

Economic Crime and Corporate Transparency Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 8th February 2023, as follows –

Clauses 1 to 50	Clauses 148 to 167
Schedule 1	Schedule 6
Clauses 51 and 52	Clause 168
Schedule 2	Schedule 7
Clauses 53 to 92	Clause 169
Schedule 3	Schedule 8
Clauses 93 to 108	Clauses 170 to 180
Schedule 4	Schedule 9
Clauses 109 to 147	Clauses 181 to 192
Schedule 5	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 99

LORD WALLACE OF SALTIRE

68

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 102

LORD AGNEW OF OULTON
 LORD CROMWELL
 LORD GARNIER
 BARONESS BOWLES OF BERKHAMSTED

- 69 Page 79, line 20, leave out “the Consolidated Fund” and insert “a fund established by the Secretary of State for the purposes of tackling economic crime (see section 1132B)”

Member’s explanatory statement

This amendment ensures that fines imposed by Companies House go to the economic crime fund rather than the Consolidated Fund (The Treasury). The principle of ring-fenced fines has been agreed with the Treasury in previous instances such as The Gambling Commission (2017), Ofwat (2019), The Information Commissioner (2022), and The Environment Agency (2022).

- 70 Page 79, line 23, at end insert –

“1132B Fund for the purposes of tackling economic crime

- (1) The Secretary of State must by regulations establish a fund for the purposes of tackling economic crime, into which penalties received by the registrar under section 1132A will be paid.
- (2) The regulations must specify the purposes for which the fund may be used, which must include funding the activities of law enforcement agencies in tackling economic crime.
- (3) Regulations under this section are subject to negative resolution procedure.”

Member’s explanatory statement

This amendment creates a fund for the purposes of tackling economic crime, and says that any penalties imposed by the registrar should go into that fund, available for all economic crime fighting agencies such as the NCA, SFO etc.

After Clause 102

LORD AGNEW OF OULTON
 LORD CROMWELL
 LORD GARNIER
 BARONESS BOWLES OF BERKHAMSTED

- 71 Insert the following new Clause –

“Retention of fees by economic crime enforcement agencies

- (1) The Secretary of State must report to Parliament on the case for incorporation fees for companies being paid into the fund established for the purpose of tackling economic crime under section 1132B of the Companies Act 2006.
- (2) The report must be laid before each House of Parliament within three months of this Act being passed.”

Member’s explanatory statement

This requires the Secretary of State to report on the case for the retention of fees into the fund established for the purposes of tackling economic crime.

After Clause 106

LORD AGNEW OF OULTON
LORD CROMWELL
LORD GARNIER
BARONESS BOWLES OF BERKHAMSTED

72

Insert the following new Clause—

“Reporting requirement (registrar’s objectives)

- (1) The Secretary of State must publish an annual report assessing whether the powers available to the Secretary of State and the registrar are sufficient to enable the registrar to achieve its objectives under section 1081A of the Companies Act 2006 (inserted by section 1) (registrar’s objectives to promote integrity of registers etc).
- (2) Each report under subsection (1) must—
 - (a) make a recommendation as to whether further legislation should be brought forward in response to the report;
 - (b) provide a breakdown of the registrar’s annual expenditure;
 - (c) contain the details of the steps the registrar has taken to promote the registrar’s objectives under this Act;
 - (d) provide annual data on—
 - (i) the number of companies that have been struck off by the registrar,
 - (ii) the number and value of fines the registrar has issued,
 - (iii) the number of criminal convictions made, and number of cases of suspected unlawful activity identified by the registrar, as a result of the registrar’s powers as set out in this Act,
 - (iv) the number of cases referred by the registrar to law enforcement bodies and anti-money-laundering supervisors, and
 - (v) the total number of company incorporations to the registrar, and the number of company incorporations by authorised corporate service providers to the registrar;
 - (e) detail all instances in which exemption powers have been used by the Secretary of State, as introduced by this Act; and
 - (f) confirm that the registrar has sufficient financial resources to meet its objectives as set out in this Act.
- (3) The first report must be published within one year of this Act being passed.
- (4) A further report must be published at least once a year.
- (5) The Secretary of State must lay a copy of each report before Parliament.”

Member’s explanatory statement

This amendment is intended to help ensure that the objectives set out in the Bill are being delivered by the Registrar and that the performance of Companies House receives full and regular scrutiny.

LORD AGNEW OF OULTON

73 Insert the following new Clause—

“Publication of information about trustees

In section 22(1) of the Economic Crime (Transparency and Enforcement) Act 2022 (material unavailable for inspection), omit paragraph (c).”

Member’s explanatory statement

This amendment would enable Companies House to publish the names of parties to trusts which own Overseas entities in the Register of Overseas Entities. Currently Companies House collects this information but does not publish it.

LORD COAKER
LORD STEVENS OF BIRMINGHAM

73A Insert the following new Clause—

“Beneficial owners in overseas territories

In section 51 of the Sanctions and Anti-Money Laundering Act 2018 (public registers of beneficial ownership of companies registered in British Overseas Territories), after subsection (5) insert—

“(5A) The Secretary of State must take all reasonable steps to ensure that an Order in Council of a kind mentioned in subsection (2) comes into force on a date no later than 30 June 2023.””

Member’s explanatory statement

This new Clause would amend the Sanctions and Anti-Money Laundering Act 2018 to ensure that an Order in Council requiring open registers of beneficial ownership in the British Overseas Territories, for the purposes of the detection, investigation or prevention of money laundering, comes into force no later than 30 June 2023.

LORD LEIGH OF HURLEY

73AA★ Insert the following new Clause—

“Requirement to notify registrar of change of auditor

- (1) The Companies Act 2006 is amended as follows.
- (2) In section 485 (appointment of auditors of private company), at the end insert—
 - “(6) Following the appointment of a new auditor or auditors of the company, the company must give notice to the registrar within 10 working days of the date of change, along with the name and address of the auditor or auditors.”
- (3) In section 489 (appointment of auditors of public company), at the end insert—
 - “(6) Following the appointment of a new auditor or auditors of the company, the company must give notice to the registrar within 10 working days of the date of change, along with the name and address of the auditor or auditors.””

Member’s explanatory statement

This new Clause introduces a requirement for private and public companies to notify Companies House within 10 working days of the appointment of a new auditor or auditors, and provide the registrar with associated details.

Clause 116

LORD JOHNSON OF LAINSTON

73B 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.

73C 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

73D 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.

73E 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.

73F 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.

73G 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;
 - (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

73H Page 102, line 2, leave out from "8J" 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.

73J 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.

