

EXPLANATORY MEMORANDUM TO

THE DEREGULATION ACT 2015 (CONSEQUENTIAL AMENDMENTS) ORDER 2015

2015 No. 971

1. This explanatory memorandum has been prepared by the Cabinet Office in conjunction with the Department for Business, Innovation and Skills, the Department of Transport and the Department for Education, and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1. The Deregulation Act 2015 makes provision to reduce the burdens imposed on businesses, organisations and individuals arising from legislation and the exercise of regulatory functions, as well as provision to repeal legislation which no longer has practical use.

2.2. The Deregulation Act 2015 (Consequential Amendments) Order 2015 (“the Order”) makes a number of consequential amendments to a variety of existing secondary legislation to give full effect to several substantive provisions of the Deregulation Act 2015 (“the Act”). For example, section 64 of the Act abolishes the office of the Chief Executive of Skills Funding. To give full effect to that provision Schedule 3 of the Order removes references to that office in existing secondary legislation.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Context

4.1. This Order is made in exercise of the powers conferred by sections 112(1), (2) and (5) of the Deregulation Act 2015 which confers on the Secretary of State the power to make consequential provision, this is the first use of those powers.

4.2. Schedule 1 of this Order amends secondary legislation in consequence of the commencement of section 3 of the Act and provisions in Part 1 of Schedule 1 to the Act. Section 3 of, and Part 1 of Schedule 1 to, the Act provide for the simplification of English apprenticeships. Schedule 1 inserts Chapter A1 (Apprenticeships: England) into Part 1 of the Apprenticeships, Skills, Children and Learning Act 2009 (the “2009 Act”) in order to reform English apprenticeships. Chapter A1, among other things,

defines an approved English apprenticeship, provides that new apprenticeship standards will set out the outcomes that persons seeking to complete an approved English apprenticeship are expected to achieve, sets out the basis on which a certificate will be awarded and confirms the contractual status of apprenticeship agreements.

4.3. Schedule 2 of this Order amends secondary legislation in consequence of the commencement of sections 9 and 51(f) of, and Schedule 3, Part 6 of Schedule 10 and, paragraph 22 of Schedule 23 to the Act.

4.3.1. Part 1 of Schedule 2 makes consequential amendments further to Section 51(f) and Part 6 of Schedule 10 to the Act to amend the Road Traffic Act 1988 to place the use of private sector owned facilities for goods vehicle testing on a statutory footing by giving the Secretary of State an express statutory power to designate premises as vehicle testing stations. The provisions also amend the Road Traffic Act 1988 to give the Secretary of State the option to charge for the provision of an examiner for goods vehicle testing and public service vehicle testing at designated premises on a time-basis rather than a per test basis.

4.3.2. Part 2 of Schedule 2 makes consequential amendments further to Paragraph 22 of Part 4 of Schedule 23 to the Act to amend the Road Traffic Act 1988 to repeal section 64A as that section is no longer of any practical use.

4.3.3. Part 3 of Schedule 2 makes consequential amendments further to Section 9 of and Schedule 3 to the Act to amend the Road Traffic Act 1988 to remove the requirement for policyholders to return their motor insurance certificate to the issuer of that certificate if they cancel their policy mid-term.

4.4. Schedule 3 amends secondary legislation in consequence of the commencement of section 64 and Schedule 14 of the Act. Section 64 gives effect to Schedule 14, which amends Part 4 of the Apprenticeship, Skills, Children and Learning Act 2009 ("ASCLA") to repeal the statutory office of the Chief Executive of Skills Funding. Part 4 of ASCLA provides for there to be a Chief Executive of Skills Funding and prescribes certain powers and duties in relation to the provision of education and training for learners who are aged 19 or over, including powers to fund further education colleges and training providers for the delivery of specified full or part time courses in further education or vocational training, and apprenticeship training for people aged 16 and over.

4.5. Schedule 4 makes consequential provision further to section 93 of the Act, which removes the requirement that providers of social work services register with Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector").

4.5.1. The Providers of Social Work Services (England) Regulations 2013 made provision about the registration and regulation of providers of social work services. This Order revokes those Regulations.

4.5.2. The fees payable by providers of social work services to the Chief Inspector were set out in regulations 10 and 17 of the Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulations 2015. Since the requirement to register and pay the associated fees has been revoked, this Order omits the regulations relating to the fees.

4.6. Schedule 5 to the Order provides for three repeals to be made in consequence of the repeal of sections 7 to 18 of and Schedules A and B to the Newspaper Libel and Registration Act 1881 by paragraph 2 of Part 2 of Schedule 23 to the Deregulation Act 2015 (legislation no longer of practical use). The 1881 Act made provision relating to libel proceedings against newspaper proprietors and provided a registration scheme for

those proprietors. Registration under the 1881 Act is no longer necessary as the majority of UK newspapers are now structured as companies which are registered under the Companies Act 2006.

