EXPLANATORY MEMORANDUM TO

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

2017 No. XXXX

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument makes consequential amendments and savings provisions to legislation that make reference to, either by citing or modifying, the Insolvency Act ("1986") in consequence of insolvency reforms made by provisions of the Deregulation Act 2015 ("**DA**") and the Small Business, Enterprise and Employment Act 2015 ("**SBEEA**") that amend the Act.

2.2 In particular these Regulations update various instruments that have modified or adopted the provisions of the Acts, most significantly the Administration of Insolvent Estates of Deceased Persons Order 1986 **("AIEDPO 1986")** and the Insolvent Partnerships Order 1994 **("IPO 1994").**

2.3 This instrument also contains a savings provision for certain insolvency regimes that apply the Act, either with or without modifications.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 This entire instrument applies only to England and Wales.

3.3 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of [his instrument would not be within the devolved legislative competence of any of the Northern Ireland Assembly as a transferred matter, the Scottish Parliament or the National Assembly for Wales if equivalent provision in relation to the relevant territory were included in an Act of the relevant devolved legislature.

4. Legislative Context

4.1 These Regulations make consequential amendments and savings provisions to legislation that refers to the Act, amended by provisions of the Small Business, Enterprise and Employment Act 2015 and the Deregulation Act 2015 Legislation,

which make reference to, either by citing or by modifying, the 1986 Rules or the amended provisions of the Act. Some of this is primary legislation however the majority is secondary legislation applying modifications of primary legislation.

4.2 The AIEDPO 1986 and IPO 1994 legislation form the procedural framework that deals with the administration of the insolvent estates of deceased debtors, and insolvent partnerships. The AIEDPO 1986 and IPO 1994 operate to apply provisions of the Act as amended in the schedules to these Orders.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

6. European Convention on Human Rights

6.1 Margot James, the Minister for Small Business, Consumers and Corporate Responsibility, has made the following statement regarding Human Rights:

"In my view the provisions of the Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The programme of insolvency reforms currently under way delivers a number of policy measures to improve the efficacy and efficiency of the insolvency regime. Some of these measures involve significant changes to the way in which insolvency proceedings are conducted. The removal of the requirement to hold creditor meetings except in certain circumstances, the streamlining of creditor decision making processes, use of electronic communication and websites, and the ability of creditors to opt not to receive certain notices, will modernise and reduce the costs of administrating an insolvency. The policy impetus for all these measures was to remove unnecessary regulatory burdens to reduce the cost of administering insolvency proceedings. Reducing costs will benefit creditors in the form of improved dividend returns.

7.2 For further details on the reforms, see the explanatory notes accompanying the Insolvency (England and Wales) Rules 2016 and the DA and SBEEA.

Consolidation

7.3 Not applicable.

8. Consultation outcome

8.1 BIS carried out extensive consultations before bringing forward the insolvency reforms in the DA and SBEEA, including the following public consultations: the 'insolvency red tape challenge' and the 'transparency and trust paper'.

8.2 Insolvency reforms have been informed by extensive consultation and engagement with a range of parties affected by insolvency. Such parties include: the insolvency profession, creditor representatives, insolvency regulators and public bodies.

8.3 In July 2015 draft insolvency rules were submitted to the Insolvency Rules Committee for the purpose of the Lord Chancellor's statutory consultation pursuant to section 413 of the Act. The draft was also published online. The IRC confirmed on 5 October 2016 that it had considered the draft instrument and was satisfied with its content.

9. Guidance

9.1 Not applicable.

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation is deregulatory and applies to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 Not applicable.

13. Contact

13.1 Helen Jeffery at the Insolvency Service Telephone: 020 7291 6783 or email: helen.jeffery@insolvency.gsi.gov.uk can answer any queries regarding the instrument.