff acting as the Commissioner under paragraph 7(2)(c), and
 - (d) any other staff working for the Commissioner. 5
- (2) But sub-paragraph (1) does not apply –
- (a) if the act or omission is shown to have been in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (acts of public authorities). 10

Parliamentary Commissioner Act 1967

- 14 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert –
“Small Business Commissioner.” 15

House of Commons Disqualification Act 1975

- 15 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), at the appropriate place insert –
“Small Business Commissioner or Deputy Small Business Commissioner.” 20

Northern Ireland Assembly Disqualification Act 1975

- 16 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), at the appropriate place insert –
“Small Business Commissioner or Deputy Small Business Commissioner.” 25

Freedom of Information Act 2000

- 17 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities), at the appropriate place insert –
“Small Business Commissioner.”

SCHEDULE 2

Section 13 30

BUSINESS IMPACT TARGET: CONSEQUENTIAL AND RELATED AMENDMENTS

- 1 The Small Business, Enterprise and Employment Act 2015 is amended as follows.
- 2 (1) In section 23 (Secretary of State’s duty to publish reports in respect of the business impact target), subsection (3) (things to be included in a report) is amended as follows. 35
- (2) Omit the “and” at the end of paragraph (e).
 - (3) In paragraph (f) (report to include a list of certain regulatory provisions) for

- the words from “which have” to the end substitute “which—
- (i) have come into force or ceased to be in force during the reporting period,
 - (ii) fall within section 22(6)(a) or (b), and
 - (iii) do not fall within paragraph (a).”
- 5
- (4) After that paragraph insert—
- “(g) a summary of all the regulatory provisions (as defined in section 22(3)) which—
- (i) have come into force or ceased to be in force during the reporting period,
 - (ii) fall within section 22(6)(c), and
 - (iii) do not fall within paragraph (a).”
- 10
- 3 In that section, after subsection (3) insert—
- “(3A) The contribution of qualifying regulatory provisions which have come into force or ceased to be in force during preceding reporting periods to the aggregate economic impact mentioned in subsection (3)(d) is to be assessed by reference to the assessments in relation to those provisions included in reports in respect of those periods under subsection (3)(b).”
- 15
- 4 After section 24 insert—
- 20
- “24A Duty on relevant regulators to assess economic impact etc**
- (1) A relevant regulator must give to the Secretary of State the required documents in respect of each reporting period during the relevant period.
 - (2) The required documents are—
 - (a) a list of all qualifying regulatory provisions which—
 - (i) have effect by virtue of the exercise of a function conferred on the regulator, and
 - (ii) have come into force or ceased to be in force during the reporting period;
 - (b) an assessment verified by the body appointed under section 25 of the economic impact on business activities of each qualifying regulatory provision falling within paragraph (a) made by reference to the methodology published under section 21(3)(b);
 - (c) a summary of all regulatory provisions (as defined in section 22(3)) which—
 - (i) have effect by virtue of the exercise of a function conferred on the regulator,
 - (ii) have come into force or ceased to be in force during the reporting period, and
 - (iii) do not fall within paragraph (a).
 - (3) The required documents must be given to the Secretary of State no later than two weeks after the end of the reporting period, if they are in respect of a reporting period mentioned in any of section 23(7)(a) to (d).
- 30
- 35
- 40
- 45