5. Territorial Extent and Application

5.1. This Order extends to the United Kingdom.

5.1.1. Schedule 1 of the Order applies to England.

5.1.2. Schedule 2 amends several different pieces of secondary legislation. The amendments have the same extent as the enactment amended or revoked.

5.1.3. Schedule 3 amends several different pieces of secondary legislation. The amendments have the same extent as the enactment amended.

5.1.4. Schedule 4 of the Order applies to England.

5.1.5. In relation to Schedule 5:

5.1.5.1. The Order repeals Article 2 of the Companies Registration Office (Fees) Order 1963, which was made under the Public Offices Fees Act 1879, and applied to those fees payable to the Registrar of Companies in England under the Newspaper Libel and Registration Act 1881, which does not apply to Scotland.

5.1.5.2. The Order repeals paragraph 4 of Schedule 1 to the Contracting Out (Functions in relation to the Registration of Companies) Order 1995 which was limited to the functions of the registrar of companies for England and Wales.

5.1.5.3. The Order repeals paragraph 6 of Schedule 1 to the Registrar of Companies (Fees) (Limited Partnerships and Newspaper Proprietors) Regulations 2009, which was made under the powers contained in the Companies Act 2006 and so extended to the whole of the UK except where, as in the case of the register of newspaper proprietors, the context required otherwise.

6. European Convention on Human Rights

6.1. As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Schedule 1

7.1. An independent review of apprenticeships in 2012 recommended a number of changes to improve apprenticeships in England. In response the Government committed to making apprenticeships more responsive to employer needs. In order to achieve this the Government introduced the apprenticeship reforms in Schedule 1 to the Act.

Approved English apprenticeship agreements (within the meaning of new section A3 of the 2009 Act) forms part of those reforms.

7.2. The Order makes consequential amendments to three different sets of Regulations in order to insert references to approved English apprenticeship agreements in the appropriate places in those Regulations. In particular the Order amends:

- Regulation 20 (Apprentices) of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002;
- Paragraph 8 of Schedule 2 (Information to be Published by a Local Authority in its Local Offer) to the Special Educational Needs and Disability Regulations 2014;
- Regulation 5(1)(a) (Determining whether the apprenticeship rate applies) of the National Minimum Wage Regulations 2015.

Schedule 2

7.3. Part 1 of Schedule 2 makes amendments consequential on the changes to the testing of vehicles legislation contained in section 51(f) and Part 6 of Schedule 10 of the Act. Annual testing of HGVs (Heavy Goods Vehicles) and PSVs (Public Service Vehicles i.e. buses and coaches used for hire and reward) is required by EU law. In Great Britain, to ensure objectivity, examiners are provided by a Government Agency – the Driver & Vehicle Standards Agency (DVSA) which is part of the Department for Transport. Historically vehicle testing was conducted at Secretary of State owned premises but DVSA has been engaged in a reform to move the provision of testing facilities to the private sector and most annual roadworthiness tests are now carried out in such facilities. The amendment made by the Act to the Road Traffic Act 1988 puts this change on a statutory basis.

7.4. Prior to the changes contained in the Act the fee raising powers in the Road Traffic Act 1988 only allowed charging on a per test basis for annual roadworthiness testing. Following consultation with industry it was considered that it would create a much simpler administrative system if designated premises were able to simply book examiners to attend their premises for a set period of time and pay on a time basis (rather than designation premises having to book and pay the different, separate fees for all the separate tests). The Act inserts new time based charging powers which would allow this. These new charging powers will, however, only be used after further consultation with industry.

7.5. Part 2 of Schedule 2 makes amendments consequential on the repeal of Section 64A of the Road Traffic Act 1988. Section 64A is being repealed because the legislation is no longer of any practical use – in line with government policy to repeal unnecessary legislation and simplify the statute book.

7.6. Part 3 of Schedule 2 makes consequential changes to further give effect to amendments made by the Act in Section 9 and Schedule 3.

7.6.1. One of these amendments is a measure to reduce unnecessary burdens on motorists and insurers by removing the need for the policy holder to return their certificates of insurance to the issuer if they cancel their policy mid-term. About six million policyholders cancel their motor insurance policies mid-term annually therefore it would be expected that this change would result in clear savings to businesses who would no longer have to process returned certificates, or take further action where certificates have not been returned. The saving is estimated at £29 million per annum to the industry based on the Association of British Industry (“ABI”) statistics. If it was passed on to policyholders then this could mean a reduction of about £1 per policy.

