

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

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

Monday 5 February 2018

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The Committee consisted of the following Members:

Chair: STEWART HOSIE

Cooper, Rosie (<i>West Lancashire</i>) (Lab)	† Offord, Dr Matthew (<i>Hendon</i>) (Con)
† Drax, Richard (<i>South Dorset</i>) (Con)	† Reynolds, Jonathan (<i>Stalybridge and Hyde</i>) (Lab/ Co-op)
Farrelly, Paul (<i>Newcastle-under-Lyme</i>) (Lab)	† Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>)
† Fitzpatrick, Jim (<i>Poplar and Limehouse</i>) (Lab)	† Smith, Angela (<i>Penistone and Stocksbridge</i>) (Lab)
† Garnier, Mark (<i>Wyre Forest</i>) (Con)	† Smith, Jeff (<i>Manchester, Withington</i>) (Lab)
† Glen, John (<i>Economic Secretary to the Treasury</i>)	Vaz, Keith (<i>Leicester East</i>) (Lab)
† Hendry, Drew (<i>Inverness, Nairn, Badenoch and Strathspey</i>) (SNP)	
† Kwarteng, Kwasi (<i>Spelthorne</i>) (Con)	Leoni Kurt, <i>Committee Clerk</i>
† Masterton, Paul (<i>East Renfrewshire</i>) (Con)	
† Mercer, Johnny (<i>Plymouth, Moor View</i>) (Con)	† attended the Committee
† Morris, Anne Marie (<i>Newton Abbot</i>) (Con)	

The following also attended, pursuant to Standing Order No. 118(2):

Johnson, Dr Caroline (*Sleaford and North Hykeham*)
(Con)

First Delegated Legislation Committee

Monday 5 February 2018

[STEWART HOSIE *in the Chair*]

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

4.30 pm

The Economic Secretary to the Treasury (John Glen): I beg to move,

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

It is a pleasure to serve under your chairmanship, Mr Hosie. The draft regulations follow the reforms introduced by the Government in 2015 to modernise and streamline the insolvency process. The 2015 reforms were commenced in stages, and the draft regulations cover the application of the reforms that came into force in April 2017. Specifically, the draft regulations make consequential amendments to the financial sector insolvency regimes to take account of the April 2017 reforms.

For the Committee's benefit, I will briefly set out where the draft regulations fit in the context of general insolvency law. Insolvency law is based on the Insolvency Act 1986, which has been amended several times, including by the tranches of Government reforms instigated in 2015. That broader legal framework has been modified into specific insolvency regimes for different sectors, including for financial services. The insolvency regimes for the financial sector exist because general insolvency procedures are not always suitable for failed financial institutions. That is because general insolvency law does not necessarily reflect the complex nature of financial institutions and the impact that their failure may have.

The insolvency regimes for the financial sector sit alongside and are separate from the Bank of England's resolution powers under the special resolution regime established by the Banking Act 2009. The draft regulations do not affect or amend the Bank of England's powers under the special resolution regime. Instead, they are necessary to update and maintain the legislation governing the modified insolvency regimes for the financial sector following the wider insolvency law reforms that the Government brought forward in 2015.

Let me provide more detail on the 2015 reforms to explain the genesis of the draft regulations. The 2015 reforms resulted in wide-ranging changes to the UK's general insolvency regime that broadly affected all sectors. Those reforms were implemented in several stages: in May 2015, October 2015, April 2016 and, finally, in April 2017. The draft regulations cover the application of the 2015 reforms that came into force in April 2017, which removed the default requirement to hold a physical meeting of creditors as a decision-making mechanism in an insolvency proceeding, thereby removing unnecessary

burdens and enabling the greater use of technology to administer insolvency proceedings. The April 2017 reforms also gave creditors the ability to opt out of certain notices for both company and individual insolvency, reducing the expense of sending notices for the office holder and the expense of dealing with unnecessary and unwanted notices for the creditor.

I will now set out in further detail the effect and rationale of the draft regulations. The draft regulations align the specific insolvency regimes for companies, partnerships and individuals carrying on insurance or other financial activities with the April 2017 reforms, ensuring that the benefits of the broader 2015 reforms to UK insolvency law extend to the financial sector. The draft regulations do not apply the April 2017 reforms to the insolvency regimes for financial institutions that are not companies, partnerships or individuals. Nor do they apply the reforms to specialised regimes, such as those for banks and building societies. For those insolvency regimes, the draft regulations work to keep the legislation as it was prior to the coming into force of the April 2017 reforms. Because of the considerable volume of legislation that is affected, that approach is necessary while the impact of the reforms on those institutions is further assessed and decisions are made about implementation.

In conclusion, the consequential amendments are required to update and maintain consistency in the legislation governing the insolvency regimes for financial sector firms. The Government are committed to improving public and business confidence in the insolvency process, and having clear legislation that governs the process is fundamental to achieving that.

4.35 pm

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): It is lovely to see you in the Chair this evening, Mr Hosie. I thank the Minister for his introduction to the regulations. It is a sad fact that more and more individuals and businesses are dealing with problem debts, and the robustness of all our insolvency systems is of the utmost importance.

As I understand it, the regulations enable financial services firms to be covered within the provisions of the Small Business, Enterprise and Employment Act 2015. Those provisions make insolvency proceedings more flexible by allowing, for example, for different approaches to creditors' meetings and the receipt of notice by creditors about insolvency proceedings. The regulations either directly implement the requirements or disapply the 2015 Act to enable sufficient time to design appropriate mechanisms, as the Minister said, for financial sectors where it will be more complex to apply the requirements to existing insolvency provisions.

I completely understand the fairly reasonable points made by the Minister about holding a physical meeting, which is often neither practical nor appropriate given the modern methods of communication now available and given that insolvency proceedings are not now purely local matters as they would have been in Victorian times, when the insolvency regime was initially created. Furthermore, it is peculiar that office holders must produce and dispatch information to creditors even if they have no continuing interest in an insolvency and have already written off their debt. The opt-out regime allows for those with an interest to continue to receive

notices regardless. The 2015 Act's amending of the Insolvency Act 1986 to reflect that seems appropriate—we have no objections to that—as does the application of the 2015 Act's requirements to financial firms.

My only request of the Minister is in relation to his point on disapplying the 2015 Act's provisions while the Treasury strives to produce the new measures and the impact assessment as quickly as possible. If he could give us some sense of the timings that the Treasury has in mind, that would be particularly useful and appropriate.

4.37 pm

Jim Fitzpatrick (Poplar and Limehouse) (Lab): It is a pleasure to serve under your chairmanship, Mr Hosie. I rise briefly to ask the Minister a question on the back of the Backbench Business Committee debate in the Chamber two or three weeks ago. A number of small and medium-sized enterprises were driven into liquidation and insolvency by the big banks as part of their recovery procedures from 2008. The Minister said that the regulations do not cover the banks. Can I get an assurance that the regulations will not have any impact on the claims of

the SMEs that were robbed of billions of pounds by the big banks? Are the regulations an entirely separate issue?

4.38 pm

John Glen: I am extremely grateful for the comments of both the hon. Gentlemen. I confirm that the Treasury will work as soon as it reasonably can to ensure that there is the appropriate application of the 2015 Act. In respect of the point that the hon. Member for Poplar and Limehouse made, I acknowledge the range of examples that were brought to the House's attention, and I assure him that there is ongoing work to be done to investigate the impact of the Global Restructuring Group process. There was an encounter last week between the head of RBS and the Treasury Committee. There is more work to be done, and I will be making further comments in due course in the House.

Question put and agreed to.

4.39 pm

Committee rose.

