

# Economic Crime and Corporate Transparency Bill

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AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE  
*[Supplementary to the Marshalled List]*

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**Clause 116**

LORD JOHNSON OF LAINSTON

Page 93, line 36, leave out from “see” to end of line 4 on page 94 and insert “subsection (8).”;

- (b) in subsection (8), at the appropriate place insert—  
““disqualified under the directors disqualification legislation”—  
(a) in relation to a statement about a person delivered to the registrar for England and Wales or Scotland, means that the person falls within any of the entries in the first column of Part 1 of the table in section 159A of the Companies Act 2006;  
(b) in relation to a statement about a person delivered to the registrar for Northern Ireland, means that the person falls within any of the entries in the first column of Part 2 of that table.””

***Member’s explanatory statement***

*This amendment removes a requirement to make a statement in circumstances that can in fact never exist and is otherwise consequential on the amendments to page 94 and page 96, line 20, which are tabled in the Minister’s name.*

Page 94, leave out lines 18 to 32 and insert—

- “(3) A general partner in a limited partnership is “disqualified under the directors disqualification legislation” if—  
(a) where the limited partnership is registered in England and Wales or Scotland, the general partner falls within any of the entries in the first column of Part 1 of the table in section 159A of the Companies Act 2006;  
(b) where the limited partnership is registered in Northern Ireland, the general partner falls within any of the entries in the first column of Part 2 of that table.”

**Member's explanatory statement**

*This amendment makes it clear that only the first column of the table in section 159A of the Companies Act 2006 is relevant to determining whether a general partner is disqualified under the directors disqualification legislation. This is because a disqualified general partner cannot be given permission to act.*

**Clause 117**

LORD JOHNSON OF LAINSTON

Page 95, line 23, leave out from “individual” to end of line 24 and insert –

- “(a) who is one of the general partner’s managing officers,
- (b) who is not disqualified under the directors disqualification legislation (see subsection (8)), and
- (c) whose identity is verified (within the meaning of section 1110A of the Companies Act 2006).”

**Member's explanatory statement**

*This amendment is consequential on the amendment to page 93, line 36, which is tabled in the Minister’s name. That amendment introduces a new definition of “disqualified under the directors disqualification legislation” that applies for the purpose of section 8A of the LPA 1907.*

Page 95, line 39, leave out from “Schedule),” to end of line 3 on page 96 and insert “and

- (b) be accompanied by a statement by the individual who is the proposed registered officer confirming that the individual –
  - (i) is one of the general partner’s managing officers,
  - (ii) is not disqualified under the directors disqualification legislation (see subsection (8)), and
  - (iii) is an individual whose identity is verified (within the meaning of section 1110A of the Companies Act 2006).”

**Member's explanatory statement**

*This amendment removes a requirement to make a statement in circumstances that can in fact never exist and is otherwise consequential on the amendment to page 93, line 36, which is tabled in the Minister’s name.*

Page 96, line 18, leave out “section 8J(3)” and insert “subsection (1A)”

**Member's explanatory statement**

*This amendment is consequential on the amendment to page 96, line 20, which is tabled in the Minister’s name.*

Page 96, line 20, at end insert –

- “(1A) The registered officer of a general partner in a limited partnership is “disqualified under the directors disqualification legislation” if –
  - (a) where the limited partnership is registered in England and Wales or Scotland, the registered officer falls within any of the entries in the first column of Part 1 of the table in section 159A of the Companies Act 2006;

**Clause 117 - continued**

- (b) where the limited partnership is registered in Northern Ireland, the registered officer falls within any of the entries in the first column of Part 2 of that table.”

***Member’s explanatory statement***

*This amendment makes it clear that only the first column of the table in section 159A of the Companies Act 2006 is relevant to determining whether a registered officer is disqualified under the directors disqualification legislation. This is because a disqualified registered officer cannot be given permission to act.*

**Clause 120**

LORD JOHNSON OF LAINSTON

Page 102, line 2, leave out from “8]” to end of line 7 and insert “(3).”

***Member’s explanatory statement***

*This amendment removes a requirement to make a statement in circumstances that can in fact never exist.*

Page 102, line 27, leave out from beginning to “, and” in line 32

***Member’s explanatory statement***

*This amendment removes a requirement to make a statement in circumstances that can in fact never exist.*

**Clause 132**

LORD JOHNSON OF LAINSTON

Page 117, line 39, leave out from “that” to end of line 41 and insert “an individual is an individual whose identity is verified (within the meaning of section 1110A of the Companies Act 2006)–”

***Member’s explanatory statement***

*This amendment is consequential on the amendments to page 95, line 23 and page 95, line 39, which are both tabled in the Minister’s name.*

**Clause 142**

LORD JOHNSON OF LAINSTON

Page 131, line 30, leave out “section 8K(1)(c)” and insert “paragraph (c) of that subsection”

***Member’s explanatory statement***

*This amendment is consequential on the amendment to page 95, line 23, which is tabled in the Minister’s name.*

Page 131, line 33, leave out “section 8K(1)(c)” and insert “sub-paragraph (iii) of that paragraph”

**Member's explanatory statement**

*This amendment is consequential on the amendment to page 95, line 39, which is tabled in the Minister's name.*

**After Clause 153**

LORD JOHNSON OF LAINSTON

Insert the following new Clause –

**“Registration of information about trusts**

- (1) Paragraph 8 of Schedule 1 to the Economic Crime (Transparency and Enforcement) Act 2022 (required information) is amended as follows.
- (2) In sub-paragraph (1), for paragraphs (d) to (f) substitute –
  - “(d) the specified details of each beneficiary under the trust;
  - (e) the specified details of each settlor or grantor and, in relation to any settlor or grantor that is a legal entity, the specified details of any person who at the time at which the trust is settled –
    - (i) is a registrable beneficial owner in relation to that entity (if it is overseas entity), or
    - (ii) would be a registrable beneficial owner in relation to the entity if that entity were an overseas entity;
  - (f) the specified details of any interested person under the trust and the date on which they became an interested person.”
- (3) After sub-paragraph (1) insert –
  - “(1A) In sub-paragraph (1)(d) to (f) “the specified details” –
    - (a) in relation to a person who is an individual, means –
      - (i) name, date of birth and nationality;
      - (ii) usual residential address;
      - (iii) a service address;
    - (b) in relation to a person that is a legal entity, means –
      - (i) name;
      - (ii) principal office;
      - (iii) a service address;
      - (iv) the legal form of the entity and the law by which it is governed;
      - (v) any public register in which it is entered and, if applicable, its registration number in that register.”
  - (4) In sub-paragraph (2), for “sub-paragraph (1)(c)” substitute “sub-paragraphs (1)(c) and (1A)(a)”.