After Clause 130

LORD JOHNSON OF LAINSTON

73K Insert the following new Clause—

“Power to make provision about winding up

After section 29 of the Limited Partnerships Act 1907 (inserted by section 130 of this Act) insert—

“29A Power to make provision about winding up

- (1) The Secretary of State may by regulations make provision in relation to the winding up of a limited partnership under section 28 or 29 that corresponds or is similar to any provision of the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 (including any provision of that Act or Order that relates to the allocation of jurisdiction or distribution of business between courts in any part of the United Kingdom).
- (2) Before making regulations under subsection (1) the Secretary of State must—
 - (a) obtain the consent of the Department for the Economy in Northern Ireland, so far as the regulations relate to limited partnerships registered in Northern Ireland;
 - (b) obtain the consent of the Scottish Ministers, so far as the regulations relate to limited partnerships registered in Scotland.
- (3) The provision that may be made by regulations under subsection (1) by virtue of section 35(1) includes provision amending, repealing or revoking provision made by or under either of the following, whenever passed or made—
 - (a) an Act;
 - (b) Northern Ireland legislation.
- (4) Regulations under this section are subject to the affirmative resolution procedure.”

Member's explanatory statement

This amendment would mean that the Secretary of State can make provision corresponding or similar to any provision of the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 to govern the winding up of limited partnerships under new section 28 or 29 of the Limited Partnerships Act 1907.

73L Insert the following new Clause—

“Winding up of limited partnerships: concurrent proceedings

- (1) The Limited Partnerships Act 1907 is amended as follows.
- (2) In section 6 (modifications of general law in case of limited partnerships), for subsection (3D) substitute—

“(3D) Subsections (3A) and (3B) have effect subject to any order of a court as to the winding up of the affairs of the partnership and any award of sequestration of the partnership’s estate under the Bankruptcy (Scotland) Act 2016.”
- (3) After section 29A (inserted by section (*Power to make provision about winding up*) of this Act) insert—

“29B Winding up of limited partnerships: concurrent proceedings

- (1) Where a petition under section 28 in respect of a limited partnership is pending, a general partner of the limited partnership who is or becomes aware of any of the circumstances mentioned in subsection (3) must notify the court to which the petition was presented.
- (2) Where an application under section 29 in respect of a limited partnership is pending—
 - (a) a general partner of the limited partnership who is or becomes aware any of the circumstances mentioned in subsection (3) must notify the court to which the application was made, and
 - (b) if the application was made by a person other than the Secretary of State, the applicant must notify the court to which the application was made if the applicant is or becomes aware of any of the circumstances mentioned in subsection (3).
- (3) The circumstances are that—
 - (a) a petition for sequestration of the limited partnership’s estate under the Bankruptcy (Scotland) Act 2016 is before a sheriff,
 - (b) an application to the Accountant in Bankruptcy for sequestration of the limited partnership’s estate under that Act is pending,
 - (c) sequestration has been awarded by virtue of any such petition or application and the limited partnership’s estate is being sequestrated,
 - (d) a trust deed in respect of the limited partnership’s estate has been sent to the Accountant in Bankruptcy for registration under that Act and the registration has not been refused,
 - (e) a protected trust deed (within the meaning of that Act) is in force in respect of the limited partnership’s estate,
 - (f) an application by the limited partnership for approval of a debt payment programme under the Debt Arrangement and Attachment (Scotland) Act 2002 is pending, or
 - (g) such a programme has been approved under that Act and has not been completed.
- (4) A person is not required to notify the court of circumstances under subsection (1) or (2) if another person has notified the court of those circumstances.
- (5) If a person fails to comply with subsection (1) or (2) an offence is committed by—
 - (a) the person, and

After Clause 130 - continued

- (b) if the person is a legal entity, any of its managing officers who is in default.
- (6) A person guilty of an offence under this section is liable on summary conviction—
 - (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.
- (6) A managing officer is “in default” for the purposes of this section if they authorise or permit, participate in, or fail to take all reasonable steps to prevent, the contravention.
- (8) But a corporate managing officer does not commit an offence as a managing officer in default unless one of its managing officers is in default.
- (9) Where any such offence is committed by a corporate managing officer the managing officer in question also commits the offence (subject to subsection (8)).
- (10) For the purposes of this section a petition or application is “pending” if it has been presented or made and it has not fallen, been withdrawn or been determined.

29C Power to amend circumstances for notification under section 29B

- (1) The Secretary of State or the Scottish Ministers may by regulations amend the list in section 29B (3).
- (2) Before making regulations under subsection (1) the Secretary of State must obtain the consent of the Scottish Ministers.
- (3) Regulations made by the Secretary of State under subsection (1) are subject to the affirmative resolution procedure.
- (4) Regulations made by the Scottish Ministers under subsection (1) are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

Member’s explanatory statement

This amendment would mean that if a petition has been presented under new section 28, or a person has made an application under new section 29, a general partner or person who made the application under new section 29 must notify the relevant court about other concurrent proceedings.

73M

Insert the following new Clause—

“Sequestration of limited partnerships: concurrent winding up proceedings

- (1) The Bankruptcy (Scotland) Act 2016 is amended as follows.
- (2) In section 17 (concurrent proceedings for sequestration or analogous remedy)—
 - (a) in subsection (2)(b), after “awarded” insert “and the debtor’s estate is being sequestered”;
 - (b) in subsection (2)(c)—

After Clause 130 - continued

- (i) omit “has been made”;
- (ii) after “estate” insert “is pending”;
- (c) in subsection (2)(d), after “application” insert “and the debtor’s estate is being sequestrated”;
- (d) in subsection (2)(g), after “under” insert “section 27 of the Limited Partnerships Act 1907,”;
- (e) after subsection (2)(g) insert –
 - “(ga) such a petition has been granted,
 - (gb) an application in respect of the debtor is before a court under section 28 of the Limited Partnerships Act 1907,
 - (gc) such an application has been granted,”;
- (f) after subsection (7) insert –
 - “(7A) For the purposes of subsection (2)(c), a debtor application is “pending” if it has been made and has not fallen, been withdrawn or been determined.”
- (3) In section 18 (powers in relation to concurrent proceedings) –
 - (a) in subsection (1), for “(g)” substitute “(gc)”;
 - (b) in subsection (2), for “or (g)” substitute “, (g), (ga), (gb) or (gc)”;
 - (c) in subsection (8), for “(g)” substitute “(gc)”.

Member’s explanatory statement

This amendment would mean that, if a limited partnership is in the course of sequestration proceedings, the petitioner, debtor or creditor must notify the sheriff court or AiB if they become aware of winding up proceedings under new section 28 or 29 LPA 1907 in relation to the limited partnership.

Clause 132

LORD JOHNSON OF LAINSTON

- 73N** 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.