- (4) If the required documents are in respect of a reporting period mentioned in section 23(7)(e) –
- (a) they must be given to the Secretary of State at least two weeks before the dissolution of Parliament;
 - (b) the references to qualifying regulatory provisions or regulatory provisions which have come into force or ceased to be in force during the reporting period include qualifying regulatory provisions or regulatory provisions which are expected to come into force or to cease to be in force during that reporting period. 5
- (5) A relevant regulator must have regard to any guidance issued from time to time by the Secretary of State in relation to the required documents. 10
- (6) The guidance may, in particular, include guidance as to –
- (a) information that should be given to the Secretary of State or the body appointed under section 25 in advance of a required document being given to the Secretary of State; 15
 - (b) the time when a required document should be given to the Secretary of State (subject to subsections (3) and (4)(a));
 - (c) the form of a required document or the manner in which it should be given to the Secretary of State. 20
- (7) In this section “relevant regulator” has the same meaning as in section 22 (see subsection (9) of that section).”
- 5 In section 26 (amending the business impact target etc) after subsection (4) insert – 25
- “(5) If the Secretary of State amends the thing mentioned in subsection (1)(c) a relevant regulator must –
- (a) amend anything already given to the Secretary of State under section 24A or this section so that it takes account of the amendments; 30
 - (b) make a back-dated assessment in relation to any regulatory provision which –
 - (i) is a qualifying regulatory provision by virtue of the amendments,
 - (ii) has effect by virtue of the exercise of a function conferred on the regulator, and 35
 - (iii) came into force or ceased to be in force in a past reporting period;
 - (c) give anything amended and any back-dated assessment to the Secretary of State. 40
- (6) A “back-dated assessment” is an assessment of the economic impact on business activities of a regulatory provision mentioned in subsection (5)(b), in respect of the past reporting period in which the provision came into force or ceased to be in force, made by reference to the methodology published under section 21(3)(b). 45
- (7) If the Secretary of State amends the thing mentioned in subsection (1)(d) a relevant regulator must –

- (a) amend any assessment or back-dated assessment already given to the Secretary of State under section 24A or this section so that it takes account of the amendments;
- (b) give any amended assessment or back-dated assessment to the Secretary of State. 5
- (8) Each back-dated assessment, amended assessment or amended back-dated assessment is to be verified by the body appointed under section 25 before it is given to the Secretary of State.
- (9) If the Secretary of State amends the thing mentioned in subsection (1)(c) or (d), a relevant regulator must have regard to any guidance issued by the Secretary of State in relation to anything to be given to the Secretary of State under subsection (5) or (7) (any “updating document”). 10
- (10) The guidance may, in particular, include guidance as to—
- (a) information that should be given to the Secretary of State or the body appointed under section 25 in advance of the giving of an updating document to the Secretary of State; 15
- (b) the time when an updating document should be given to the Secretary of State;
- (c) the form of an updating document or the manner in which it should be given to the Secretary of State. 20
- (11) In this section “relevant regulator” has the same meaning as in section 22 (see subsection (9) of that section).”

SCHEDULE 3

Section 17

PRIMARY AUTHORITY SCHEME: NEW SCHEDULE 4A TO RESA 2008 25

This is the Schedule 4A to be substituted for Schedule 4 to the Regulatory Enforcement and Sanctions Act 2008—

“SCHEDULE 4A

Sections 25B and 25C

REFERENCES TO THE SECRETARY OF STATE

PART 1

30

ENFORCEMENT ACTION BY PRIMARY AUTHORITY

- 1 (1) If the primary authority notifies the regulated person, or a member of the regulated group, under section 25B(2)(a) that it proposes to take enforcement action against the regulated person or the member, the regulated person or the member may, with the consent of the Secretary of State, refer the proposed enforcement action to the Secretary of State. 35
- (2) On a reference under sub-paragraph (1) the Secretary of State must—

- (a) if satisfied as to the matters in sub-paragraph (3), direct the primary authority not to take the proposed enforcement action;
 - (b) otherwise, consent to the action.
- (3) The matters referred to in sub-paragraph (2) are that— 5
- (a) the proposed enforcement action is inconsistent with advice or guidance previously given by the primary authority (generally or specifically), and
 - (b) the advice or guidance was correct and properly given.
- (4) If the Secretary of State directs the primary authority not to take the proposed enforcement action, the Secretary of State may direct the enforcing authority to take some other enforcement action (and section 25B does not apply in relation to that other action). 10