**Member's explanatory statement**

*This clause extends the information that must be provided in connection with the registration of overseas entities where a person is a beneficial owner by virtue of being a trustee.*

### After Clause 155

LORD JOHNSON OF LAINSTON

Insert the following new Clause –

#### **“Verification of registrable beneficial owners and managing officers**

- (1) Section 16 of the Economic Crime (Transparency and Enforcement) Act 2022 (verification of registrable beneficial owners and managing officers) is amended as follows.
- (2) In subsection (2) –
  - (a) after paragraph (a) insert –
    - “(aa) about how the information is to be verified (including provision about the kinds or sources of evidence to be used);
    - (ab) about the standard to which verification is to be carried out;”;
  - (b) after paragraph (b) insert –
    - “(ba) about the records that must be kept in connection with verification;”;
  - (c) after paragraph (d)(inserted by section 156 of this Act) insert –
    - “(e) about the information that must be provided to the registrar to enable the registrar to monitor compliance with any requirements imposed by the regulations.”
- (3) After subsection (2) insert –
  - “(2A) Regulations under this section may create offences in relation to failures to comply with requirements imposed by virtue of subsection (2)(ba) or (e).
  - (2B) The regulations must provide for any such offence to be punishable –
    - (a) on summary conviction in England and Wales, by a fine;
    - (b) on summary conviction in Scotland, by a fine not exceeding level 5 on the standard scale;
    - (c) on summary conviction in Northern Ireland, by a fine not exceeding level 5 on the standard scale.”

#### ***Member’s explanatory statement***

*This amendment makes it clear that regulations about verification can make provision about how it is carried out and the standard to which it is carried out. It also allows requirements imposed about the retention of records etc to be enforced by the creation of a summary-only offence.*

Insert the following new Clause –

#### **“Applications for removal**

- (1) Section 10 of the Economic Crime (Transparency and Enforcement) Act 2022 (processing of application for removal) is amended as follows.
- (2) In subsection (2), after “land” insert “and there are no updates pending”.
- (3) In subsection (3), after “land” insert “or there is an update pending”.
- (4) After subsection (3) insert –

**After Clause 155 - continued**

- “(3A) For the purposes of subsections (2) and (3) an update is pending if—
- (a) an update period for the entity has ended and the entity has not yet complied with the duty under section 7 in respect of that period, or
  - (b) the entity is required to deliver information under Schedule 6 but has not yet done so.”

**Member’s explanatory statement**

*This requires the registrar to refuse an application for the deregistration of an overseas entity if it has not yet filed an update or certain other information that is due.*

**Clause 157**

LORD JOHNSON OF LAINSTON

Page 139, line 32, after “9” insert “or Schedule 6”

**Member’s explanatory statement**

*This is consequential on Schedule (Overseas entities: further information for transitional cases), which is inserted before Schedule 6.*

Page 139, line 37, leave out second “or”

**Member’s explanatory statement**

*This is consequential on Schedule (Overseas entities: further information for transitional cases), which is inserted before Schedule 6.*

Page 139, line 38, after “Schedule 1” insert “or paragraph 2(1)(d) of Schedule 6”

**Member’s explanatory statement**

*This is consequential on Schedule (Overseas entities: further information for transitional cases), which is inserted before Schedule 6 to the Bill.*

Page 140, line 45, after second “(4)” insert “and paragraphs 3(2)(a), 4(2)(a) and 5(2)(a) of Schedule 6 ), or

- (b) any information required by paragraph 4(2)(c) of Schedule 6 (information about beneficiaries).”

**Member’s explanatory statement**

*This is consequential on Schedule (Overseas entities: further information for transitional cases), which is inserted before Schedule 6 to the Bill.*

**After Clause 163**

LORD JOHNSON OF LAINSTON

Insert the following new Clause –

**“Overseas entities: further information for transitional cases**

Schedule (*Overseas entities: further information for transitional cases*) (overseas entities: further information for transitional cases) amends the Economic Crime (Transparency and Enforcement) Act 2022 to impose further duties on overseas entities to deliver information to the registrar.”

***Member’s explanatory statement***

*This introduces Schedule (Overseas entities: further information for transitional cases).*

**Before Schedule 6**

LORD JOHNSON OF LAINSTON

Insert the following new Schedule –

**“SCHEDULE 5A****OVERSEAS ENTITIES: FURTHER INFORMATION FOR TRANSITIONAL CASES**

- 1 The Economic Crime (Transparency and Enforcement) Act 2022 is amended as follows.
- 2 In section 16 (verification of registrable beneficial owners and managing officers), in subsection (1), after paragraph (c) insert –
  - “(d) complies with the duty under Schedule 6 (duty to deliver further information about transitional period).”
- 3 After section 43 insert –
 

**“43A Duty to deliver further information for transitional cases**

Schedule 6 (duty to deliver further information for transitional cases) imposes further duties on overseas entities to deliver information.”
- 4 After Schedule 5 insert –

**“SCHEDULE 6****DUTY TO DELIVER FURTHER INFORMATION FOR TRANSITIONAL CASES*****Application of this Schedule***

- 1 (1) This Schedule applies in relation to an overseas entity if –
  - (a) the entity –
    - (i) is registered as an overseas entity when this Schedule comes into force or has been so registered at any earlier time, and
    - (ii) was registered as the proprietor of a relevant interest in land in England and Wales or Scotland at any time during the relevant period, or
  - (b) the entity has committed an offence under paragraph 5 of Schedule 3 or paragraph 10 of Schedule 4 (duty to register as overseas entity in certain transitional cases).
- (2) For the purposes of sub-paragraph (1) –

**Before Schedule 6 - continued**

- (a) an overseas entity is registered as the proprietor of a relevant interest in land in England and Wales if the entity is registered in the register of title kept under the Land Registration Act 2002 as the proprietor of a qualifying estate within the meaning of Schedule 4A to that Act;
- (b) an overseas entity is registered as the proprietor of a relevant interest in land in Scotland if the entity –
  - (i) is entered, on or after 8 December 2014, as proprietor in the proprietorship section of the title sheet for a plot of land that is registered in the Land Register of Scotland,
  - (ii) in relation to a lease that was recorded in the General Register of Sasines or registered in the Land Register of Scotland before that date is, by virtue of an assignation of the lease registered in the Land Register of Scotland on or after that date, the tenant under the lease, or
  - (iii) is the tenant under a lease that was registered in the Land Register of Scotland on or after that date.
- (3) Expressions used in sub-paragraph (2)(b) are to be construed in accordance with section 9(11) and (12).
- (4) In this Schedule “the relevant period” means the period –
  - (a) beginning with 28 February 2022;
  - (b) ending with 31 January 2023.