After Clause 133

LORD AGNEW OF OULTON

- 74** Insert the following new Clause –

“Limited partnerships: registration of persons of significant control

- (1) The Secretary of State must by regulations make provision about the registration of persons of significant control in relation to limited partnerships.
- (2) For the purposes of regulations under this section, “persons of significant control” may include persons with a right to –
 - (a) 25% or more of the surplus assets on winding up,

After Clause 133 - continued

- (b) a voting share of 25% or more,
 - (c) appoint or remove the majority of managers,
 - (d) exercise significant influence or control over the business, or
 - (e) exercise significant influence or control over a firm which would be a person of significant control if it were an individual.
- (3) No regulations to which this section applies may be made unless a draft of the statutory instrument containing the regulations (whether or not together with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.”

Member’s explanatory statement

This amendment creates an obligation on the Secretary of State to make new provisions for Limited Partnerships to be brought into the PSC register. This is intended to improve transparency in relation to Limited Partnerships in line with companies.

Clause 142

LORD JOHNSON OF LAINSTON

- 74A** 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.

- 74B** 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.

Clause 146

LORD JOHNSON OF LAINSTON

- 74C** Page 133, line 32, after “Regulations” insert “made by the Secretary of State”

Member’s explanatory statement

This amendment is consequential on new section 29C of the Limited Partnerships Act 1907 which is inserted by new Clause (Winding up of limited partnerships: concurrent proceedings)(which is inserted after Clause 130 of the Bill).

After Clause 147

LORD AGNEW OF OULTON

75 Insert the following new Clause—

“Limited partnerships required to have at least one partner who is a natural person

- (1) A limited partnership must have at least one partner who is a natural person.
- (2) This requirement is met if the office of partner is held by a natural person as a corporation sole or otherwise by virtue of an office.
- (3) For the purposes of this section, “limited partnership” includes Scottish limited partnerships and limited partnerships in Northern Ireland.”

Member’s explanatory statement

This amendment requires Limited Partnerships to have at least one partner as a natural person, not all as corporate entities. This brings LPs in line with companies who are mandated to have at least one natural person as a director.

76 Insert the following new Clause—

“Limited liability partnerships required to have at least one member who is a natural person

- (1) A limited liability partnership must have at least one member who is a natural person.
- (2) This requirement is met if the office of member is held by a natural person as a corporation sole or otherwise by virtue of an office.”

Member’s explanatory statement

This amendment requires Limited Liability Partnerships to have at least one partner as a natural person, not all as corporate entities. This brings LLPs in line with companies who are mandated to have at least one natural person as a director.

Clause 150

LORD JOHNSON OF LAINSTON

76A Page 136, line 10, after “Secretary of State” insert “or the Department”

Member’s explanatory statement

This amendment allows the Department for the Economy to make regulations under new Article 25D of the Company Directors Disqualification (Northern Ireland) Order 2002.

76B Page 136, line 23, at end insert—

“(2A) The Secretary of State must obtain the consent of the Department before making regulations under this Article.”

Member’s explanatory statement

This amendment requires the Secretary of State to obtain the consent of the Department for the Economy before making regulations under new Article 25D of the Company Directors Disqualification (Northern Ireland) Order 2002.

76C Page 136, line 40, after “made” insert “by regulations made by the Secretary of State”

Member’s explanatory statement

This amendment means that regulations made by the Department for the Economy under new Article 25D of the Company Directors Disqualification (Northern Ireland) Order 2002 cannot amend an Act of Parliament.

76D Page 136, line 44, at end insert –

“(6A) The provision which may be made by regulations made by the Department by virtue of paragraph (5) includes provision amending provision made by or under Northern Ireland legislation, whenever passed or made.”

Member’s explanatory statement

This amendment means that regulations made by the Department for the Economy under new Article 25D of the Company Directors Disqualification (Northern Ireland) Order 2002 can amend Northern Ireland legislation.

76E Page 136, line 45, after “Regulations” insert “made by the Secretary of State”

Member’s explanatory statement

This amendment is consequential on the amendment to page 136, line 10, which is tabled in the Minister’s name.

76F Page 137, line 1, after “regulations” insert “made by the Secretary of State”

Member’s explanatory statement

This amendment is consequential on the amendment to page 136, line 10, which is tabled in the Minister’s name.

76G Page 137, line 3, at end insert –

“(9) Regulations made by the Department under this Article are subject to negative resolution.”

Member’s explanatory statement

This amendment is consequential on the amendment to page 136, line 10, which is tabled in the Minister’s name.

After Clause 153

LORD JOHNSON OF LAINSTON

76H 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 –

After Clause 153 - continued

- (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.

77

[Withdrawn]

After Clause 155

LORD JOHNSON OF LAINSTON

77A

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—
 - “(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.

LORD VAUX OF HARROWDEN
As an amendment to Amendment 77A

77AA

At end insert “, or

- (c) the entity has not provided a statement to the registrar that all the information held on the register is up to date and accurate.”

Member's explanatory statement

The Overseas Entity Register is only required to be updated annually. It is therefore possible that the information at the time of deregistration may be materially out of date or inaccurate, even if no updates are pending. This amendment would require an entity to confirm all information remains up to date and accurate before deregistration can be accepted.

LORD JOHNSON OF LAINSTON

77B

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.

LORD VAUX OF HARROWDEN
BARONESS BOWLES OF BERKHAMSTED

77C Insert the following new Clause—

“Updating register of overseas entities

In section 7 of the Economic Crime (Transparency and Enforcement) Act 2022, after subsection (1) insert—

“(1A) A registered overseas entity must, as soon as reasonably practicable and in any event within 14 days of becoming aware of any change, deliver to the registrar details of any change to the information that has been previously provided to the registrar in accordance with section 4 or, if information has been previously delivered to the registrar under this section, any change to the latest information provided under this section, including the date such change occurred.””

Member's explanatory statement

The Economic Crime (Transparency and Enforcement) Act 2022 only obliges an entity to update the information on the register annually. This amendment introduces a requirement that changes should be notified within 14 days of the entity becoming aware of any change, which would bring it into line with the obligations that UK companies have to notify changes of Persons with Significant Control under the Companies Act 2006.

77D Insert the following new Clause—

“Updating register of overseas entities before undertaking a property transaction

In section 7 of the Economic Crime (Transparency and Enforcement) Act 2022, after subsection (10) insert—

“(10A) A registered overseas entity must deliver to the registrar the information required in accordance with subsection (1) no more than 14 days prior to entering into an agreement to acquire or dispose of any property in the United Kingdom, and may not enter into an agreement to acquire or dispose of property in the United Kingdom until such information has been delivered.””

