

# Economic Crime and Corporate Transparency Bill

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FIFTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*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 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.
- (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.

**After Clause 180 - continued**

- (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).
- (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);

**After Clause 180 - continued**

- (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.*

LORD FOX

*As an amendment to Amendment 84A*

**84AA** In subsection (1), leave out “which is a large organisation”

**Member’s explanatory statement**

*This amendment, along with consequential amendments to Amendment 84C, would extend the Government’s failure to prevent offence to all relevant organisations regardless of size. Instead of allowing the Government to amend or remove the applicability to large organisations, these amendments would apply the offence to all organisations by default, with the Government able to restrict it to large organisations by affirmative resolution.*

LORD SHARPE OF EPSOM

**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,

**After Clause 180 - continued**

- (b) an offence that is otherwise of a similar character to those listed (on the passing of this Act) in paragraphs 1 to 6 of Schedule (*Failure to prevent fraud: fraud offences*), or
  - (c) a relevant money laundering offence.
- (5) The Secretary of State may from time to time by regulations restate Schedule (*Failure to prevent fraud: fraud offences*) as amended by virtue of subsections (1) to (3) (without changing the effect of the Schedule).
- (6) For the purposes of section (*Failure to prevent fraud*) (1), where a fraud offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, and that period of days straddles the beginning of a financial year of the relevant body in question, the fraud offence must be taken to have been committed on the last of those days.
- (7) In this section “relevant money laundering offence” means an offence under any of the following sections of the Proceeds of Crime Act 2002—
- (a) section 327 (concealing etc);
  - (b) section 328 (arrangements);
  - (c) section 329 (acquisition, use and possession).”

**Member’s explanatory statement**

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

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—

**After Clause 180 - continued**

“balance sheet total”, in relation to a relevant body and a financial year –

- (a) means the aggregate of the amounts shown as assets in its balance sheet at the end of the financial year, or
- (b) where the body has no balance sheet for the financial year, has a corresponding meaning;

“turnover” –

- (a) in relation to a UK company, has the same meaning as in Part 15 of the Companies Act 2006 (see section 474 of that Act);
- (b) in relation to any other relevant body, has a corresponding meaning;

“year of the fraud offence” is to be interpreted in accordance with section (*Failure to prevent fraud*) (1).

- (5) The Secretary of State may by regulations modify this section (other than this subsection and subsections (6) and (7)) for the purpose of altering the meaning of “large organisation” in section (*Failure to prevent fraud*) (1).
- (6) The Secretary of State may (whether or not the power in subsection (5) has been exercised) by regulations –
  - (a) omit the words “which is a large organisation” in section (*Failure to prevent fraud*) (1), and
  - (b) make any modifications of this section (other than this subsection) that the Secretary of State thinks appropriate in consequence of provision made under paragraph (a).
- (7) Regulations under subsection (5) or (6) may make consequential amendments of section (*Failure to prevent fraud: minor definitions*).”

**Member’s explanatory statement**

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

LORD FOX

*As an amendment to Amendment 84C*

**84CA** In subsection (1), leave out “For the purposes of section (*Failure to prevent fraud*) (1)”

**Member’s explanatory statement**

*This amendment, along with linked amendments to Amendments 84A and 84C, would extend the Government’s failure to prevent offence to all relevant organisations regardless of size. Instead of allowing the Government to amend or remove the applicability to large organisations, these amendments would apply the offence to all organisations by default, with the Government able to restrict it to large organisations by affirmative resolution.*

*As an amendment to Amendment 84C*

**84CB** Leave out subsection (6)(a) and insert –

- “(a) in section (*Failure to prevent fraud*) (1), after “A relevant body” insert the words “which is a large organisation”, and”

**Member's explanatory statement**

*This amendment, along with linked amendments to Amendment 84A and 84C, would extend the Government's failure to prevent offence to all relevant organisations regardless of size. Instead of allowing the Government to amend or remove the applicability to large organisations, these amendments would apply the offence to all organisations by default, with the Government able to restrict it to large organisations by affirmative resolution.*

*As an amendment to Amendment 84C*

**84CC** In subsection (5), leave out “in section (*Failure to prevent fraud*) (1)”

**Member's explanatory statement**

*This amendment, along with linked amendments to Amendments 84A and 84C, would extend the Government's failure to prevent offence to all relevant organisations regardless of size. Instead of allowing the Government to amend or remove the applicability to large organisations, these amendments would apply the offence to all organisations by default, with the Government able to restrict it to large organisations by affirmative resolution.*

LORD SHARPE OF EPSOM

**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.

**After Clause 180 - continued**

- (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**

- (1) Any regulations made under section 1 must, for the purposes of preventing an offence under those regulations, make provision requiring designated persons –



**After Clause 180 - continued**

- (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).
- 5 An offence under section 993 of the Companies Act 2006 (fraudulent trading).
- 6 An offence under any of the following provisions of the Fraud Act 2006 –
  - (a) section 1 (fraud);
  - (b) section 9 (participating in fraudulent business carried on by sole trader);

**After Schedule 9 - continued**

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

**Member’s explanatory statement**

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

**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 –

**After Clause 182 - continued**

“(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 EHERTON  
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  
LORD SANDHURST

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 –
- (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.

