

Government's "shares for employment rights" legislation...

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My TUC colleague Nicola Smith [has written today on the tax problems raised](#) by the government's employment [rights for shares](#) proposals. She covers a range of issues. I want to highlight one as it is a complete Trojan horse for massive tax abuse. As she writes:

Under current rules a group of people who set up a new company and then sell it have to pay Capital Gains Tax on the profits they make from the company sale. They are entitled to 'entrepreneur's relief' which means that instead of paying 28% on the gains they make, they are only required to pay 10% (on gains up to £10 million — after which point the higher 28% of CGT applies). But under this new proposal a small start up could choose to classify all founders/directors as 'employee owners' (and if they wanted contract themselves back into the employment rights they had foregone). At whatever point in the future they then chose to sell the business, they would not be required to pay any tax on any gains.

Some have argued that this loophole could be avoided by preventing 'connected people' from accessing the new 'employee owner' status. This would mean that those 'connected' to the owner of a business, e.g. a family member or close friend, would not be eligible for the new classification. But when new businesses are being founded, there is no one to be 'connected' to. A new start up cannot, by definition, have any people 'connected' to it, as it does not yet exist. So while this type of provision might prevent directors from classifying their partners as 'employee owners' (subject of course to HMRC having the resources to police the loophole — which, with [10,000 job cuts apparently on the way](#), seems unlikely) there is nothing it could do to stop founders using the provision. There is therefore huge potential for this new status to provide those starting new businesses with a convenient way to avoid paying any Capital Gains Tax once they sell their companies.

In the House of Commons yesterday [Michael Fallon confirmed](#) that this new right:

may particularly suit a new business that is being set up by a group of entrepreneurs. They will agree, for example, in that small, tightly knit company, that it would be

damaging for the company if one of them started suing the other for unfair dismissal, so they agree to sacrifice some of their rights in return for this kind of added share benefit.

This suggests strongly that not only will this new loophole exist, but that creating it may even be the Government's intention.

There is no [impact assessment](#) available for clause 23 (the clause covering the introduction of the shares for rights scheme) of the Growth and Infrastructure Bill, but once one emerges it will be very interesting to consider what the costs of this provision to the Exchequer will be. It is quite possible that the new tax avoidance loopholes that the legislation is set to open up mean that they will be considerable.

This is particularly worrying, and needs to be exposed and opposed, urgently.