Member's explanatory statement

This amendment addresses the issue that a person buying a property from, or selling a property to, a registered entity might not be able to register that transaction if the registered entity is in breach of its reporting requirements, by ensuring that the information held must be updated prior to any property transaction being agreed to. This amendment works in conjunction with the other amendment in the name of Lord Vaux of Harrowden after Clause 155 to allow the reporting of changes to the registered information to be updated within 14 days, rather than just annually.

Clause 157

LORD JOHNSON OF LAINSTON

77E 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.*

77F 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.*

77G 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.*

77H 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

77J Insert the following new Clause—

“Overseas entities: further information for transitional casesSchedule (*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).*

Clause 166

LORD JOHNSON OF LAINSTON

77K Page 148, line 6, at end insert –

- “(2) The Secretary of State must obtain the consent of the Scottish Ministers before making regulations under this section that contain provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (3) The Secretary of State must obtain the consent of the Department of Finance in Northern Ireland before making regulations under this section that contain provision that –
- (a) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly, and
 - (b) would not, if contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.”

Member’s explanatory statement

This amendment requires the Secretary of State to obtain consent before making regulations under clause 166 that contain provision within the legislative competence of the Scottish Parliament or the Northern Ireland Assembly.

Before Schedule 6

LORD JOHNSON OF LAINSTON

77L 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 –

Before Schedule 6 - continued

- (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) –
- (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.

Before Schedule 6 - continued

- (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.
- (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.

Before Schedule 6 - continued

- (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.
- (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.

Before Schedule 6 - continued

- (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
 - (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

Before Schedule 6 - continued

- (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
 - (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**

77M 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.

77N 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.

77P 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.

77Q 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.

77R 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.

77S 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.

77T 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.

77U 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.

77V 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.

77W 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.

77X 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.

77Y 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

77YA 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.

77YB 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.

77YC 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.

77YD 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.

77YE 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.

77YF 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.

After Clause 169

LORD FOX

78 Insert the following new Clause –

“Review of definition of cryptoassets

Within 18 months of the day on which this Act is passed the Secretary of State must lay before Parliament the report of a review of the adequacy of the definitions of cryptoassets contained in this Act.”

Member’s explanatory statement

This amendment would require the Secretary of State to review the adequacy of the definitions of cryptoassets contained in this Act.

Schedule 8

LORD SHARPE OF EPSOM

78A 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.

78B 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

78C 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

78D 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.

78E 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.

78F 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

78G 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.

78H 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 174

LORD AGNEW OF OULTON

79 Insert the following new Clause –

“HMRC anti-money laundering function

After section 5 of the Commissioners for Revenue and Customs Act 2005 (Commissioners’ initial functions), insert –

“5A Commissioners’ anti-money laundering functions

- (1) The Commissioners are responsible for anti-money laundering supervision.
- (2) The Commissioners must treat the function in subsection (1) as a priority equal to the functions in section 5.”

Member’s explanatory statement

This amendment introduces a priority for HMRC to exercise its AML supervisory role. Having such a duty would ensure that HMRC fills an enforcement gap by generating more action against the promoters of aggressive tax avoidance schemes and the enablers of economic crimes in order to deter wrongdoing.

After Clause 176

LORD THOMAS OF GRESFORD

LORD CROMWELL

LORD AGNEW OF OULTON

THE LORD BISHOP OF ST ALBANS

80 Insert the following new Clause –

“Strategic lawsuits against public participation

- (1) It is an offence for a person or entity without reasonable excuse to threaten civil litigation against another person or entity with intent to suppress the publication of any information likely to be relevant to the investigation of an economic crime.
- (2) A person guilty of an offence under this section is liable –
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).”

Member's explanatory statement

This amendment introduces a new criminal offence to deal with groundless threats in pursuance of SLAPPS in order to suppress investigations into economic crimes.

Clause 180

LORD EHERTON
LORD VERDIRAME

- 81 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.

- 82 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.

- 83 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.

- 84 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 SHARPE OF EPSOM

- 84A 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.

After Clause 180 - continued

- (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
 - (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).

After Clause 180 - continued

- (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.

84B 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
 - (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).

After Clause 180 - continued

- (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*).

84C 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—
- (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”—

After Clause 180 - continued

- (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*).

84D

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 –
 - (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*).

84E 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).

84F 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.
- (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).

84G 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—
 - “(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).

LORD ALTON OF LIVERPOOL
LORD FOX
LORD COAKER
LORD STEVENS OF BIRMINGHAM

85 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

After Clause 180 - continued

- (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.””

Member’s explanatory statement

This amendment says that sanctions regulations must, for the purposes of preventing an offence under those regulations, require designated persons to disclose all assets they own or control in the UK. Failure to disclose such assets is defined as a form of sanctions evasion, which is already criminalized under UK law, and which could result in asset recovery under the Proceeds of Crime Act.

LORD AGNEW OF OULTON

86

Insert the following new Clause –

“Suspicious Activity Reporting: risk rating

In subsection 339 of the Proceeds of Crime Act 2002 (form and manner of disclosures relating to money laundering), after subsection (1) insert –

- “(1ZA) An order under subsection (1) must prescribe that a risk rating be included as part of the disclosure.””

Member's explanatory statement

This amends the Proceeds of Crime Act so that suspicious activity reports filed include a risk rating element in their disclosure. This would reform the SARs regime to ensure quality over quantity and so prioritising SARs that need investigation.

Schedule 9

LORD SHARPE OF EPSOM

86A 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.*

LORD ETHERTON
LORD VERDIRAME

The above-named Lords give notice of their 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.

After Schedule 9

LORD SHARPE OF EPSOM

86B 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).

After Schedule 9 - continued

- 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);
 - (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).

Clause 181

BARONESS STOWELL OF BEESTON
LORD CROMWELL
LORD FAULKS
THE LORD BISHOP OF ST ALBANS

87 Page 165, line 37, at end insert –

"(iii) the failure is in relation to the use or threat of using litigation against another person or entity which has the intention or effect of suppressing the publication of information, or of removing information already published, likely to be relevant to the prevention or detection of economic crime, or"

Member's explanatory statement

This amendment allows the SRA to set its own fining limit for breach of the Solicitors Act 1974 or Law Society rules relating to abuses of legal processes (SLAPPs) to suppress reporting on economic crime.

88 Page 165, line 41, at end insert –

"(c) for professional misconduct as referred to in subsection (1)(b), where the misconduct is in relation to the use or threat of using litigation against another person or entity with intent to suppress the publication of information, or of removing information already published, likely to be relevant to the prevention or detection of economic crime."

Member's explanatory statement

This amendment allows the SRA to set its own fining limit for professional misconduct relating to abuses of legal processes (SLAPPs) to suppress reporting on economic crime.