*Duty to deliver statements and information*

- 2 (1) The overseas entity must deliver to the registrar –
- (a) any statements or information required by –
    - paragraph 3 (changes in beneficial ownership of overseas entity),
    - paragraph 4 (information about trusts and changes in beneficiaries under trusts),
    - paragraph 5 (information about changes in trusts in which beneficial owners trustees),
  - (b) a statement that the entity has complied with paragraph 8 of this Schedule (duty to take steps to obtain information), anything required by regulations under section 16 (verification of information) to be delivered to the registrar, and
  - (d) the name and contact details of an individual who may be contacted about the statements and information.
- (2) If an overseas entity is registered as an overseas entity when this Schedule comes into force it must deliver the statements and information required by this Schedule –
- (a) at the same time as it delivers the statements and information required by section 7 on the first occasion after the end of the period of 3 months beginning with the day on which this Schedule comes into force, or
  - (b) if it applies under section 9 for removal before then, at the same time as it delivers the statements and information required by that section.



**Before Schedule 6 - continued**

- (3) If an overseas entity is not registered as an overseas entity when this Schedule comes into force it must deliver the statements and information required by this Schedule within the period of 3 months beginning when it comes into force.

*Information about changes in beneficial ownership*

- 3 (1) The overseas entity must deliver to the registrar the statement in row 1 of the following table or the statement and information listed in row 2.

	Statement	Information
1	A statement that the entity has no reasonable cause to believe that anyone became or ceased to be a registrable beneficial owner during the relevant period.	
2	A statement that the entity has reasonable cause to believe that at least one person became or ceased to be a registrable beneficial owner during the relevant period.	1. The required information about each person who became or ceased to be a registrable beneficial owner during the relevant period, or so much of that information as the entity has been able to obtain. 2. The date on which each of them became or ceased to be a registrable beneficial owner, if the entity has been able to obtain that information.

- (2) Where the information provided under sub-paragraph (1) includes information that the person who became or ceased to be a registrable beneficial owner was a registrable beneficial owner by virtue of being a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity must also deliver to the registrar –
- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
  - (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.
- (3) Statements required by this paragraph to be delivered to the registrar must relate to the time when they are delivered.

**Before Schedule 6 - continued**

- (4) Information required by this paragraph to be delivered to the registrar as a result of a person having become or ceased to be a registrable beneficial owner must relate to the state of affairs when the person became or ceased to be a registrable beneficial owner.
- (5) For the required information, see Schedule 1.

*Information about trusts and changes in beneficiaries*

- 4 (1) The overseas entity must deliver to the registrar –
- (a) a statement that the entity has no reasonable cause to believe that there is any person who, at the end of the relevant period, was a registrable beneficial owner of the entity by virtue of being a trustee, or
  - (b) a statement that the entity has reasonable cause to believe that there is at least one such person.
- (2) Where a statement is delivered under sub-paragraph (1)(b) the overseas entity must also deliver to the registrar –
- (a) the required information about each trust (a “relevant trust”) by virtue of which a trustee was a registrable beneficial owner of the entity at the end of the relevant period,
  - (b) in relation to each relevant trust, a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain, and
  - (c) in relation to each relevant trust, the statement in row 1 of the table set out in sub-paragraph (3), or the statement and information listed in row 2 of that table.
- (3) This is the table referred to in sub-paragraph (2)(c) –

**Before Schedule 6 - continued**

	Statement	Information
1	A statement that the entity has no reasonable cause to believe that anyone became or ceased to be a beneficiary under the trust during the relevant period.	

2

A statement that the entity has reasonable cause to believe that at least one person became or ceased to be a beneficiary under the trust during the relevant period.

1. The information specified in paragraph 8(1)(d) of Schedule 1 about each person who became or ceased to be a beneficiary under the trust during the relevant period, or so much of that information as the entity has been able to obtain. 2. The date on which each of them became or ceased to be a beneficiary under the trust, if the entity has been able to obtain that information.

- (4) Statements required by this paragraph to be delivered to the registrar must relate to the time when they are delivered.
- (5) Information required by sub-paragraph (2)(a) to be delivered to the registrar must relate to the state of affairs at the end of the relevant period.
- (6) Information required by sub-paragraph (2)(c) to be delivered to the registrar as a result of a person having become or ceased to be a beneficiary under a trust must relate to the state of affairs when the person became or ceased to be a beneficiary.
- (7) For the required information, see Schedule 1.

*Information about changes in trusts of which registrable beneficial owners trustees*

- 5 (1) The overseas entity must deliver to the registrar –
- (a) a statement that the entity has no reasonable cause to believe that there is any person who –
    - (i) at the end of the relevant period, was a registrable beneficial owner of the entity by virtue of being a trustee of a trust,
    - (ii) at any time during the relevant period was a registrable beneficial owner by virtue of being a trustee of a different trust, and
    - (iii) at the end of the relevant period was not a registrable beneficial owner of the entity by virtue of being a trustee of the trust mentioned in sub-paragraph (ii), or
  - (b) a statement that the entity has reasonable cause to believe that there is at least one such person.
- (2) Where a statement is delivered under sub-paragraph (1)(b) the overseas entity must deliver to the registrar –
- (a) the required information about each trust by virtue of which a trustee was a registrable beneficial owner of the entity at any time during the relevant period, or so much of that information as the overseas entity has been able to obtain, and

**Before Schedule 6 - continued**

- (b) in relation to each such trust, a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.
- (3) Statements required by this paragraph to be delivered to the registrar must relate to the time when they are delivered.
- (4) Information required by sub-paragraph (2)(a) to be delivered to the registrar must relate to the state of affairs –
  - (a) at the beginning of the relevant period, if the registrable beneficial owner was a trustee of the trust at that time, and
  - (b) otherwise, at the time at which the registrable beneficial owner became a trustee of the trust.
- (5) For the required information, see Schedule 1.

*Compliance by confirmation of information previously provided*

- 6 A requirement imposed by paragraphs 2 to 5 to provide information may be met (in whole or in part) by confirming information previously provided.

*Failure to comply with this Schedule*

- 7 Section 8 (offence of failure to comply with updating duty) applies in relation to a failure to comply with a duty imposed by paragraphs 2 to 5 of this Schedule as it applies in relation to a failure to comply with section 7.

*Obtaining information*

- 8 (1) An overseas entity must comply with this paragraph before complying with the requirements imposed by paragraphs 2 to 5 .
- (2) The entity must take reasonable steps –
    - (a) to identify anyone who became or ceased to be a registrable beneficial owner during the relevant period, and
    - (b) if it identifies any such person, to obtain –
      - (i) the information mentioned in row 2 of column 2 of the table in paragraph 3(1), and
      - (ii) in the case of anyone mentioned in paragraph 3(2), the information mentioned there.
  - (3) The entity must take reasonable steps –
    - (a) to identify any person who, at the end relevant period, was a registrable beneficial owner by virtue of being a trustee, and
    - (b) if it identifies any such person, to obtain –
      - (i) the information mentioned in paragraph 4(2)(a) about the relevant trust,
      - (ii) information as to whether anyone became or ceased to be a beneficiary under the relevant trust during the relevant period (a “relevant beneficiary”), and
      - (iii) the information mentioned in row 2 of column 2 of the table in paragraph 4(3) in relation to any relevant beneficiary.
  - (4) The entity must take reasonable steps –
    - (a) to identify any person who falls within paragraph 5(1)(a)(i) to (iii), and

**Before Schedule 6 - continued**

- (b) if it identifies any such person, to obtain the information mentioned in paragraph 5(2)(a).
- (5) The steps that an overseas entity must take by virtue of this paragraph include giving an information notice under this paragraph to any person that it knows, or has reasonable cause to believe, falls within sub-paragraph (2)(a), (3)(a) or (4)(a).
- (6) An information notice under this paragraph is a notice requiring the recipient to provide the information mentioned in sub-paragraph (2)(b), (3)(b) or (4)(b).
- (7) Sections 15 to 15B (offences) apply in relation to information notices under this paragraph as they apply in relation to information notices under section 12.