PART 2

ENFORCEMENT ACTION OTHER THAN BY PRIMARY AUTHORITY 15

Reference by an enforcing authority

- 2 (1) If the primary authority directs an enforcing authority under section 25C(4) not to take proposed enforcement action, the enforcing authority may, with the consent of the Secretary of State, refer the proposed action to the Secretary of State. 20
- (2) On a reference under sub-paragraph (1) the Secretary of State must—
- (a) if satisfied as to the matters in sub-paragraph (3), confirm the direction;
 - (b) otherwise, revoke the direction. 25
- (3) The matters referred to in sub-paragraph (2) are that—
- (a) the proposed enforcement action is inconsistent with advice or guidance previously given by the primary authority (generally or specifically), and
 - (b) the advice or guidance was correct and properly given. 30
- (4) If the Secretary of State confirms the direction, the Secretary of State may direct the enforcing authority to take some other enforcement action (and section 25C does not apply in relation to that other action).

Reference by regulated person or member of the regulated group 35

- 3 (1) If section 25C applies and the primary authority does not direct the enforcing authority (under subsection (4) of that section) not to take the proposed enforcement action, the regulated person or the member of the regulated group may, with the consent of the Secretary of State, refer the action to the Secretary of State. 40
- (2) On a reference under sub-paragraph (1) the Secretary of State must—

- (a) if satisfied as to the matters in sub-paragraph (3), direct the enforcing authority not to take the proposed enforcement action;
 - (b) otherwise, consent to the action.
- (3) The matters referred to in sub-paragraph (2) are that— 5
- (a) the proposed enforcement action is inconsistent with advice or guidance previously given by the primary authority (generally or specifically), and
 - (b) the advice or guidance was correct and properly given.
- (4) If the Secretary of State directs the enforcing authority not to take the proposed enforcement action, the Secretary of State may direct the enforcing authority to take some other enforcement action (and section 25C does not apply in relation to that other action). 10

Reference by primary authority

- 4 (1) The primary authority may, with the consent of the Secretary of State, instead of making a determination under section 25C(4) as to whether to direct an enforcing authority not to take proposed enforcement action, refer the action to the Secretary of State. 15
- (2) On a reference under this paragraph the Secretary of State must— 20
- (a) if satisfied as to the matters in sub-paragraph (3), direct the enforcing authority not to take the proposed enforcement action;
 - (b) otherwise, consent to the action.
- (3) The matters referred to in sub-paragraph (2) are that— 25
- (a) the proposed enforcement action is inconsistent with advice or guidance previously given by the primary authority (generally or specifically), and
 - (b) the advice or guidance was correct and properly given.
- (4) If the Secretary of State directs the enforcing authority not to take the proposed enforcement action, the Secretary of State may direct the enforcing authority to take some other enforcement action (and section 25C does not apply in relation to that other action). 30

PART 3

GENERAL

Timing 35

- 5 (1) Any reference under this Schedule must be made as soon as is reasonably practicable, and in any event within the referral period.
- (2) The “referral period” for the purposes of a reference under paragraph 1(1) is the period which— 40
- (a) begins when the regulated person or the member is notified under section 25B(2)(a) of the proposed enforcement action, and

- (b) ends at the end of the tenth working day after the day on which the period begins, or at such later time as the Secretary of State may direct.
- (3) The “referral period” for the purposes of a reference under paragraph 2(1) is the period which – 5
- (a) begins when the enforcing authority is directed under 25C(4) not to take the proposed enforcement action, and
- (b) ends at the end of the tenth working day after the day on which the period begins, or at such later time as the Secretary of State may direct. 10
- (4) The “referral period” for the purposes of a reference under paragraph 3(1) is the period which –
- (a) begins when the regulated person or the member is informed under section 25C(6)(a) that the enforcing authority continues to propose to take the enforcement action, and 15
- (b) ends at the end of the tenth working day after the day on which the period begins, or at such later time as the Secretary of State may direct.
- (5) The “referral period” for the purposes of a reference under paragraph 4(1) is the relevant period under section 25C(9). 20
- (6) The Secretary of State must determine a reference under this Schedule within the period of 28 days beginning with the day on which the reference is made.
- (7) The primary authority (in the case of a reference under paragraph 1(1)) or the enforcing authority (in the case of a reference under paragraph 2(1), 3(1) or 4(1)) may not take the proposed enforcement action at any time after the making of the reference and before its determination. 25
- Consultation* 30
- 6 (1) Before determining a reference under this Schedule, the Secretary of State –
- (a) must consult any relevant regulator, where appropriate, and
- (b) may consult other persons. 35
- (2) In sub-paragraph (1)(a), “relevant regulator” means a person who has regulatory functions which relate to the matter to which the determination relates.
- (3) But a person is not a “relevant regulator” within the meaning of sub-paragraph (1)(a) if – 40
- (a) the person is a qualifying regulator, and
- (b) the partnership function pursuant to which the proposed enforcement action would be taken is a relevant function of the person.

