

Economic Crime and Corporate Transparency Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

After Clause 4

LORD VAUX OF HARROWDEN

As an amendment to the amendment after Clause 4 by Lord Johnson of Lainston printed on sheet HL Bill 96(l)

In subsection (3), in inserted section 9A(1), after paragraph (b) insert –

- “(c) a statement by the individual as to whether they are subscribing on behalf of, or subject to, the direction of another person, and if the individual is –
 - (i) where that person is an individual, the information set out in this subsection in relation to that individual;
 - (ii) where that person is a body corporate, the information mentioned in subsection (2) in relation to that body corporate;
- (d) a statement confirming that, for any individual named in accordance with this subsection, the individual’s identity has been verified (see section 1110A).”

Member’s explanatory statement

The amendments in the name of Lord Vaux to this Government amendment are intended to ensure that (1) subscribers must provide information as to whether they are subscribing on their own behalf or on behalf of another party; and (2) that the identity of subscribers and the people on whose behalf they are subscribing is verified.

As an amendment to the amendment after Clause 4 by Lord Johnson of Lainston printed on sheet HL Bill 96(l)

In subsection (3), in inserted section 9A(2), after paragraph (b) insert –

- “(c) a statement by an officer of the body corporate whether they are subscribing on behalf of, or subject to, the direction of another person, and if they are –
 - (i) where that person is an individual, the information required by subsection (1) in relation to that individual;
 - (ii) where that person is a body corporate, the information required by this subsection in relation to that body corporate.

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- (d) a statement confirming that, for any individual named in accordance with this subsection, the individual's identity has been verified (see section 1110A)."

After Clause 46

LORD VAUX OF HARROWDEN

As an amendment to the amendment after Clause 46 by Lord Johnson of Lainston printed on sheet HL Bill 96(l)

In subsection (5), in inserted section 113A(1), after paragraph (b) insert—

- “(c) a statement by the individual as to whether they are holding the shares on behalf of, or subject to, the direction of another person, and if they are—
 - (i) where that person is an individual, the information required by this subsection in relation to that individual;
 - (ii) where that person is a body corporate, the information required by section 113B in relation to that body corporate;
- (d) a statement confirming that, for any individual named in accordance with this subsection, the individual's identity has been verified (see section 1110A).”

Member's explanatory statement

The amendments in the name of Lord Vaux to this Government amendment are intended to ensure that (1) new shareholders must provide information as to whether they are holding the shares on their own behalf or on behalf of another party; and (2) that the identity of the shareholder and the people on whose behalf they are holding the shares is verified.

As an amendment to the amendment after Clause 46 by Lord Johnson of Lainston printed on sheet HL Bill 96(l)

In subsection (5), in inserted section 113B, after paragraph (b) insert—

- “(c) a statement by an officer of the body corporate as to whether they are holding the shares on behalf of, or subject to, the direction of another person, and if they are—
 - (i) where that person is an individual, the information required by section 113A in relation to that individual;
 - (ii) where that person is a body corporate, the information required by this section in relation to that body corporate.
- (d) a statement confirming that, for any individual named in accordance with paragraph (c), the individual's identity has been verified (see section 1110A).”

After Clause 99

LORD WALLACE OF SALTAIRE

Insert the following new Clause—

“Overseas companies: international co-operation

Within six months of the day on which this Act is passed, the Secretary of State must report to Parliament on what arrangements with foreign states and international organisations have been agreed to verify information about overseas companies within the scope of this Act, and the identity of their directors.”

Member’s explanatory statement

Verification of information about companies and directors based overseas will require co-operation with foreign governments and with organisations responsible for monitoring cross-border finance, trade and crime. This amendment seeks to probe that the government is putting such arrangements in place, and will report them to Parliament.

Clause 180

LORD ETHERTON

Page 164, line 33, leave out paragraph (a) and insert—

“(a) constitutes the offences of fraud, false accounting, money laundering or offences under any binding sanctions regime, whether at common law or in primary or secondary legislation,”

Member’s explanatory statement

This amendment provides for a shorter and more focused definition of “economic crime” than is presently to be found in Clause 180(1)(a) and Schedule 9.

Page 164, line 34, leave out “a listed” and insert “such an”

Member’s explanatory statement

This amendment is consequential to the amendment to the definition of “economic crime” in Clause 180(1)(a) at page 64, line 33.

Page 164, line 37, leave out “a listed” and insert “such an”

Member’s explanatory statement

This amendment is consequential to the amendment to the definition of “economic crime” in Clause 180(1)(a) at page 64, line 33.

Page 164, line 38, leave out from “constitute” to “if” in line 39 and insert “an offence specified in paragraphs (a) to (c)”

Member’s explanatory statement

This amendment is consequential to the amendment to the definition of “economic crime” in clause 180(1)(a) at page 64, line 33.

After Clause 180

LORD ALTON OF LIVERPOOL

After Clause 187, insert the following new Clause –

“Duty to disclose funds and economic resources

After section 16 of the Sanctions and Anti-Money Laundering Act 2018, insert –

“16A Duty to disclose funds and economic resources

- (1) Any regulations made under section 1 must, for the purposes of preventing an offence under those regulations, make provision requiring designated persons –
 - (a) to report to the Treasury or another competent authority, within three months after such regulations are made or within three months from the date of designation, whichever is the latest, the funds or economic resources that –
 - (i) are currently held, owned or controlled by them within the United Kingdom, and
 - (ii) were held, owned or controlled by them within the United Kingdom six months prior to the date of designation, and
 - (b) to cooperate with the Treasury or other competent authority in any verification of such information.
- (2) A failure to comply with a requirement in subsection (1) may be considered as participation in activities the object or effect of which is (whether directly or indirectly) to circumvent such requirement.
- (3) Where a designated person has been convicted of an offence by virtue of subsection (2), a court proceeding under section 6, 92 or 156 of the Proceeds of Crime Act 2002 (confiscation orders) must consider such person as benefitting by the value of any assets concealed through such criminal conduct.
- (4) Assets concealed as a result of a failure to comply with a requirement in subsection (1) constitute recoverable property for purposes of Part 5 of the Proceeds of Crime Act 2002.
- (5) Regulations under subsection (1) may also be made in relation to a person who is subject to an International Criminal Court warrant for an offence that would constitute an economic crime in the United Kingdom.”

Schedule 9

LORD ETHERTON

Lord Etherton gives notice of his intention to oppose the Question that Schedule 9 be the Ninth Schedule to the Bill.

Member’s explanatory statement

In consequence of the proposed redefinition of “economic crime” in clause 180(1) of the Bill, Schedule 9 is redundant.

Clause 183

LORD ETHERTON

Page 167, leave out line 39 and insert –

“(i) subject to legal professional privilege and the professional principles, promoting the prevention and detection of legal activity which involves facilitation or collusion in economic crime.”

Member’s explanatory statement

This amendment focuses the new regulatory objective on the facilitation of, or collusion in, economic crime by the legal adviser or advocate but subject to the fundamental common law constitutional principle of legal professional privilege (which entitles the client to maintain confidentiality in certain communications with their legal representative) and the professional principles described in section 1(3) of the Legal Services Act 2007 (which, among other things, require the legal representative to act in the best interests of their client).

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22 March 2023