*Power to exclude descriptions of registrable beneficial owner*

- 9 (1) The Secretary of State may by regulations provide that, for the purposes of any provision of this Schedule specified in the regulations, a person of a description so specified is not to be treated as a registrable beneficial owner of an overseas entity.
- (2) Regulations under sub-paragraph (1) are subject to the negative resolution procedure.””

***Member’s explanatory statement***

*This requires overseas entities to deliver to the registrar further information about events occurring during the period beginning on 28 February 2022 and ending with 31 January 2023.*

**Schedule 6**

## LORD SHARPE OF EPSOM

Page 206, line 39, leave out “relevant court” and insert “sheriff”

***Member’s explanatory statement***

*This amendment and the amendment in the name of Lord Sharpe of Epsom at page 207, line 11 amend inserted section 131ZB of the Proceeds of Crime Act 2002 (realisation of confiscated cryptoassets) to provide that only the sheriff may make an order under that section requiring confiscated cryptoassets to be realised.*

Page 207, line 11, leave out “relevant court of its” and insert “sheriff of the sheriff’s”

***Member’s explanatory statement***

*See the amendment in the name of Lord Sharpe of Epsom at page 206, line 39.*

Page 207, leave out lines 20 to 24

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 206, line 39.*

Page 208, line 30, leave out “relevant court” and insert “sheriff”

***Member’s explanatory statement***

*This amendment and the amendments in the name of Lord Sharpe of Epsom at page 208, line 47, page 209, line 2 and page 209, line 8 amend inserted section 131AA of the Proceeds of Crime Act 2002 (destruction of seized cryptoassets) to provide that only the sheriff may make an order under that section.*

Page 208, line 47, leave out “relevant court of its” and insert “sheriff of the sheriff’s”

***Member’s explanatory statement***

*See the amendment in the name of Lord Sharpe of Epsom at page 208, line 30.*

Page 209, line 2, leave out “relevant court’s” and insert “sheriff’s”

***Member’s explanatory statement***

*See the amendment in the name of Lord Sharpe of Epsom at page 208, line 30.*

Page 209, line 8, leave out “relevant court” and insert “sheriff”

***Member’s explanatory statement***

*See the amendment in the name of Lord Sharpe of Epsom at page 208, line 30.*

Page 209, leave out lines 18 to 23

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 208, line 30.*

Page 209, line 27, leave out “the relevant court” and insert “a sheriff”

***Member’s explanatory statement***

*This amendment and the amendments in the name of Lord Sharpe of Epsom at page 209, line 30, page 209, line 38 and page 210, line 14 are consequential on the amendments in the name of Lord Sharpe of Epsom at page 206, line 39 and page 208, line 30.*

Page 209, line 30, leave out sub-paragraph (4) and insert—

“(4) In subsection (2), for “131A” substitute “131ZB(3), 131A(3) or 131AA(2)”

***Member’s explanatory statement***

*See the amendment in the name of Lord Sharpe of Epsom at page 209, line 27.*

Page 209, line 38, leave out sub-paragraph (6)

***Member’s explanatory statement***

*See the amendment in the name of Lord Sharpe of Epsom at page 209, line 27.*

Page 210, line 14, leave out “a court” and insert “the sheriff”

**Member's explanatory statement**

See the amendment in the name of Lord Sharpe of Epsom at page 209, line 27.

**Schedule 7**

## LORD SHARPE OF EPSOM

Page 220, leave out line 3 and insert –

“RECOVERY OF CRYPTOASSETS: SEARCHES, SEIZURE AND DETENTION”

**Member's explanatory statement**

This amendment replaces the title of inserted Chapter 3C of Part 5 of the Proceeds of Crime Act 2002.

Page 230, leave out line 17 and insert –

“RECOVERY OF CRYPTOASSETS: FREEZING ORDERS”

**Member's explanatory statement**

This amendment replaces the title of inserted Chapter 3D of Part 5 of the Proceeds of Crime Act 2002.

Page 245, line 3, leave out “been made” and insert “effect”

**Member's explanatory statement**

This amendment and the amendment in the name of Lord Sharpe of Epsom at page 263, line 36 clarify that references in sections 303Z51 and 303Z17A of the Proceeds of Crime Act 2002 (freezing orders) to a freezing order are to a current freezing order.

Page 263, line 36, leave out “been made” and insert “effect”

**Member's explanatory statement**

See the amendment in the name of Lord Sharpe of Epsom at page 245, line 3.

Page 270, line 25, at end insert –

“13A In section 453C of the Proceeds of Crime Act 2002 (obstruction offence in relation to immigration officers), in subsection (3), after paragraph (g) insert –

- “(ga) section 303Z21 (powers to search for cryptoasset-related items) as applied by section 24 of the UK Borders Act 2007 (exercise of civil recovery powers by immigration officers);
- (gb) section 303Z26 as so applied (powers to seize cryptoasset-related items);
- (gc) section 303Z27 as so applied (powers to detain cryptoasset-related items);”.

**Member's explanatory statement**

This amendment consequentially amends section 453C of the Proceeds of Crime Act 2002 (obstruction offence in relation to immigration officers) to provide that the offence in that section applies in relation to an immigration officer who is acting in exercise of certain cryptoasset-related powers in inserted Chapter 3C of Part 5 of that Act.

