

Pre-pack sales to face mandatory independent scrutiny

Update February 2021

The government has laid [draft regulations](#) in Parliament which implement the requirement for mandatory independent scrutiny of pre-pack administration sales where connected parties are involved in the purchase. The regulations will come into effect once they have been debated and passed in both Houses of Parliament.

- Stricter independent scrutiny on pre-pack sales where connected parties – such as the insolvent company’s existing directors or shareholders – are involved
- Improved transparency during pre-pack sales, ensuring the general public and creditors’ interests are protected
- Move will increase confidence in the insolvency regime, helping to protect jobs and support the economy

New laws will require mandatory independent scrutiny of pre-pack administration sales where connected parties – such as the insolvent company’s existing directors or shareholders – are involved in the purchase, the government has announced today.

The new laws will improve confidence and transparency in pre-pack administration sales, giving the general public and creditors reassurance that their interests are being protected alongside that of the distressed business.

Pre-pack administrations involve arrangements to sell part or the whole of a company’s business or assets prior to the company entering into administration.

The sale is completed on or shortly after the appointment of an administrator and the speed of the transaction helps preserve the value of the business while saving jobs.

Pre-pack administration sales are widely considered to be a valuable rescue tool. However concerns have been raised that arrangements may not always be in the best interests of creditors. For example, where the sale is made to a connected party, such as the company’s directors or shareholders.

Minister for Corporate Responsibility Lord Callanan said:

Pre-pack sales play an important role in rescuing viable businesses, while protecting jobs and supporting our economy.

As we continue to tackle Covid-19, it is more important now than

ever that people have confidence in the insolvency process.

This new law will ensure all sales to connected parties are properly scrutinized – protecting the interests of creditors and the general public, as well as the distressed company.

Colin Haig, President of insolvency and restructuring trade body R3, said:

Pre-pack administration sales involving connected parties are an important rescue tool as they are often the best way of preserving a business and ensuring maximum returns to creditors.

The insolvency and restructuring profession is very sensitive to the impact of pre-packs on creditors, and there is a careful balance to strike in these situations between transparency, protecting creditor value, and business rescue, which these proposals support.

Ion Fletcher, Director of Finance Policy, British Property Federation:

We support the Insolvency Service's proposed measures to require independent scrutiny of sales in administration to a connected person. This will provide much-needed transparency and provide reassurance that a sale has been completed in a fair manner.

The Government will introduce regulations into Parliament in due course.

Notes to editors

- Further details on how mandatory scrutiny will be enforced will be provided in due course.
- The power to regulate connected party sales in administration in Section 129 of the Small Business, Enterprise and Employment Act 2015 lapsed in May 2020. It was revived by the Corporate Insolvency and Governance Act 2020, giving the Government powers to introduce regulation via affirmative secondary legislation.
- The legislation will apply to England, Scotland and Wales. Insolvency matters are devolved in Northern Ireland.

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