

Economic Crime and Corporate Transparency Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 64

LORD AGNEW OF OULTON

Page 60, line 15, leave out from beginning to end of line 43 and insert—

- “(1) The registrar must carry out a risk assessment in relation to any authorised corporate service provider to establish whether the verification of identity by the authorised corporate service provider is likely to give rise to a risk of economic crime.
- (2) If the risk assessment identifies a real risk of economic crime, the registrar may—
 - (a) require an authorised corporate service provider to provide information to the registrar; or
 - (b) require a person who ceases to be an authorised corporate service provider by virtue of section 1098F—
 - (i) to notify the registrar; and
 - (ii) to provide the registrar with such information relating to the circumstances by virtue of which the person so ceased as may be requested by the registrar.
- (3) The registrar may require information to be provided on request, on the occurrence of an event or at regular intervals.
- (4) The circumstances that may be specified under section 1098F(2) or 1098G(1) (ceasing to be an authorised corporate service provider and suspension) include failure to comply with a requirement under subsection (2)(a).
- (5) A person who fails to comply with a requirement to provide information under this section commits an offence.
- (6) An offence under this section is punishable on summary conviction—
 - (a) in England and Wales with a fine;
 - (b) in Scotland and Northern Ireland with 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.”

Member's explanatory statement

This amendment gives Companies House the power to require information from an authorised corporate service provider, to validate that ID Verification has been carried out satisfactorily. This power would only be used when red flags are raised. This clause would replace the current provision in the Bill allowing the Secretary of State to empower Companies House through secondary legislation to avoid further delay.

After Clause 105

LORD AGNEW OF OULTON

Revised version of the amendment printed on HL Bill 138(c)

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 (as 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 and a budget plan for the forthcoming year to show how the registrar proposes to allocate its resources;
 - (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,
 - (v) the total number of company incorporations to the registrar, and the number of company incorporations by authorised corporate service providers to the registrar, and
 - (vi) the amount of funds raised by incorporation fees, and by annual fees;
 - (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, including the resources for enforcement action where needed.
- (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, that the performance of Companies House receives full and regular scrutiny and that there is a clear plan to deploy the additional financial resources being made available to the Registrar through this bill.

After Clause 172

LORD AGNEW OF OULTON

Insert the following new Clause—

“Publication of information about trustees

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

Member's explanatory statement

This amendment requires Companies House to publish information about trusts obtained in the newly created Register of Overseas Interests, but that is not available for scrutiny. Nearly half of all trusts now registered with Companies House are shown to own assets anonymously.

After Clause 181

LORD AGNEW OF OULTON

This amendment replaces the amendment after Clause 181 published on daily sheet HL Bill 138(c)

Insert the following new Clause—

“HMRC anti-money laundering function

After section 5 of the Commissioners of 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 clause requires HMRC to prioritise its anti-money laundering supervisory function and its revenue raising duties equally, removing any conflict between the two. Approximately half of corporate entities in the UK are established through Trust and Corporate Service Providers, supervised by HMRC. They pose a high risk of money laundering as creators of shell companies. HMRC has faced criticism over its supervision.

After Clause 194

LORD AGNEW OF OULTON

Insert the following new Clause—

“Update on the Fraud Strategy

The Government must publish, and lay before Parliament, an update by July 2024, and annually thereafter, on the progress and effectiveness of the implementation of the commitments made under Pillars 1, 2 and 3 of the Fraud Strategy published in May 2023, and the impact of the commitments, as it relates to the reduction of economic crime.”

Member’s explanatory statement

This amendment requires the Government provide an update on the impact of the Fraud Strategy of May 2023 by July 2024 and then annually thereafter.

After Clause 199

BARONESS BOWLES OF BERKHAMSTED

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.
- (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 202

LORD AGNEW OF OULTON
LORD FAULKS

Revised version of the amendment printed on HL Bill 138(c)

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.
- (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,
 - (b) the authority acted dishonestly or improperly in the course of the proceedings, or
 - (c) it would not be in the interests of justice.””

Member’s explanatory statement

This extends the cost cap for civil recovery cases beyond Unexplained Wealth Orders. Part 5 of the Proceeds of Crime Act permits the recovery of criminal assets where no conviction has been possible. For example, because the individuals avoided conviction by remaining remote from the commission of the crimes but were beneficiaries of them, or having fled the country. It retains safeguards on costs for improper action taken by prosecuting authorities.

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