Page 271, line 10, at end insert –

*“Amendments to the UK Borders Act 2007*

- 16 (1) Section 24 of the UK Borders Act 2007 (exercise of civil recovery powers by immigration officers) is amended as follows.
- (2) In subsection (1), for “3B” substitute “3F”.
  - (3) In subsection (2)(a), for “Chapter 3B” substitute “Chapters 3B to 3F”.
  - (4) In subsection (2)(c), after “303Z2(4)” insert “, Chapter 3C (see section 303Z20(4)), Chapter 3D (see section 303Z36(8)) and Chapter 3E (see section 303Z41(9))”.
  - (5) In subsection (2)(d), after “303G” insert “(including as section 303G is applied by section 303Z25)”.
  - (6) In subsection (2)(e), after “303I” insert “(including as sections 303H and 303I are applied by section 303Z25)”.
  - (7) In subsection (2)(f) –
    - (a) in the opening words, for “or 303L(1)” substitute “, 303L(1), 303Z28(1) or (4), 303Z32(1) or (4) or 303Z57(3) or (5)”;
    - (b) in sub-paragraph (ii), for “or (as the case may be) 303O” substitute “, 303O, 303Z41 or (as the case may be) 303Z60”.
  - (8) In subsection (2)(g), for “or 303Z14” substitute “, 303Z14, 303Z41 or 303Z60”.
  - (9) In subsection (2)(h), for “or 303Z18” substitute “, 303Z18, 303Z52 or 303Z64”.

***Member’s explanatory statement***

*This amendment amends section 24 of the UK Borders Act 2007 (exercise of civil recovery powers by immigration officers) to provide that immigration officers may exercise certain cryptoasset-related powers in inserted Chapters 3C to 3F of Part 5 of the Proceeds of Crime Act 2002.*

**Schedule 8**

LORD JOHNSON OF LAINSTON

Page 295, line 27, leave out “been made” and insert “effect”

***Member’s explanatory statement***

*This amendment and the amendment in the name of Lord Sharpe of Epsom at page 310, line 41 clarify that references in paragraphs 10Z7CL and 10Z6A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist property) to a freezing order are to a current freezing order.*

Page 310, line 41, leave out “been made” and insert “effect”

***Member’s explanatory statement***

*See the amendment in the name of Lord Sharpe of Epsom at page 295, line 27.*



**After Clause 171**

LORD SHARPE OF EPSOM

Insert the following new Clause –

**“Money laundering: offences of failing to disclose**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 330 (failure to disclose: regulated sector) –
  - (a) subsection (7A) is moved to after subsection (7B) and is renumbered subsection (7C);
  - (b) after that subsection as moved and renumbered, insert –
    - “(7D) Nor does a person commit an offence under this section if –
      - (a) the information or other matter mentioned in subsection (3) consists of or includes information that was obtained only in consequence of the carrying out of a status check under section 40 of the Immigration Act 2014 or an immigration check under section 40A of that Act or both, and
      - (b) but for the information so obtained the person would not have reasonable grounds for knowing or suspecting that another person is engaged in money laundering.”
- (3) In section 331 (failure to disclose: nominated officers in the regulated sector), after subsection (6A) insert –
  - “(6B) Nor does a person commit an offence under this section if –
    - (a) the information or other matter disclosed to the person under section 330 consists of or includes information that was obtained only in consequence of the carrying out of a status check under section 40 of the Immigration Act 2014 or an immigration check under section 40A of that Act or both, and
    - (b) but for the information so obtained the person would not have reasonable grounds for knowing or suspecting that another person is engaged in money laundering.”

***Member’s explanatory statement***

*This creates a defence for people who fail to report money laundering if their knowledge or suspicion is based on information supplied under a status or immigration check. The defence applies where, but for that information, the person would not have reasonable grounds to know or suspect money laundering.*

**Clause 172**

LORD SHARPE OF EPSOM

Page 154, leave out lines 1 and 2 and insert –

- “(b) an authorised NCA officer has reasonable grounds to believe that the request was made only for the purpose of assisting the foreign FIU to conduct one or both of the following –”

**Member's explanatory statement**

*This amendment amends inserted section 339ZH(6B)(b) of the Proceeds of Crime Act 2002 (information orders: foreign FIUs and money laundering) to ensure that information orders can only be granted where an authorised NCA officer reasonably believes that the foreign FIU is requesting the information for the purpose of conducting operational or strategic analysis.*

Page 154, leave out lines 29 to 31.

**Member's explanatory statement**

*This amendment removes inserted subsection (6C) of section 339ZH of the Proceeds of Crime Act 2002. That subsection would have extended the definition of "money laundering", for the purposes of subsections (6A) and (6B) of that section, to include predicate offences in respect of money laundering.*

Page 155, line 17, at end insert –

“(2A) A requirement in paragraph (a), (b) or (c) of subsection (2) may be satisfied by the carrying out of the action required by the paragraph in question before this section comes into force.”

**Member's explanatory statement**

*This amendment amends inserted section 339ZL of the Proceeds of Crime Act 2002 (code of practice about certain information orders) to provide that certain preliminary steps in relation to the making of a code of practice under that section (for example, publishing a draft) may be carried out before that section comes into force.*

**Clause 173****LORD SHARPE OF EPSOM**

Page 157, leave out lines 18 and 19 and insert –

“(b) an authorised NCA officer has reasonable grounds to believe that the request was made only for the purpose of assisting the foreign FIU to conduct one or both of the following –”

**Member's explanatory statement**

*This amendment amends inserted section 22B(6B) of the Terrorism Act 2000 (information orders: foreign FIUs and terrorist financing) to ensure that information orders can only be granted where an authorised NCA officer reasonably believes that the foreign FIU is requesting the information for the purpose of conducting operational or strategic analysis.*

Page 158, line 31, at end insert –

“(2A) A requirement in paragraph (a), (b) or (c) of subsection (2) may be satisfied by the carrying out of the action required by the paragraph in question before this section comes into force.”

**Member's explanatory statement**

*This amendment amends inserted section 22F of the Terrorism Act 2000 (code of practice about certain information orders) to provide that certain preliminary steps in relation to the making of a code of practice under that section (for example, publishing a draft) may be carried out before that section comes into force.*

**After Clause 180**

LORD SHARPE OF EPSOM

Insert the following new Clause –

*“Failure to prevent fraud***Failure to prevent fraud**

- (1) A relevant body which is a large organisation is guilty of an offence if, in a financial year of the body (“the year of the fraud offence”), a person who is associated with the body (“the associate”) commits a fraud offence intending to benefit (whether directly or indirectly) –
  - (a) the relevant body, or
  - (b) any person to whom, or to whose subsidiary, the associate provides services on behalf of the relevant body.
- (2) But the relevant body is not guilty of an offence under subsection (1)(b) if the body itself was, or was intended to be, a victim of the fraud offence.
- (3) It is a defence for the relevant body to prove that, at the time the fraud offence was committed –
  - (a) the body had in place such prevention procedures as it was reasonable in all the circumstances to expect the body to have in place, or
  - (b) it was not reasonable in all the circumstances to expect the body to have any prevention procedures in place.
- (4) In subsection (3) “prevention procedures” means procedures designed to prevent persons associated with the body from committing fraud offences as mentioned in subsection (1).
- (5) A “fraud offence” is an act which constitutes –
  - (a) an offence listed in Schedule (*Failure to prevent fraud: fraud offences*) (a “listed offence”), or
  - (b) aiding, abetting, counselling or procuring the commission of a listed offence.
- (6) For the purposes of this section a person is associated with a relevant body if –
  - (a) the person is an employee, agent or subsidiary of the relevant body, or
  - (b) the person otherwise performs services for or on behalf of the body.
- (7) Whether or not a particular person performs services for or on behalf of a relevant body is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between that person and the body.
- (8) Where a relevant body is liable to be proceeded against for an offence under subsection (1) in a particular part of the United Kingdom, proceedings against the body for the offence may be taken in any place in the United Kingdom.
- (9) Where by virtue of subsection (8) proceedings against a relevant body for an offence are to be taken in Scotland –
  - (a) the body may be prosecuted, tried and punished in a sheriff court district determined by the Lord Advocate, as if the offence had been committed in that district, and

