



Enterprise Act 2016

2016 CHAPTER 12

PART 1

THE SMALL BUSINESS COMMISSIONER

Power to abolish

11 Power to abolish the Commissioner

- (1) The Secretary of State may, by regulations, abolish the office of Small Business Commissioner if, as a result of a review under section 10, the Secretary of State is satisfied that—
 - (a) it is no longer necessary for there to be a Small Business Commissioner carrying out the functions under this Part, or
 - (b) the Commissioner's role has not been sufficiently effective to justify the office's continued existence.
- (2) For the purposes of subsection (1)(b), the Secretary of State must, in particular, take account of the Commissioner's role in—
 - (a) carrying out any of the functions under this Part,
 - (b) improving payment practices in commercial transactions, and
 - (c) improving the awareness of small businesses of alternative dispute resolution procedures.
- (3) For the purposes of giving effect to the abolition of the office of Small Business Commissioner, the regulations may amend or repeal this Part or any provision made by or under any other enactment (whether passed or made before or after this Act).
- (4) Regulations under this section may make incidental, supplemental, consequential, transitional or transitory provision or savings.
- (5) Before making regulations under this section, the Secretary of State must consult—
 - (a) the Small Business Commissioner (unless that office is vacant),

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- (b) such other persons as appear to the Secretary of State to be persons affected by the regulations, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (6) If, as a result of consultation under subsection (5), the Secretary of State considers it appropriate to change the whole or part of the proposed regulations, the Secretary of State must carry out such further consultation with respect to the changes as seems appropriate.

12 Regulations under section 11: procedure

- (1) In this section “regulations” means regulations under section 11.
- (2) If after consultation under section 11, the Secretary of State considers it appropriate to proceed with the making of regulations, the Secretary of State may lay before Parliament—
- (a) draft regulations, and
 - (b) an explanatory document.
- (3) The explanatory document must—
- (a) explain why the Secretary of State considers that one of the conditions in section 11(1) is met, and
 - (b) contain a summary of representations received in the consultation.
- (4) The Secretary of State may not act under subsection (2) before the end of the period of 12 weeks beginning with the day on which the consultation began under section 11(5).
- (5) Subject to subsections (6) to (13), if after the expiry of the 40-day period the draft regulations laid under subsection (2) are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.
- (6) The procedure in subsections (7) to (10) applies to the draft regulations instead of the procedure in subsection (5) if—
- (a) either House of Parliament so resolves within the 30-day period, or
 - (b) a committee of either House charged with reporting on the draft regulations so recommends within the 30-day period and the House to which the recommendation is made does not by resolution reject the recommendation within that period.
- (7) The Secretary of State must have regard to—
- (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations,
- made during the 60-day period with regard to the draft regulations.
- (8) If after the expiry of the 60-day period the draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.
- (9) If after the expiry of the 60-day period the Secretary of State wishes to proceed with the draft regulations but with material changes, the Secretary of State may lay before Parliament—

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- (a) revised draft regulations, and
 - (b) a statement giving a summary of the changes proposed.
- (10) If the revised draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the revised draft regulations.
- (11) For the purposes of this section regulations are made in the terms of draft regulations or revised draft regulations if they contain no material changes to their provisions.
- (12) In this section, references to the “30-day”, “40-day” and “60-day” periods in relation to any draft regulations are to the periods of 30, 40 and 60 days beginning with the day on which the draft regulations were laid before Parliament.
- (13) For the purposes of subsection (12) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.
- (14) Regulations are to be made by statutory instrument.