- 7.6.2. Once a policy is cancelled the insurer would update the Motor Insurance Database (“MID”) to note the change, a practice which is already followed by insurers meaning there will be no additional costs to the insurance industry.
- 7.6.3. A further amendment made by the Act removes the necessity for motor insurance certificates to have been delivered in order for a policy or security to be legally effective, though insurers will still be required to issue them. For private policies many organisations, in particular the police, no longer rely on the insurance certificate and use information held on the MID as de facto evidence that a vehicle has an effective insurance policy in force.

Schedule 3

- 7.7. The provisions in Schedule 3 of this Order are consequential on Section 64 and Schedule 14 of the Act which repeal the statutory office of Chief Executive of Skills Funding (“the Chief Executive”) and its prescribed powers, duties and functions, and transfer certain powers and duties in respect of apprenticeship training, and further education and training for adults, to the Secretary of State. The changes will enable the Skills Funding Agency – the executive agency sponsored by the Department for Business, Innovation and Skills and set up in April 2010 to support the Chief Executive exercise its functions – to operate through the powers and duties of the Secretary of State, rather than the Chief Executive. This is consistent with the Government’s wider commitment to improve the transparency and accountability for all public services, and will reduce administrative burden on the government by providing a clearer and more streamlined governance and accountability framework for the Skills Funding Agency.

Schedule 4

- 7.8. The provisions in Schedule 4 of this Order are consequential on section 93 of the Act. Section 93 repeals section 4(10) of the Care Standards Act 2000, which provides for that Act to apply to a provider of social work services in the same way as it applies to an agency.
- 7.9. The Care Standards Act 2000 makes provision for the registration and inspection of agencies by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (“the Chief Inspector”). The purpose of section 93 is to remove burdens on providers of social work services and the Chief Inspector. Where a local authority enters into arrangements with a provider of social work services in England, the Chief Inspector may inspect those arrangements as part of its inspection of the local authority under section 136 of the Education and Inspections Act 2006.

Schedule 5

- 7.10. The Deregulation Act 2015 repeals those sections of the Newspaper Libel and Registration Act 1881 dealing with the registration of certain newspaper proprietors. The requirement for the registration of proprietors of newspapers is considered to no longer be of practical use. Registration under the 1881 Act is no longer necessary as the majority of UK newspapers are now structured as companies which are registered under the Companies Act 2006. Following the repeal of the primary legislation, this consequential order repeals three provisions from secondary legislation, which supplemented the registration requirement.

Consolidation

- 7.11. The Order makes a number of limited amendments to a large number of different enactments in a wide variety of subject areas on behalf of a number of different departments. Consequently it is not possible, nor is it reasonably practicable to produce consolidated versions of each and every amended instrument at this stage. The

consequential changes made by this Order all arise out of wider substantive changes and we expect consolidation to be considered and implemented as appropriate within each of the relevant wider legislative schemes. Informal consolidated versions of some of the enactments as amended may be available at <http://www.legislation.gov.uk>.

8. Consultation outcome

8.1. No formal consultation was undertaken specifically on these amendments as there is no statutory requirement for this. They are technical and relatively minor amendments which are consequential on provisions of the Deregulation Act which were scrutinised by Parliament. There has however, where appropriate, been consultation with other relevant government departments and with the devolved administrations that have responsibility for the devolved legislation being amended by the Order.

9. Guidance

9.1. In relation to Part 3 of Schedule 2, the insurance industry is supportive of the substantive change these consequential amendments support, as the proposal originated from the industry and is not controversial. The Department are in regular discussions with the Association of British Insurers and the Motor Insurers' Bureau to ensure that they fully informed and prepared for the changes.

9.2. In relation to Schedule 5, the Registrar (Companies House) will inform those newspapers who were under the Newspaper and Libel Act that registration is no longer necessary.

9.3. In relation to the rest of the Order no guidance is required in respect of the purely consequential changes made by this Order.

10. Impact

10.1. There is no impact on the costs of business, charities or voluntary bodies.

10.2. There are no additional burdens on the public sector.

10.3. A separate full regulatory impact assessment has not been prepared for this consequential instrument because no impact on the private, public or voluntary sectors is foreseen separate to that already covered by the substantive provisions in the Act.

11. Regulating small business

11.1. Schedule 1 will apply to small businesses which decide to employ an apprentice on an approved English apprenticeship agreement.

- 11.2. Part 3 of Schedule 2 will apply to small business. There are no costs because no one has to return their insurance certificates if they are cancelled mid-term.
- 11.3. Otherwise the Order does not place any additional burdens on small business.

12. Monitoring & review

- 12.1. No monitoring is required. The Order makes consequential amendments only. The legislation amended by this instrument will be monitored and reviewed as appropriate within the relevant wider legislative schemes.

13. Contact

- 13.1. **David Howarth** at the Cabinet Office, tel 020 7271 6322: email: david.howarth@cabinetoffice.gov.uk will be able to answer any queries regarding these instruments.