After Clause 182

BARONESS STOWELL OF BEESTON
LORD CROMWELL

89 Insert the following new Clause—

“Payment of legal fees using proceeds of crime

In section 327 of the Proceeds of Crime Act 2002 (concealing etc), after subsection (1) insert—

“(1A) Subsection (1) applies to solicitors and other legal services practitioners who receive criminal property as payment for legal services, where these services are provided in relation to the use or threat of using, litigation against another person or entity which has the intention or effect of suppressing the publication of information, or of removing information already published, likely to be relevant to the prevention or detection of economic crime.””

Member’s explanatory statement

This amendment means that criminal property may not be used to pay legal fees in order to pursue SLAPP cases which seek to stifle reporting on economic crime.

Clause 183

LORD ETHELTON
LORD VERDIRAME
LORD GOLDSMITH
LORD PANNICK

90 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).

After Clause 185

BARONESS BOWLES OF BERKHAMSTED
LORD VAUX OF HARROWDEN
BARONESS BENNETT OF MANOR CASTLE

91 Insert the following new Clause—

“Regulatory failure to prevent economic crime and failure to prevent facilitation of economic crime

(1) The Secretary of State may by regulations—

After Clause 185 - continued

- (a) confer on any supervisory or regulatory bodies a duty to prevent economic crime and to prevent facilitation of economic crime within their supervisory or regulatory scope;
- (b) establish an offence of –
 - (i) regulatory failure to prevent economic crime; and
 - (ii) regulatory failure to prevent the facilitation of economic crime.
- (2) Regulations must be made within 18 months of the day on which this Act is passed conferring duties under subsection (1)(a) and creating offences under subsection (1)(b) in respect of –
 - (a) OFCOM and other regulators of communication platforms including telecommunications;
 - (b) financial services regulators;
 - (c) the Financial Reporting Council in respect of auditors;
 - (d) the Solicitors Regulation Authority and other relevant regulators of legal representatives;
 - (e) the Institute of Chartered Accountants in England and Wales and other relevant regulators of accountants.
- (3) Regulations must be made in respect of any other regulator that notifies the Secretary of State that they wish to be bound by such duties, within 18 months of such notification.
- (4) Regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

After Clause 187

LORD SHARPE OF EPSOM

91A 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

After Clause 187 - continued

- (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—
 - (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.

BARONESS KRAMER
BARONESS ALTMANN
THE LORD BISHOP OF ST ALBANS

92 Insert the following new Clause—

“Whistleblowing: economic crime

- (1) Whistleblowing is defined for the purposes of this section as any disclosure of information suggesting that, in the reasonable opinion of the whistleblower, an economic crime—
 - (a) has occurred,
 - (b) is occurring, or
 - (c) is likely to occur.
- (2) The Secretary of State must by regulations made by statutory instrument, within the period of 12 months beginning with the day on which this Act is passed, set up a body corporate, to be known as the Office for Whistleblowers, to receive reports of whistleblowing as defined in subsection (1).
- (3) Regulations under subsection (2) may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by, each House of Parliament.
- (4) The Office for Whistleblowers must—
 - (a) protect whistleblowers from detriment resulting from their whistleblowing,
 - (b) ensure that disclosures by whistleblowers are investigated, and
 - (c) escalate information and evidence of wrongdoing outside of its remit to such other appropriate authority as the regulations may provide or otherwise as the Office may determine.
- (5) The objectives of the Office for Whistleblowers are—
 - (a) to encourage and support whistleblowers to make whistleblowing reports,
 - (b) to provide an independent, confidential and safe environment for making and receiving whistleblowing information,
 - (c) to provide information and advice on whistleblowing, and
 - (d) to act on evidence of detriment to the whistleblower according to such guidance as may be set out by the Secretary of State in the regulations.
- (6) The Office for Whistleblowers must report annually to Parliament on the exercise of its duties, objectives and functions.”

Member’s explanatory statement

This amendment would require the Secretary of State to set up an Office for Whistleblowers to receive reports of whistleblowing in relation to economic crime.

LORD HUNT OF KINGS HEATH
BARONESS RITCHIE OF DOWNPATRICK

93 Insert the following new Clause –

“Unexplained Wealth Orders and Vulnerable Adults

- (1) The Secretary of State must commission a report each year on Unexplained Wealth Orders where the wealth or property in question was obtained through economic crime.
- (2) The report must record all cases where Unexplained Wealth Orders have been used in the previous year and revealed cases where property or wealth has been taken from –
 - (a) older people;
 - (b) people living with disabilities;
 - (c) people who use adult social care;
 - (d) adults who lack mental capacity.
- (3) This first report must be laid before each House of Parliament one year after this Act is passed.
- (4) Thereafter it must be produced annually.”

Member’s explanatory statement

This amendment probes current data kept by the government on property and wealth obtained through economic crime being taken from vulnerable adults.

BARONESS MORGAN OF COTES
LORD VAUX OF HARROWDEN
BARONESS BOWLES OF BERKHAMSTED
LORD GARNIER

94 Insert the following new Clause –

“Failure to prevent facilitation of fraud

- (1) A relevant body (“B”) is guilty of an offence if a person (“P”) uses a service provided by B to commit, or to attempt to commit, fraud as defined in the Fraud Act 2006, and B is not the victim of the fraud.
- (2) B is guilty of an offence whether or not B benefited or would have benefited from the fraud committed or attempted by P.
- (3) It is a defence for B to prove that when the fraud was committed or attempted by P, B had in place such procedures it was reasonable in all the circumstances to expect to detect and prevent the use of its services for the purposes of committing fraud, or that it could not reasonably have known that its services were being used for such purposes.
- (4) For the purposes of this section “relevant body” means –
 - (a) a body which is incorporated under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere),
 - (b) any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom,
 - (c) a partnership which is formed under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere),
or

After Clause 187 - continued

- (d) any other partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom.
- (5) For the purposes of this section, a trade or profession is a business.
- (6) If an offence is committed by a relevant body and it is proved that the offence—
- (a) has been committed with the consent or connivance of an officer of the relevant body, or
 - (b) is attributable to any neglect on the part of an officer of the relevant body,
- the officer (as well as the relevant body) commits the offence and is liable to be proceeded against and punished accordingly.
- (7) In relation to a relevant body which is a body corporate, “officer” means—
- (a) a director, manager, associate, secretary or other similar officer, or
 - (b) a person purporting to act in any such capacity.
- In paragraph (a) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (8) In relation to a partnership which is not regarded as a body corporate under the law under which it is formed, “officer” means—
- (a) a partner, or
 - (b) a person purporting to act as a partner.
- (9) 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.”