Information

- 7 (1) For the purposes of determining whether to consent to a reference under this Schedule, or of determining such a reference, the Secretary of State may require any of the following to provide the Secretary of State with information – 5
- (a) the primary authority;
 - (b) in the case of a reference under paragraph 2(1), 3(1) or 4(1), the enforcing authority;
 - (c) the regulated person concerned or the member of the regulated group concerned. 10
- (2) The information must be information which the authority, person or member may lawfully provide to the Secretary of State.

Secretary of State's costs

- 8 The Secretary of State may require the regulated person or a member of the regulated group to pay reasonable costs incurred by the Secretary of State as a result of – 15
- (a) a reference by the regulated person or the member under paragraph 1(1) or 3(1), or
 - (b) an application by the regulated person or the member for consent to make such a reference. 20

Procedure

- 9 The Secretary of State may by regulations make further provision as to the procedure to be followed for the purposes of this Schedule.”

SCHEDULE 4

Section 26 25

RESTRICTION ON PUBLIC SECTOR EXIT PAYMENTS: CONSEQUENTIAL AND RELATED PROVISION

Small Business, Enterprise and Employment Act 2015

- 1 In section 154 of the Small Business, Enterprise and Employment Act 2015 (regulations in connection with repayment of public sector exit payments) – 30
- (a) in subsection (4)(c), after “retirement” insert “or in respect of the cost to a pension scheme of such a reduction not being made”,
 - (b) after subsection (6), insert –
- “(7) In this section a reference to a payment made to a person includes a reference to a payment made in respect of that person to another person.”, and 35
- (c) in the heading, after “with” insert “repayment of”.
- 2 In section 156 of that Act (power to make regulations exercisable by the Treasury or Scottish Ministers) –

- (a) for subsection (4) substitute –
- “(4) The first regulations made by the Treasury under section 154(1) are subject to the affirmative resolution procedure.
- (4A) The first regulations made by the Scottish Ministers under section 154(1) are subject to the affirmative procedure.”, and 5
- (b) in the heading, after “regulations” insert “under section 154(1)”.
- 3 In section 161 of that Act (supplementary provision about regulations), in subsection (1), after “section 1” insert “, 153A”.

Power to amend public sector schemes

- 4 (1) Regulations may amend any relevant public sector scheme to ensure that if any exit payment restriction would have effect to prevent retirement benefits becoming immediately payable under the scheme without reduction – 10
- (a) the retirement benefits may become immediately payable under the scheme subject to the appropriate early payment deduction, and 15
- (b) the member may opt to buy out all or part of that deduction.
- (2) Regulations may also amend any relevant public sector scheme to ensure that if any exit payment restriction has effect to prevent a payment being made by the employer under the scheme in respect of the whole or any part of an extra charge arising to the scheme as a result of retirement benefits becoming immediately payable to a member without reduction – 20
- (a) the retirement benefits become payable immediately subject to the appropriate early payment deduction except to the extent that the extra charge arising to the scheme as a result of not making that deduction has been met by a payment made by the employer under the scheme, but 25
- (b) the member may opt to buy out all or part of that early payment deduction.
- (3) Regulations under this paragraph may be made –
- (a) in relation to exit payments made by a relevant Scottish authority (other than exit payments to which section 153B(2) applies), by the Scottish Ministers, and 30
- (b) in any other case, by –
- (i) the Treasury, or
- (ii) another Minister of the Crown with the consent of the Treasury. 35
- (4) Regulations under this paragraph may make –
- (a) consequential, incidental or supplemental provision;
- (b) transitional or transitory provision, or savings;
- (c) different provision for different purposes. 40
- (5) Regulations under this paragraph (other than regulations made by the Scottish Ministers) are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament. 45

