

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT DEREGULATION ACT 2015 AND SMALL  
BUSINESS, ENTERPRISE AND EMPLOYMENT  
ACT 2015 (CONSEQUENTIAL AMENDMENTS)  
(SAVINGS) REGULATIONS 2017

*Monday 27 March 2017*

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**Friday 31 March 2017**

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**The Committee consisted of the following Members:**

*Chair:* ROBERT FLELLO

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|---|--|
| † Barclay, Stephen ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) | † James, Margot ( <i>Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy</i> ) |
| Beckett, Margaret ( <i>Derby South</i> ) (Lab)                            | † Morton, Wendy ( <i>Aldridge-Brownhills</i> ) (Con)   |
| † Burt, Alistair ( <i>North East Bedfordshire</i> ) (Con)                 | † Phillips, Jess ( <i>Birmingham, Yardley</i> ) (Lab)  |
| † Debbonaire, Thangam ( <i>Bristol West</i> ) (Lab)                       | † Prisk, Mr Mark ( <i>Hertford and Stortford</i> ) (Con)   |
| † Esterson, Bill ( <i>Sefton Central</i> ) (Lab)                          | † Streeting, Wes ( <i>Ilford North</i> ) (Lab)   |
| † Fitzpatrick, Jim ( <i>Poplar and Limehouse</i> ) (Lab)                  | † Swayne, Sir Desmond ( <i>New Forest West</i> ) (Con)   |
| † Fysh, Marcus ( <i>Yeovil</i> ) (Con)                                    | † Tomlinson, Justin ( <i>North Swindon</i> ) (Con)   |
| † Graham, Richard ( <i>Gloucester</i> ) (Con)                             | Ben Williams, <i>Committee Clerk</i>   |
| † Haselhurst, Sir Alan ( <i>Saffron Walden</i> ) (Con)                    | † <b>attended the Committee</b>  |

## Fourth Delegated Legislation Committee

Monday 27 March 2017

[ROBERT FLELLO *in the Chair*]

### Draft Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017

6 pm

**The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Margot James):** I beg to move,

That the Committee has considered the draft Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017.

It is a pleasure to serve under your chairmanship, Mr Ffello. These regulations make consequential amendments and savings provisions to legislation that refers to the Insolvency Act 1986 as amended by the Deregulation Act 2015 and the Small Business, Enterprise and Employment Act 2015 with effect from 6 April 2017. Most significantly, the regulations update the Administration of Insolvent Estates of Deceased Persons Order 1986, which is the procedural framework that deals with the administration of the insolvent estates of deceased debtors, and the Insolvent Partnerships Order 1994 that deals with insolvent partnerships.

Over the past two years, the Government have introduced a series of reforms to modernise and streamline the insolvency process. We have achieved that through the Deregulation Act 2015, the Small Business, Enterprise and Employment Act 2015 and the new Insolvency (England and Wales) Rules 2016. The policy impetus for these measures was to remove unnecessary burdens and enable greater use of technology to reduce the cost of administering insolvency proceedings. It was part of the Government's red tape challenge, which asked stakeholders for views on how unnecessary regulation could be reduced and how procedures could be modernised, simplified and made more efficient.

The responses that we received produced a package of measures aimed at reducing costs and improving returns to creditors. The changes, which commence in April 2017, should deliver a net benefit to business of £22 million a year. The key policy changes to which these consequential amendments apply include the fact that physical meetings will no longer be the default mechanism for making decisions in insolvency proceedings. In many cases, an office holder will be able to use a process of deemed consent, whereby they write to creditors with a proposal and, provided they do not receive objections from more than 10% in value of creditors, the proposal will be deemed to have been approved. Alternatively, office holders can use an online virtual meeting, a telephone meeting or an electronic voting system, or they can seek decisions through correspondence.

Currently, an office holder must hold a face-to-face meeting of creditors in order to lay his or her final report on the outcome of the case. These meetings are rarely attended by creditors. In future, the office holder will simply send a final account of the particular case to creditors. That will not reduce the creditors' rights to challenge any actions of the office holder. Creditors with no further interest in an insolvency process will be able to opt out of receiving further routine correspondence and reports from the office holder. That will not include correspondence about the payment of a dividend, as the office holder will still have to notify all creditors if a dividend is proposed.