Member’s explanatory statement

This amendment is intended to fulfil the recommendation of the House of Lords Committee into the Fraud Act 2006 and Digital Fraud to introduce a new corporate criminal offence of “failure to prevent fraud” across all sectors that are used by fraudsters.

LORD FAULKS
LORD GARNIER

95

Insert the following new Clause—

“Unexplained Wealth Orders

- (1) The Secretary of State must commission a report each year on Unexplained Wealth Orders where the wealth or property in question was obtained through economic crime.
- (2) The report must record all cases where such Unexplained Wealth Orders have been commenced or concluded in the previous year.
- (3) The report must include details of—
 - (a) the amount of money and the nature and value of any assets recovered,

After Clause 187 - continued

- (b) the total costs incurred in obtaining or seeking to obtain such Unexplained Wealth Orders, and
 - (c) the total costs recovered where such Unexplained Wealth Orders have been obtained.
- (4) The first report must be laid before each House of Parliament one year after this Act is passed.
- (5) Thereafter it must be produced annually.”

LORD GARNIER
LORD FAULKS
LORD AGNEW OF OULTON
BARONESS BENNETT OF MANOR CASTLE

96

Insert the following new Clause –

“Failure to Prevent an Economic Criminal Offence (1)

- (1) A relevant body (“B”) is guilty of an offence if a person commits an economic criminal offence when acting in the capacity of a person associated with B.
- (2) For the criminal purposes of this Clause –
- “economic criminal offence” means any of the offences listed in Schedule 9.
 - “relevant body” and “acting in the capacity of a person associated with B” have the same meaning as in section 44 of the Criminal Finances Act 2017.
- (3) It is a defence for B to prove that, when the economic criminal offence was committed –
- (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
 - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (4) In subsection (3) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing an economic criminal offence.
- (5) 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.
- (6) It is immaterial for the purposes of this section whether –
- (a) any relevant conduct of a relevant body, or
 - (b) any conduct which constitutes part of a listed offence,
- takes place in the United Kingdom or elsewhere.
- (7) The Chancellor of the Exchequer and the Secretary of State must prepare and publish guidance about procedures that relevant bodies can put in place to prevent persons acting in the capacity of an associated person from committing an economic criminal offence.”

Member's explanatory statement

This new Clause would create a corporate offence of failing to prevent economic crime, defined by reference to the offences listed in Schedule 9.

LORD GARNIER
LORD AGNEW OF OULTON
LORD FOX

97

Insert the following new Clause—

“Failure to Prevent an Economic Criminal Offence (2)

- (1) A relevant body (“B”) is guilty of an offence if a person commits an economic criminal offence when acting in the capacity of a person associated with B.
- (2) For the purposes of this Clause—
 - “economic criminal offence” means one of the following—
 - (a) a common law offence of conspiracy to defraud;
 - (b) an offence under section 1, 6 or 7 of the Fraud Act 2006;
 - (c) an offence under section 1, 17 or 20 of the Theft Act 1968 (theft, false accounting and destruction of documents);
 - (d) an offence under section 993 of the Companies Act 2006 (fraudulent trading);
 - (e) an offence under sections 346, 397 and 398 of the Financial Services and Markets Act 2000 (providing false statements to auditors, misleading statements, and misleading the FCA);
 - (f) an offence under sections 327, 328 and 329 of the Proceeds of Crime Act 2002 (concealing criminal property, facilitating acquisition, acquisition and use of criminal property).
 - “relevant body” and “acting in the capacity of a person associated with B” have the same meaning as in section 44 of the Criminal Finances Act 2017.
- (3) It is a defence for B to prove that, when the economic criminal offence was committed—
 - (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
 - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (4) In subsection (3) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing a economic criminal offence.
- (5) 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.
- (6) It is immaterial for the purposes of this section whether—
 - (a) any relevant conduct of a relevant body, or
 - (b) any conduct which constitutes part of a listed offence, takes place in the United Kingdom or elsewhere.

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- (7) The Chancellor of the Exchequer and the Secretary of State must prepare and publish guidance about procedures that relevant bodies can put in place to prevent persons acting in the capacity of an associated person from committing an economic criminal offence.”

Member’s explanatory statement

This new Clause would create a corporate offence of failing to prevent economic crime, defined by reference to certain offences listed in subsection (2).

98

Insert the following new Clause—

“Failure to prevent criminal financial offences in the UK

- (1) A relevant body (“B”) is guilty of an offence if a person commits a criminal financial offence when acting in the capacity of a person associated with B.
- (2) It is a defence for B to prove that, when the criminal financial offence was committed—
- (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
 - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (3) In subsection (2) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing criminal financial offences.
- (4) For the purposes of this Clause—
- “criminal financial offence” means an offence listed in Part 2 of Schedule 17 to the Crime and Courts Act 2013 or, one of the offences listed below—
- (a) an offence under section 1, 6 or 7 of the Fraud Act 2006;
 - (b) an offence under section 1, 17 or 20 of the Theft Act 1968;
 - (c) an offence under section 993 of the Companies Act 2006;
 - (d) an offence under section 327, 328 and 329 of the Proceeds of Crime Act 2002;
 - (e) the common law offence of conspiracy to defraud;
- “relevant body” has the same meaning as in section 44 of the Criminal Finances Act 2017.
- (5) 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, to a fine;
 - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (6) It is immaterial for the purposes of this section whether—
- (a) any relevant conduct of a relevant body, or
 - (b) any conduct which constitutes part of a relevant criminal financial offence,
- takes place in the United Kingdom or elsewhere.”

Member's explanatory statement

This New Clause would create an offence of failing to prevent any financial offence listed in Part 2 of Schedule 17 of the Crime and Courts Act 2013.

99

Insert the following new Clause –

“Offence of failure to prevent fraud (including false accounting), money laundering or sanctions evasion

- (1) A relevant commercial organisation (“C”) is guilty of an offence under this section where –
 - (a) a person (“A”) associated with C commits a fraud (including false accounting), sanctions evasion offence or an act of money laundering, or aids and abets a fraud, sanctions evasion offence or act of money laundering, intending –
 - (i) to confer a business advantage on C, or
 - (ii) to confer a benefit on a person to whom A provides services on behalf of C, and
 - (b) fails to prevent the activity set out in paragraph (a).
- (2) C does not commit an offence where C can prove that the conduct detailed in subsection (1)(a) was intended to cause harm to C.
- (3) It is a defence for C to prove that, at the relevant time, C had in place procedures that were reasonable in all the circumstances and which were designed to prevent persons associated with C from undertaking the conduct detailed in subsection (1)(a).
- (4) For the purposes of this section “relevant commercial organisation” means –
 - (a) a body which is incorporated under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere),
 - (b) any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom,
 - (c) a partnership which is formed under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere), or
 - (d) any other partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom, and
 - (e) for the purposes of this section, a trade or profession is a business.
- (5) The relevant offences referred to in 1(a) are –
 - (a) fraud including –
 - (i) sections 2, 3, 4 and 11 of the Fraud Act 2006;
 - (ii) section 17 of the Theft Act 1968;
 - (iii) section 993 of the Companies Act 2006;
 - (iv) section 111A of the Social Security Administration Act 1992;
 - (v) section 170 Custom and Excise Management Act 1979;
 - (vi) the common law offence of cheating the public revenue;
 - (b) money laundering including sections 327, 328, 329 and 330 of the Proceeds of Crime Act 2002;
 - (c) sanctions evasion including the offences laid out at paragraph 21 of Schedule 9.”