**After Clause 180 - continued**

- (b) the offence is, for all purposes incidental to or consequential on the trial or punishment, deemed to have been committed in that district.
- (10) A relevant body guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction in England and Wales, to a fine;
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (11) In this section—
  - “relevant body” means a body corporate or a partnership (wherever incorporated or formed);
  - “sheriff court district” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act).
- (12) In this section “financial year” —
  - (a) in relation to a UK company, has the meaning given by the Companies Act 2006 (see section 390 of that Act);
  - (b) in relation to a relevant body that is not a UK company means—
    - (i) any period in respect of which a profit and loss account of the relevant body is required to be made up (by its constitution or by the law under which it is established), whether that period is a year or not, or
    - (ii) if the body is not required by its constitution or the law under which it is established to draw up a profit and loss account, a calendar year.”

**Member’s explanatory statement**

*This clause together with new clauses (Fraud offences: supplementary) to (Failure to prevent fraud: miscellaneous), Lord Sharpe of Epsom’s amendments at page 173 lines 21, 33, 36 and 37 and page 315 line 20 and new Schedule (Failure to prevent fraud: fraud offences) provide for a new offence of failure to prevent fraud.*

Insert the following new Clause—

**“Fraud offences: supplementary**

- (1) The Secretary of State may by regulations amend Schedule (*Failure to prevent fraud: fraud offences*) by—
  - (a) removing an offence from the list in the Schedule, or
  - (b) adding an offence to that list.
- (2) The power in subsection (1) is exercisable by the Scottish Ministers (and not by the Secretary of State) so far as it may be used to make provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (3) The power in subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision that—
  - (a) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly, and

**After Clause 180 - continued**

- (b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.
- (4) An offence added under subsection (1)(b) must be –
- (a) an offence of dishonesty,
  - (b) an offence that is otherwise of a similar character to those listed (on the passing of this Act) in paragraphs 1 to 6 of Schedule (*Failure to prevent fraud: fraud offences*), or
  - (c) a relevant money laundering offence.
- (5) The Secretary of State may from time to time by regulations restate Schedule (*Failure to prevent fraud: fraud offences*) as amended by virtue of subsections (1) to (3) (without changing the effect of the Schedule).
- (6) For the purposes of section (*Failure to prevent fraud*) (1), where a fraud offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, and that period of days straddles the beginning of a financial year of the relevant body in question, the fraud offence must be taken to have been committed on the last of those days.
- (7) In this section “relevant money laundering offence” means an offence under any of the following sections of the Proceeds of Crime Act 2002 –
- (a) section 327 (concealing etc);
  - (b) section 328 (arrangements);
  - (c) section 329 (acquisition, use and possession).”

**Member’s explanatory statement**

See the explanatory statement for new clause (*Failure to prevent fraud*).

Insert the following new Clause –

**“Section (*Failure to prevent fraud*): large organisations**

- (1) For the purposes of section (*Failure to prevent fraud*) (1) a relevant body is a “large organisation” only if the body satisfied two or more of the following conditions in the financial year of the body (“year P”) that precedes the year of the fraud offence –

Turnover	More than £36 million
Balance sheet total	More than £18 million
Number of employees	More than 250.

- (2) For a period that is a relevant body’s financial year but not in fact a year, the figure for turnover must be proportionately adjusted.
- (3) In subsection (1) the “number of employees” means the average number of persons employed by the relevant body in year P, determined as follows –

**After Clause 180 - continued**

- (a) find for each month in year P the number of persons employed under contracts of service by the relevant body in that month (whether throughout the month or not),
  - (b) add together the monthly totals, and
  - (c) divide by the number of months in year P.
- (4) In this section—
- “balance sheet total”, in relation to a relevant body and a financial year—
- (a) means the aggregate of the amounts shown as assets in its balance sheet at the end of the financial year, or
  - (b) where the body has no balance sheet for the financial year, has a corresponding meaning;
- “turnover”—
- (a) in relation to a UK company, has the same meaning as in Part 15 of the Companies Act 2006 (see section 474 of that Act);
  - (b) in relation to any other relevant body, has a corresponding meaning;
- “year of the fraud offence” is to be interpreted in accordance with section (*Failure to prevent fraud*) (1).
- (5) The Secretary of State may by regulations modify this section (other than this subsection and subsections (6) and (7)) for the purpose of altering the meaning of “large organisation” in section (*Failure to prevent fraud*) (1).
- (6) The Secretary of State may (whether or not the power in subsection (5) has been exercised) by regulations—
- (a) omit the words “which is a large organisation” in section (*Failure to prevent fraud*) (1), and
  - (b) make any modifications of this section (other than this subsection) that the Secretary of State thinks appropriate in consequence of provision made under paragraph (a).
- (7) Regulations under subsection (5) or (6) may make consequential amendments of section (*Failure to prevent fraud: minor definitions*).”

**Member’s explanatory statement**

See the explanatory statement for new clause (*Failure to prevent fraud*).

Insert the following new Clause—

**“Offences under section (*Failure to prevent fraud*) committed by partnerships**

- (1) Proceedings for an offence under section (*Failure to prevent fraud*) alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).
- (2) For the purposes of such proceedings—
  - (a) rules of court relating to the service of documents have effect as if the partnership were a body corporate, and
  - (b) the following provisions apply as they apply in relation to a body corporate—

**After Clause 180 - continued**

- (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;
  - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26));
  - (iii) sections 34(2), 66(6AA) and 72D(2) of the Criminal Procedure (Scotland) Act 1995.
- (3) A fine imposed on the partnership on its conviction for an offence under section (*Failure to prevent fraud*) is to be paid out of the partnership assets."

**Member's explanatory statement**

*This amendment supplements new clause (Failure to prevent fraud).*

Insert the following new Clause—

**“Guidance about preventing fraud offences**

- (1) The Secretary of State must issue guidance about procedures that relevant bodies can put in place to prevent persons associated with them from committing fraud offences as mentioned in section (*Failure to prevent fraud*) (1).
- (2) The Secretary of State may from time to time revise the whole or any part of the guidance issued under this section.
- (3) The Secretary of State must publish—
  - (a) any guidance issued under this section;
  - (b) any revision of that guidance.
- (4) Before issuing or revising guidance under this section the Secretary of State must consult—
  - (a) the Scottish Ministers, and
  - (b) the Department of Justice in Northern Ireland.
- (5) The requirement to consult those persons may be satisfied by consultation carried out before this section comes into force.”

