

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

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: INSOLVENCY

Administration

Section 129: Administration: sales to connected persons

742. The section creates a power for the Secretary of State to make regulations prohibiting or imposing conditions on sales, disposals or, hiring out of the assets or business of the company in administration to connected parties.
743. The power to make regulations will enable the Secretary of State to:
- i. prohibit sales
 - ii. allow sales to take place subject to the imposition of restrictions or conditions.
 - iii. provide for the requirement to obtain approval from the court, the creditors of the company, or other person of a description specified in the regulations.
744. The section targets the restriction on ‘connected persons’ – which is where a person or the company purchasing the business has a relationship with the insolvent company. This includes directors, shadow directors or their associates. Associate captures, amongst other connections, where the person buying the company is the spouse, civil partner, relation of, or in business partnership with those acting as directors of the insolvent company.
745. The section also captures where common individuals exercise control over both companies. The existing legislative definition of ‘control’ of a company includes those persons who are not directors but whom the directors are accustomed to acting in accordance with their instructions.