Where parties are used to corresponding electronically, that can continue after insolvency without the need to obtain permission from each creditor. That will encourage e-communication, which is generally cheaper and speedier than traditional post. Under the current rules, an office holder must obtain a court order if he or she wants to put all future communications with creditors on a website, which restricts considerably the use of technology. The requirement for a court order has therefore been removed.

If a creditor is owed up to £1,000, new provisions will allow an office holder to rely on information contained in records belonging to a company or bankrupt and to pay a dividend without the need for the creditor to submit a formal claim. As business practice has developed, particularly through new technologies, corresponding changes to insolvency law have been slow to follow. Users have not always been able to take advantage of the quickest, most cost-effective or most convenient methods of engaging with the insolvency process.

The changes coming into force on 6 April modernise the insolvency process by encouraging the use of electronic communication and decision making so that they are more fitted for the 21st century. They will increase creditor engagement through more convenient methods of interaction, as well as reducing the costs of seeking decisions. In particular, we will introduce amendments that enable modern methods of communication and decision making to be used in place of paper communications and physical meetings. This will increase creditors' engagement in insolvency cases by encouraging the use of decision-making processes that are fit for the 21st century.

The insolvency reforms have been informed by extensive consultation and engagement with a range of parties affected by insolvency, including the insolvency profession, creditor representatives, insolvency regulators and public bodies.

6.5 pm

**Bill Esterson (Sefton Central) (Lab):** It is a pleasure to serve under your chairmanship, Mr Ffello.

The Minister has set out the provisions of the draft regulations concisely, but I wish to ask her to clarify a number of points. She mentioned, as do the explanatory notes, that the draft regulations will update the Administration of Insolvent Estates of Deceased Persons Order 1986 and the Insolvent Partnerships Order 1995. Will they update only those two measures or will they affect insolvency legislation more widely?

Some questions spring to mind about the creditors meeting. As the Minister said, creditors often do not attend creditors meetings. Will she set out the circumstances in which it is envisaged that a decision will be taken not

to hold a creditors meeting, and on whose authority such a decision will be taken? There are reasons why creditors meetings are sometimes beneficial—it is not entirely out of the ordinary for creditors to feel that they would prefer to replace the nominated insolvency practitioner at those meetings—so it would be helpful to understand the circumstances exactly.

Will the Minister tell us the expected savings from the use of electronic communications and the anticipated increase in payments to creditors in the form of dividends? Is a review likely to be held of the success in delivering those savings and that increase in dividends once the regulations are in force? If so, in what way?

I agree that the proposals will save time and money. Using electronic processes makes perfect sense, although there are always questions about how creditors are guaranteed to receive communication electronically. What checks will be in place and what assurances can she give that all creditors will receive their correspondence in that way? What confirmation will be made that they are receiving electronic communications?

The Minister made the point that if a dividend is secured, all creditors will be notified, whether or not they have chosen to receive communications. Will that notification be made on paper, electronically, or by a combination of both methods? I look forward to her response.

6.9 pm

**Margot James:** In response to the hon. Gentleman's questions, physical meetings may be requested when 10% of the value of creditors have deemed that they would prefer to take decisions via correspondence and electronic communications. On the changes to how decisions are made, he asked what saving the Government think they can achieve by abolishing physical meetings.

We estimate that the total benefit to creditors will be approximately £6 million or more each year from including the removal of the requirement to hold a final meeting as well as of the default physical meeting as a way of agreeing decisions.

To answer the hon. Gentleman's first question, it is just the two regulations that we are discussing today. I am grateful to him for his questions, and I hope that we can agree that the regulations will bring important benefits. I said that it is just the two regulations that we are discussing; that covers legislation on the main insolvency elements relating to administration and the deceased and insolvent partnerships order.

**Bill Esterson:** I asked whether the Minister could give an example of the circumstances in which the creditors meeting would not be held. I am not entirely sure whether she answered or not; she might have done right at the start. Perhaps she would clarify that point for me.

**Margot James:** I hope that I understand the hon. Gentleman's question correctly. The physical meetings will not be required when 10%, in terms of the value of the creditors, decree that it is acceptable to go ahead without physical meetings and to revert to electronic communication. I hope that I have understood him correctly in that regard, and I hope that we can agree that the regulations will bring benefits in updating the legislation to ensure that it is efficient and effective and delivers the best returns possible for those affected by insolvency. I commend the regulations to the Committee.

*Question put and agreed to.*

6.12 pm

*Committee rose.*