Member's explanatory statement

This new Clause introduces a new criminal corporate offence for failure to prevent fraud (including false accounting), sanctions evasion, and money laundering, by aligning it with other corporate criminal offence.

LORD GARNIER
LORD AGNEW OF OULTON
BARONESS BOWLES OF BERKHAMSTED

100 Insert the following new Clause—

“Corporate attribution for (or amendment to identification doctrine relating to) economic crime offences

- (1) A body corporate commits an offence of fraud (including false accounting), money laundering, sanctions evasion, bribery and tax evasion where the offence is committed with the consent, or connivance of a senior manager.
- (2) An individual is a “senior manager” of an entity if the individual—
 - (a) plays a significant role in—
 - (i) the making of decisions about how the entity’s relevant activities are to be managed or organised, or
 - (ii) the managing or organising of the entity’s relevant activities, or
 - (b) is the Chief Executive or Chief Financial Officer of the body corporate.
- (3) A body corporate also commits an offence if, acting within the scope of their authority—
 - (a) one or more senior managers engage in conduct, whether by act or omission, such that, if it had been the conduct of only one representative, that representative would have been a party to the offence; and
 - (b) the senior manager who is responsible for the aspect of the organisation’s activities that is relevant to the offence – or the senior managers collectively – fail to take all reasonable steps to prevent that offence being committed.”

Member's explanatory statement

This new Clause reforms the “identification doctrine”, so that a body corporate commits an economic crime offence where the offence is committed with the consent, connivance or neglect of a senior manager or senior managers.

101 Insert the following new Clause—

“Failure to prevent fraud, false accounting or money laundering: individual liability

- (1) A person (“S”) commits an offence if—
 - (a) at a time when S is a senior manager or corporate officer of a corporate body (“C”), S—
 - (i) takes, or agrees to the taking of, a decision by or on behalf of the corporate body as to the way in which the business of the corporate body is conducted, and
 - (ii) fails to take any steps that S could take to prevent such a decision being taken;

After Clause 187 - continued

- (b) at the time of the decision, S is aware of a risk that the implementation of the decision may lead to the commission of an offence of money laundering, fraud (including false accounting), sanctions evasion, bribery or tax evasion, and
 - (c) the implementation of the decision causes C to commit such an offence.
- (2) For the purposes of this section –
- (a) an individual is a “senior manager” of a corporate body if the individual plays a significant role in –
 - (i) the making of decisions about how the entity’s relevant activities are to be managed or organised, or
 - (ii) the actual managing or organising of the entity’s relevant activities,
 - (b) “officer”, in relation to a body corporate, means –
 - (i) a director, manager, associate, secretary or other similar officer, or
 - (ii) a person purporting to act in any such capacity;
 - (c) in paragraph (b)(i) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) A person guilty of an offence under this section is liable –
- (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the commencement of section 154(1) of the Criminal Justice Act 2003) or a fine, or both;
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine, or both.”

Member’s explanatory statement

This new clause introduces direct criminal liability for corporate officers who take a decision, or fail to take a decision, that knowingly results in an offence being committed.

LORD WALLACE OF SALTAIRE
BARONESS BENNETT OF MANOR CASTLE

102 Insert the following new Clause –

“Home Office review of the Tier 1 (Investor) visa scheme: publication

Within a day of the day on which this Act is passed, the Secretary of State must publish in full the findings of the Home Office review of the Tier 1 (Investor) visa scheme which relate to economic crime.”

Member’s explanatory statement

This amendment would require the Home Office to publish findings of their review of the Tier 1 (Investor) visa scheme.

LORD HAIN
BARONESS WHEATCROFT
BARONESS ALTMANN
LORD OATES

103 Insert the following new Clause—

“International Anti-Corruption Court

- (1) Within six months of the passing of this Act, the Secretary of State must seek to begin negotiations with international partners to establish an International Anti-Corruption Court (IACC).
- (2) It is to be the objective of the Secretary of State in the negotiations to secure that the IACC has the following purposes—
 - (a) to hear cases of international economic corruption, and
 - (b) to sentence persons to appropriate punishment for international economic corruption.
- (3) The Secretary of State must lay a report before each House of Parliament within a year of the passing of this Act on the progress of the negotiations.
- (4) In this section “international economic corruption” means offences which if committed in the United Kingdom would constitute an offence mentioned in paragraph 15 of Schedule 9.”

LORD FOX

104 Insert the following new Clause—

“Duty to report on economic crime resourcing and performance

- (1) The Director General of the National Crime Agency must—
 - (a) prepare a report on the resourcing and staffing of its work to counter economic crime, and its performance tackling economic crime, and
 - (b) send it to the Secretary of State as soon as practicable after this section comes into force.
- (2) The Director General must prepare and send to the Secretary of State further reports on these topics annually.
- (3) Each report must include, in particular—
 - (a) the total annual budget and number of staff allocated to economic crime for each unit within the National Crime Agency,
 - (b) the number of investigations, arrests, prosecutions and convictions relating to economic crime for each unit within the National Crime Agency, and
 - (c) other relevant data including, but not limited to, cases per year broken down by—
 - (i) type and outcome,
 - (ii) number of restraint or confiscation orders obtained, and
 - (iii) value of assets confiscated.
- (4) Each report must include, for the purposes of comparison, relevant statistics of economic crime in other countries.
- (5) Reporting on international economic crime under subsections (3)(b) and (c) must provide a breakdown by the income classification of the countries affected.

After Clause 187 - continued

- (6) The Director General must publish every report under this section—
- (a) as soon as practicable after they send it to the Secretary of State, and
 - (b) in such manner as they consider appropriate.”

Member’s explanatory statement

This amendment places a duty on the Director General of the NCA to prepare an annual report on the NCA’s resourcing and performance relating to economic crime.

