

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: INSOLVENCY

Power to establish single regulator of insolvency practitioners

Section 144: Power to establish single regulator of insolvency practitioners

805. This section allows the Secretary of State, by regulations made by the affirmative resolution procedure, to designate a body for the purposes of authorising and regulating IPs. The body may be a new body set up by regulation, or it may be an existing body. The power to move to a single regulator will only be used if the changes proposed by sections 137 to 143 do not succeed in improving confidence in the regulatory regime for IPs.
806. The section sets out the functions that the regulations may confer on the designated body and include:
- i. setting out the criteria for assessing whether a person is fit and proper to act as an IP, including the requirements as to education, practical experience and training they must meet;
 - ii. setting out technical standards for IPs and enforcing compliance with those standards; and
 - iii. investigating complaints about IPs.
807. The section allows the regulations to require that the designated body, in discharging regulatory functions, acts in a way which is compatible with the regulatory objectives (as introduced by section 138 of this Act).
808. It introduces Schedule 11 which makes supplementary provisions in relation to the designation of a body by regulations. For example, how many members the body should have; appointing the chair of the body and the setting of fees.

Section 145: Regulations under section 144: designation of existing body

809. This section sets out that the Secretary of State may make regulations designating an existing body as the single regulator if the body is able and willing and it has arrangements in place for its functions to be exercised effectively. It sets out in what circumstances an existing body may become the single regulator and what the Secretary of State must do to make this designation.

Section 146: Regulations under section 144: timing and supplementary

810. This section sets out that the powers to make regulations designating a single regulator of IPs will expire unless they are used within seven years of coming into force. The power to designate a single regulator will only be used if the changes to the regulatory regime in sections 137-143 of this Act do not bring about the intended improvements.
811. To the extent that the regulations made under this power are hybrid, this section allows them to be treated as if they are not hybrid. Although the introduction of a single regulator would have a significant impact on the current RPBs, the power would not be used without full consultation and assessment of the costs and benefits of the proposed change.

Section 147: Equal Pay: Transparency

812. This section requires the Government to make regulations under section 78 of the Equality Act 2010 (gender pay gap information). Regulations are to be made no later than a year after Royal Assent to the Act and the Government must consult before laying those regulations.
813. Section 78 of the Equality Act 2010, which is not yet commenced, enables a Minister of the Crown to make regulations requiring specified employers with at least 250 employees in Great Britain to publish information about the differences in pay between their male and female employees. The regulations may specify, among other things, the form and timing of the publication, which will be no more frequently than annually. The regulations may also specify penalties for non-compliance. Regulations under section 78 are subject to the affirmative procedure and may not be made unless a draft of the regulations has been laid before and approved by both Houses of Parliament.