**Member's explanatory statement**

*This amendment supplements new clause (Failure to prevent fraud).*

Insert the following new Clause—

**“Failure to prevent fraud: miscellaneous**

- (1) In section 61(1) of the Serious Organised Crime and Police Act 2005 (offences to which certain investigatory powers apply), at the end insert—
  - “(k) an offence under section (*Failure to prevent fraud*) of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”
- (2) In Schedule 1 to the Serious Crime Act 2007 (offences which are serious offences for purposes of serious crime prevention orders)—
  - (a) in Part 1 (serious offences in England and Wales), in paragraph 7, after sub-paragraph (2) insert—

**After Clause 180 - continued**

- “(2A) An offence under section (*Failure to prevent fraud*) of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”;
- (b) in Part 1A (serious offences in Scotland), in paragraph 16J, after sub-paragraph (1) insert –
- “(1A) An offence under section (*Failure to prevent fraud*) of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”;
- (c) in Part 2 (serious offences in Northern Ireland), in paragraph 23, after sub-paragraph (2) insert –
- “(2A) An offence under section (*Failure to prevent fraud*) of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”
- (3) In Part 2 of Schedule 17 to the Crime and Courts Act 2013 (offences in relation to which a deferred prosecution agreement may be entered into), after paragraph 27A insert –
- “27B An offence under section (*Failure to prevent fraud*) of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”

**Member’s explanatory statement**

*This new clause makes consequential amendments of other legislation in consequence of new clause (Failure to prevent fraud).*

Insert the following new Clause –

**“Failure to prevent fraud: minor definitions**

- (1) This section applies for the purposes of sections (*Failure to prevent fraud*) to (*Guidance about preventing fraud offences*).
- (2) References to a person “associated with” a relevant body are to be interpreted in accordance with section (*Failure to prevent fraud*)(6).
- (3) “Financial year” has the meaning given by section (*Failure to prevent fraud*) (12).
- (4) “Fraud offence” has the meaning given by section (*Failure to prevent fraud*) (5).
- (5) “Modify” includes amend or repeal (and references to modifications are to be interpreted accordingly).
- (6) “Partnership” means –
  - (a) a partnership within the meaning of the Partnership Act 1890;
  - (b) a limited partnership registered under the Limited Partnerships Act 1907;
  - (c) a firm or other entity of a similar character to one within paragraph (a) or (b) formed under the law of a country or territory outside the United Kingdom.
- (7) “Relevant body” has the meaning given by section (*Failure to prevent fraud*) (11).
- (8) “Subsidiary” has the same meaning as in section 1159 of the Companies Act 2006.



**After Clause 180 - continued**

- (9) “UK company” means a company formed and registered under the Companies Act 2006.”

**Member’s explanatory statement**

*This amendment sets out definitions for the purposes of new clauses (Failure to prevent fraud) to (Guidance about preventing fraud offences).*

**Schedule 9**

## LORD SHARPE OF EPSOM

Page 315, line 20, at end insert –

“20A An offence under section (*Failure to prevent fraud*) of this Act (failure to prevent fraud).”

**Member’s explanatory statement**

*This amendment is supplementary to new clause (Failure to prevent fraud). It adds the new offence of failure to prevent fraud to the list of offences that constitute “economic crime” for the purposes of clauses 175 to 178.*

**After Schedule 9**

## LORD SHARPE OF EPSOM

Insert the following new Schedule –

## “SCHEDULE 10

## FAILURE TO PREVENT FRAUD: FRAUD OFFENCES

*Common law offences*

- 1 Cheating the public revenue.
- 2 In Scotland, the following offences at common law –
  - (a) fraud;
  - (b) uttering;
  - (c) embezzlement.

*Statutory offences*

- 3 An offence under any of the following provisions of the Theft Act 1968 –
  - (a) section 17 (false accounting);
  - (b) section 19 (false statements by company directors etc).
- 4 An offence under any of the following provisions of the Theft Act (Northern Ireland) 1969 –
  - (a) section 17 (false accounting);
  - (b) section 18 (false statements by company directors etc).
- 5 An offence under section 993 of the Companies Act 2006 (fraudulent trading).
- 6 An offence under any of the following provisions of the Fraud Act 2006 –
  - (a) section 1 (fraud);
  - (b) section 9 (participating in fraudulent business carried on by sole trader);

**After Schedule 9 - continued**

- (c) section 11 (obtaining services dishonestly).”

**Member’s explanatory statement**

*This new Schedule sets out the list of “fraud offences” for the purposes of new clause (Failure to prevent fraud).*

**After Clause 187**

## LORD SHARPE OF EPSOM

Insert the following new Clause –

**“Sanctions regulations: powers to impose monetary penalties**

- (1) In section 143 of the Policing and Crime Act 2017 (interpretation), in subsection (4) (meaning of “financial sanctions legislation”), in paragraph (f) –
  - (a) the words from “contains” to the end become sub-paragraph (i);
  - (b) at the end of that sub-paragraph insert – “;
    - (ii) makes supplemental provision (within the meaning of section 1(6) of that Act) in connection with any prohibition or requirement mentioned in sub-paragraph (i).”
- (2) The Sanctions and Anti-Money Laundering Act 2018 is amended as follows.
- (3) In section 17 (enforcement), in subsection (9), in paragraph (a), after “(2)” insert “or makes supplemental provision in connection with any such prohibition or requirement”.
- (4) After section 17 insert –

**“17A Enforcement: monetary penalties**

- (1) The provision that may be made by virtue of section 17(2) (enforcement of prohibitions or requirements) includes provision authorising a prescribed person to impose a monetary penalty on another person if satisfied, to the prescribed standard of proof, that the other person has breached a prohibition, or failed to comply with a requirement, that is imposed by or under regulations.
- (2) Regulations authorising the Treasury to impose a monetary penalty in respect of a breach or failure for which the Treasury could impose a monetary penalty under Part 8 of the Policing and Crime Act 2017 may not be made unless the regulations also make provision of the kind mentioned in section 17(9) to disapply Part 8 of that Act in respect of that breach or failure.
- (3) Regulations authorising the imposition of a monetary penalty may make provision that, in determining for the purposes of the regulations whether a person has breached a prohibition, or failed to comply with a requirement, any requirement relating to the person’s knowledge or intention is to be ignored.
- (4) Regulations authorising the imposition of a monetary penalty must provide that –
  - (a) a person is not liable to such a penalty in respect of conduct amounting to an offence if –

**After Clause 187 - continued**

- (i) proceedings have been brought against the person for that offence in respect of that conduct and the proceedings are ongoing, or
  - (ii) the person has been convicted of that offence in respect of that conduct, and
- (b) no proceedings may be brought against a person in respect of conduct amounting to an offence if the person has been given such a penalty under the regulations in respect of that conduct.
- (5) Where regulations authorising the imposition of a monetary penalty authorise a prescribed person to determine the amount of the penalty, the regulations must provide for a maximum penalty.
- (6) The maximum penalty may be a prescribed sum of any amount or may be calculated in accordance with the regulations.
- (7) In this section –  
“conduct” means an act or omission;  
“regulations” mean regulations under section 1.”