LORD CROMWELL

BARONESS BOWLES OF BERKHAMSTED

105 Insert the following new Clause—

“Disclosure of information in the public interest likely to be relevant to the investigation of economic crime

- (1) It is a defence to an action based on the disclosure or publication of information for the defendant to show that—
 - (a) the disclosure or publication complained of was likely to be relevant to the investigation of an economic crime, and
 - (b) the defendant reasonably believed that the disclosure or publication complained of was likely to be relevant to the investigation of an economic crime.
- (2) Subject to subsection (3), in determining whether the defendant has shown the matters mentioned in subsection (1), the court must have regard to all the circumstances of the case.
- (3) In determining whether it was reasonable for the defendant to believe that the disclosure or publication complained of was likely to be relevant to the investigation of an economic crime, the court must make such allowance for editorial judgement as it considers appropriate.
- (4) For the avoidance of doubt, the defence under this section may be relied upon irrespective of whether the statement complained of is a statement of fact or a statement of opinion.”

Member’s explanatory statement

This amendment enables the target of a SLAPP to use as a defence the disclosure of information in the public interest likely to be relevant to the investigation of economic crime.

106 Insert the following new Clause—

“Economic crime: power to strike out statement of case for abuse of process

The court may strike out the whole or part of any statement of case which can be reasonably understood as having the purpose of concealing, or preventing disclosure or publication of, any information likely to be relevant to the investigation of an economic crime.”

Member’s explanatory statement

This amendment enables the court to strike out a case which can reasonably be understood as having the purpose of suppressing the disclosure or publication of information likely to be relevant to the investigation of an economic crime.

BARONESS BENNETT OF MANOR CASTLE

106A Insert the following new Clause—

“UN convention on global tax evasion

Within six months of the passing of this Act, the Secretary of State must seek to begin negotiations with international partners to work towards the establishment of a United Nations convention on tackling global tax evasion.”

LORD COAKER

106B Insert the following new Clause—

“Economic Crime Committee of Parliament

- (1) The Secretary of State must by regulations establish a body to be known as the Economic Crime Committee of Parliament (“the ECC”).
- (2) The ECC is to consist of nine members who are to be drawn both from the members of the House of Commons and from the members of the House of Lords.
- (3) Each member of the ECC is to be appointed by the House of Parliament from which the member is to be drawn.
- (4) The ECC is to have the power to meet confidentially.
- (5) The ECC may examine or otherwise oversee any regulatory, enforcement or supervision agencies involved in work related to economic crime including, but not limited to—
 - (a) tax evasion by corporations;
 - (b) illicit finance;
 - (c) anti-money laundering supervision;
 - (d) tackling fraud;
 - (e) economic corruption, including in relation to the disposal of assets obtained through overseas corruption;
 - (f) whistle-blower protection in connection with economic crime.”

Member’s explanatory statement

This new Clause would oblige the Secretary of State to establish a statutory Economic Crime Committee of Parliament, made up of Members of both Houses, to examine and oversee regulatory, enforcement and supervisory action against economic crime.

LORD AGNEW OF OULTON

LORD LEIGH OF HURLEY

BARONESS BOWLES OF BERKHAMSTED

106C Insert the following new Clause—

“Civil recovery: costs of proceedings

After section 313 of the Proceeds of Crime Act 2002 insert—

“313A Costs orders

- (1) This section applies to proceedings brought by an enforcement authority under Part 5 of the Proceeds of Crime Act 2002 where the property in respect of which the proceedings have been brought has been obtained through economic crime.

After Clause 187 - continued

- (2) The court may not make an order that any costs of proceedings relating to a case to which this section applies (including appeal proceedings) are payable by an enforcement authority to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless –
- (a) the authority acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate, or
 - (b) the authority acted dishonestly or improperly in the course of the proceedings.”

Member’s explanatory statement

This amendment extends the costs cap for civil asset recovery cases beyond Unexplained Wealth Orders. It aims to create a consistent enforcement landscape that does not hinder law enforcement agencies’ ability to recover the proceeds of crime. It retains safeguards on costs for improper action taken by prosecuting authorities.

LORD COAKER

106D Insert the following new Clause –

“Compensation for victims of economic crime

- (1) The Secretary of State must, within the period of 180 days beginning with the day on which this Act is passed, publish and lay before Parliament a strategy for the potential establishment of a fund for the compensation of victims of economic crime.
- (2) Any such fund must comprise the proceeds of property recovered under the Proceeds of Crime Act 2002 in relation to economic crime.”

Member’s explanatory statement

This new Clause would require the Secretary of State to prepare and publish a strategy on the potential establishment of a fund to provide compensation to victims of economic crime within 180 days of this Act being passed.

BARONESS ALTMANN

LORD COAKER

106E Insert the following new Clause –

“Economic crime fund

- (1) The Secretary of State must establish a fund for the purposes of tackling economic crime.
- (2) Section 1063 (fees payable to registrar) of the Companies Act 2006 is amended in accordance with subsections (3) to (5).
- (3) Before subsection (1) insert –
 - “(A1) The registrar must charge a fee of at least £100 for the incorporation of a company, for the purpose of providing for a fund to aid in tackling economic crime.

After Clause 187 - continued

- (B1) The Secretary of State must once a year consider amending the fee in subsection (A1) to reflect inflation.”
- (4) In subsection (1)–
- (a) after “fees” insert “other than the fee in subsection (A1)”;
 - (b) in paragraph (a), after “functions” insert “other than the incorporation of a company”.
- (5) In subsection (5), in paragraphs (a) and (b) after “regulations” insert “or subsection (A1)”.
- (6) In section 1132A(6), omit “Consolidated Fund” and insert “economic crime fund established under section (*Economic crime fund*) of the Economic Crime and Corporate Transparency Act 2023”.

Clause 189

LORD SHARPE OF EPSOM

106F 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.

106G 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.

106H Page 173, line 33, at end insert –

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

LORD JOHNSON OF LAINSTON

107 Page 173, line 37, at end insert –

“(4A) But subsection (4) does not apply to a statutory instrument that only contains regulations appointing the appointed day for the purposes of section 51.”

Member’s explanatory statement

This amendment ensures that the regulation-making power to specify an appointed day for the purposes of Clause 51 is not subject to any procedural requirements since it is similar to a commencement power.

LORD SHARPE OF EPSOM

107A 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.*

107B 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 190LORD WALLACE OF SALTAIRE
BARONESS BENNETT OF MANOR CASTLE

108 Page 174, line 2, at end insert –

- “(3) This Act extends to –
- (a) the Channel Islands,
 - (b) the Isle of Man, and
 - (c) the British overseas territories.”

Clause 191

LORD SHARPE OF EPSOM

109 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);
 - (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.

Clause 191 - continued

- (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

110 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.

After Clause 191 - continued

- (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

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

18 April 2023