**After Clause 185 - continued**

- (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**

- (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.

**After Clause 187 - continued**

- (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 SAML 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,

**After Clause 187 - continued**

- (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;

**After Clause 187 - continued**

- (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
  - (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.



**After Clause 187 - continued**

- (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,
  - (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.”

**After Clause 187 - continued**

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.
- (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;
  - (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—

**After Clause 187 - continued**

- (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”.

## LORD COAKER

106EA Insert the following new Clause –

**“Report on the economic crime investigation and prosecution framework**

- (1) Within one year of this Act being passed, the Secretary of State must publish a report on economic crime and investigation, as outlined in subsection (2).
- (2) This report must include –
  - (a) an assessment of the current performance of the framework for investigating, prosecuting and convicting economic crime,
  - (b) an assessment of the roles and performances of the Serious Fraud Office, the National Crime Agency, the Crown Prosecution Service, police forces across the UK, including the City of London police, and other relevant Government departments and agencies that work on investigation and prosecution of economic crime,
  - (c) an assessment of the resourcing and staffing of departments and agencies (or units within departments and agencies) involved in economic crime investigation and prosecution,
  - (d) an assessment of the number of investigations, arrests, prosecutions, and convictions for economic crime in the UK, and
  - (e) a strategy for the use of fees charged and penalties imposed by the registrar for the purpose of tackling economic crime.
- (3) This report must be laid before each House of Parliament within one year of the passing of this Act.”

***Member’s explanatory statement***

*This probing amendment requires the Secretary of State to report on the current performance of Government agencies and departments in investigating, prosecuting and convicting economic crime and to report on a strategy to use penalties and fees from the registrar to tackle economic crime.*

**106EB** Insert the following new Clause—

**“Report on the Serious Fraud Office**

- (1) The Secretary of State must report to Parliament on the ability of the Serious Fraud Office to carry out its role and remit as an investigator and prosecutor of serious or complex cases of fraud, bribery and corruption.
- (2) The report must include an assessment of the resourcing and staffing of its work to counter economic crime.
- (3) The report must include the number of investigations, arrests, prosecutions and convictions brought about by the Serious Fraud Office in the previous year or since the previous report.
- (4) The report must make a recommendation as to what measures should be taken to improve the performance of the Serious Fraud Office with respect to its role and remit.
- (5) This report must be laid before each House of Parliament within one year of the passing of this Act.”

*Member’s explanatory statement*

*This probing amendment requires the Secretary of State to report on the current performance of the Serious Fraud Office and recommend any changes deemed necessary to improve its performance.*

BARONESS KRAMER

**106EC★** Insert the following new Clause—

**“Register of beneficial ownership: freeports**

Each Freeport Governance Body required—

- (a) to undertake reasonable efforts to verify the beneficial owner of businesses operating within the Freeport tax site, and
- (b) to make this information available to the Commissioners for His Majesty’s Revenue and Customs, law enforcement agencies and other public bodies

must also register this information with the registrar for public inspection.”

*Member’s explanatory statement*

*This amendment would require governing bodies of freeports to make the information they are required to collect about beneficial ownership of companies operating within the freeport available to the public.*

**106ED★** Insert the following new Clause—

**“Register of beneficial ownership: Investment Zones**

A governance body of an Investment Zone must—

- (a) undertake reasonable efforts to verify the beneficial owner of businesses operating within the Investment Zone,
- (b) make any information obtained under paragraph (a) available to the Commissioners for His Majesty’s Revenue and Customs, law enforcement agencies and other public bodies, and
- (c) register this information with the registrar for public inspection.”

**Member's explanatory statement**

*This amendment would require governance bodies of the Government's Investment Zones to take steps to verify information about the beneficial owners of businesses operating within the Investment Zones, and to make this information available to HMRC, law enforcement and the public.*

**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 190**LORD WALLACE OF SALTIRE  
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;

**Clause 191 - continued**

- (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.
- (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.
- (6) A power of the Department of Justice in Northern Ireland to make an order under subsection (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”

**Member's explanatory statement**

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

# **Economic Crime and Corporate Transparency Bill**

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FIFTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*25 April 2023*

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