- (7) Regulations under this paragraph made by the Scottish Ministers are subject to the negative procedure.
- (8) In this paragraph –
- “the appropriate early payment deduction” means such adjustment as is shown as appropriate in actuarial guidance issued by the Secretary of State; 5
 - “exit payment restriction” means a restriction imposed by regulations under section 153A of the Small Business, Enterprise and Employment Act 2015;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975; 10
 - “relevant public sector scheme” has the same meaning as in section 153A of the Small Business, Enterprise and Employment Act 2015;
 - “relevant Scottish authority” has the meaning given by section 153B of that Act. 15

Local Government Pension Scheme Regulations 2013 (S.I. 2013/2356)

- 5 (1) In the Local Government Pension Scheme Regulations 2013 (S.I. 2013/2356) –
- (a) in regulation 30 (which provides for active members aged 55 or over, on redundancy, to take immediate payment of certain pension amounts without an actuarial reduction), at the end insert – 20
 - “(13) This regulation is subject to regulation 68A (effect of restrictions on public sector exit payments).”, and
 - (b) after regulation 68 insert –
 - “68A Effect of restrictions on public sector exit payments”** 25
 - (1) This regulation applies where the effect of the Exit Payment Regulations is to prevent all or part of a payment being required to be made under regulation 68(2) in respect of any extra charge on the fund resulting from retirement benefits which, in the absence of this regulation, would become immediately payable, without reduction, under regulation 30(7)(b) or as a result of a waiver under regulation 30(8). 30
 - (2) The member may elect to pay to the appropriate fund an amount in respect of all or part of that extra charge.
 - (3) Regulation 30(7) (which provides for active members aged 55 or over, on redundancy, to take immediate payment of certain pension amounts) has effect as if for paragraph (b) there were substituted – 35
 - “(b) any other retirement pension relating to that employment payable under these Regulations, adjusted by so much of the amount shown as appropriate in actuarial guidance issued by the Secretary of State as does not represent an adjustment relating to an extra charge on the appropriate fund – 40
 - (i) in respect of which the Scheme employer may be required to make an additional payment under regulation 68(2), or 45

- (ii) in respect of which the member has made a payment under regulation 68A(2).”
- (4) Regulation 30(8) does not authorise the waiver of any reduction except to the extent that an additional payment may be required under regulation 68(2), or a payment has been made to the appropriate fund by the member under paragraph (2), in respect of any extra charge on the fund resulting from not making the reduction. 5
- (5) In determining the effect of the Exit Payment Regulations for the purposes of paragraph (1) account is to be taken of any provision made under section 153C of the Small Business, Enterprise and Employment Act 2015 (power to relax exit payment restrictions in certain cases). 10
- (6) The restriction specified in paragraph (4) applies to Scheme employers which have power under section 1 of the Localism Act 2011 (local authority’s general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004 (powers of fire and rescue authorities) in the exercise of those powers. 15
- (7) In this regulation “Exit Payment Regulations” means regulations under section 153A(1) of the Small Business, Enterprise and Employment Act 2015 (regulations to restrict public sector exit payments).” 20
- (2) The provision made by sub-paragraph (1) may be amended or revoked as if it had been made under section 1 of the Public Service Pensions Act 2013. 25
- (3) The provision made by this paragraph is without prejudice to the generality of the powers conferred by paragraph 4.

Enterprise Bill [HL]

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B I L L

[AS AMENDED IN GRAND COMMITTEE]

To make provision relating to the promotion of enterprise and economic growth; and provision restricting exit payments in relation to public sector employment.

Baroness Neville-Rolfe

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