**Member’s explanatory statement**

*This clause makes it clear that Treasury can impose monetary penalties under the Policing and Crime Act 2017 for breaches of provisions that are supplemental to financial sanctions and that regulations made under section 1 of SAMLA 2018 can include provision conferring power to impose monetary penalties.*

**Clause 189**

## LORD SHARPE OF EPSOM

Page 173, line 21, after “Regulations” insert “made by the Secretary of State”

**Member’s explanatory statement**

*This amendment is consequential on new clause (Fraud offences: supplementary) and ensures that the requirement that regulations under the Bill must be made by statutory instrument only applies to regulations made by the Secretary of State.*

Page 173, line 21, at end insert –

- “(2A) For regulations made under this Act by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).
- (2B) Any power of the Department of Justice in Northern Ireland to make regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”

**Member’s explanatory statement**

*This amendment is about the classification of certain instruments made by the Scottish Ministers or the Department of Justice in Northern Ireland.*

Page 173, line 33, at end insert –

- “(ea) regulations made by the Secretary of State under section (Fraud offences: supplementary) (1);

**Clause 189 - continued**

- (eb) regulations under section (*Section (Failure to prevent fraud): large organisations*) (5) or (6);”

***Member’s explanatory statement***

*This amendment provides for regulations under the specified powers to be subject to affirmative procedure.*

Page 173, line 37, at end insert –

“(4A) Regulations made by the Scottish Ministers under section (*Fraud offences: supplementary*) (1) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).

- (4B) Regulations made by the Department of Justice in Northern Ireland under section (*Fraud offences: supplementary*) (1) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.”

***Member’s explanatory statement***

*This amendment is consequential on new clause (Fraud offences: supplementary), which confers new powers to make regulations on the Scottish Ministers and the Northern Ireland Department.*

Page 173, line 38, leave out “section 191” and insert “sections (*Commencement*) and (*Transitional provision*)”

***Member’s explanatory statement***

*This amendment is consequential on the amendments in the name of Lord Sharpe of Epsom that leave out Clause 191 and insert new Clauses in relation to commencement and transitional provision.*

**Clause 191**

LORD SHARPE OF EPSOM

Leave out Clause 191 and insert the following new Clause –

**“Commencement**

- (1) Except as provided by subsections (2) to (5), this Act comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (2) The following come into force on the day on which this Act is passed –
  - (a) this Part;
  - (b) any provision of, or amendment made by, Parts 1 to 5 so far as it confers a power to make regulations or relates to the exercise of the power;
  - (c) paragraph 1 of Schedule 7 so far as it inserts section 303Z25 into the Proceeds of Crime Act 2002;
  - (d) paragraph 16 of Schedule 7 so far as it relates to that section;
  - (e) section 168 so far as it relates to the provisions mentioned in paragraphs (c) and (d);

**Clause 191 - continued**

- (f) section 170;
  - (g) section (*Money laundering: offences of failing to disclose*);
  - (h) section 172(12) and (13);
  - (i) section 173(13) and (14).
- (3) Section 187 comes into force at the end of the period of 2 months beginning with the day on which this Act is passed.
- (4) The following come into force (so far as not brought into force by subsection (2)(b)) on such day as the Scottish Ministers may by regulations appoint after consulting the Secretary of State –
- (a) Part 2 of Schedule 6, and
  - (b) section 167 so far as it relates to that Part.
- (5) The following come into force (so far as not brought into force by subsection (2)(b)) on such day as the Department of Justice in Northern Ireland may by order appoint after consulting the Secretary of State –
- (a) Part 3 of Schedule 6, and
  - (b) section 167 so far as it relates to that Part.
- (6) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Scotland, unless the Secretary of State has consulted the Scottish Ministers –
- (a) Schedule 7, and
  - (b) section 168 so far as it relates to that Schedule.
- (7) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Northern Ireland, unless the Secretary of State has consulted the Department of Justice in Northern Ireland –
- (a) Schedule 7, other than paragraphs 6(7), 10 and 11, and
  - (b) section 168 so far as it relates to that Schedule, other than paragraphs 6(7), 10 and 11.
- (8) No regulations may be made under subsection (1) bringing into force section (*Failure to prevent fraud*) unless the Secretary of State has published guidance under section (*Guidance about preventing fraud offences*)(3).
- (9) Regulations under subsection (1) or (4), and orders subsection (5), may appoint different days for –
- (a) different purposes, and
  - (b) where regulations under subsection (1) appoint a day for the coming into force of any provision of Schedule 7 or 8, different areas.
- (10) A power of the Department of Justice in Northern Ireland to make an order under subsection (5) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”

**Member's explanatory statement**

*This amendment leaves out Clause 191 and inserts a replacement commencement Clause that provides for additional provisions to come into force at Royal Assent and for consultation requirements to apply in relation to certain cryptoasset provisions. See also the new transitional provision Clause to be inserted after Clause 191.*

**After Clause 191**

LORD SHARPE OF EPSOM

Insert the following new Clause—

**“Transitional provision**

- (1) The Secretary of State may by regulations made by statutory instrument make transitional or saving provision in connection with the coming into force of any provision of this Act, other than a provision mentioned in section (Commencement) (4) or (5).
- (2) The Scottish Ministers may by regulations make transitional or saving provision in connection with the coming into force of a provision mentioned in section (Commencement) (4).
- (3) The Department of Justice in Northern Ireland may by order make transitional or saving provision in connection with the coming into force of a provision mentioned in section (Commencement) (5).
- (4) The power to make regulations under subsection (1) or (2), and the power to make orders under subsection (3), includes power to make different provision for—
  - (a) different purposes, and
  - (b) where regulations under subsection (1) make provision in connection with the coming into force of any provision of Schedule 7 or 8, different areas.
- (5) Transitional provision and savings made under subsections (1) to (3) are additional, and without prejudice, to those made by or under any other provision of this Act.
- (6) A power of the Department of Justice in Northern Ireland to make an order under subsection (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”

**Member's explanatory statement**

*This new Clause contains the powers to make transitional provision that were previously in Clause 191. It also includes additional powers for the Scottish Ministers and the Department of Justice in Northern Ireland to make transitional provision and savings in connection with the coming into force of certain cryptoasset provisions.*

# Economic Crime and Corporate Transparency Bill

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AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*11 April 2023*

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