

Economic Crime and Corporate Transparency Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 15th June 2023, as follows –

Clauses 1 to 49	Clauses 170 to 173
Schedules 1	Schedule 7
Clauses 50 and 51	Clauses 174
Schedule 2	Schedule 8
Clauses 52 to 91	Clause 175
Schedule 3	Schedule 9
Clauses 92 to 107	Clauses 176 to 187
Schedule 4	Schedule 10
Clauses 108 to 149	Clauses 188
Schedule 5	Schedule 11
Clauses 150 to 169	Clauses 189 to 208
Schedule 6	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

LORD JOHNSON OF LAINSTON

- 1 Page 2, line 8, leave out from “to” to “a” on line 9 and insert “ensure that records kept by the registrar do not create”

Member’s explanatory statement

This brings the wording of objective 3 into line with objectives 1 and 2.

- 2 Page 2, leave out lines 11 to 13 and insert –
“Objective 4 is to prevent companies and others from –
(a) carrying out unlawful activities, or
(b) facilitating the carrying out by others of unlawful activities.”

Member’s explanatory statement

At the moment the registrar’s fourth objective is to minimise the extent to which companies and others carry out unlawful activities etc. This amendment makes it an objective to prevent companies and others from carrying out unlawful activities etc.

Clause 4

LORD JOHNSON OF LAINSTON

3 Page 4, line 7, leave out “206(7)” and insert “207(1)”

Member’s explanatory statement

This amendment corrects a cross-reference in Clause 4 of the Bill.

Clause 30

LORD JOHNSON OF LAINSTON

4 Page 22, line 8, leave out from second “the” to end of line 9 and insert “meaning given by section 1060(3) of the Companies Act 2006.”

Member’s explanatory statement

This amendment changes the definition of “the registrar” so it does not refer to the Companies Acts (which is itself not defined).

Clause 36

LORD JOHNSON OF LAINSTON

5 Page 26, leave out line 26 and insert “and Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002 (see section 3A of the Sanctions and Anti-Money Laundering Act 2018)”

Member’s explanatory statement

This amendment makes it clear that a person who is subject to director disqualification sanctions will be so subject both for the purposes of section 11A of the Company Directors Disqualification Act 1986 and for the purposes of Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002.

6 Page 27, leave out lines 4 to 15 and insert “where –

- (i) the instructions are given by a person whom they know at that time to be subject to director disqualification sanctions (within the meaning of section 11A),
- (ii) the giving of the instructions does not fall within any exception from section 11A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and
- (iii) the instructions are not authorised,

(but see subsection (3A)).”

Member’s explanatory statement

This amendment ensures that a person who acts on instructions that were given by a person that they did not know was subject to director disqualification sanctions would not be responsible for all of the relevant debts, and is otherwise consequential on my amendment to page 27, line 16.

7 Page 27, line 16, at end insert –

“(f) after subsection (3) insert –

“(3A) But –

- (a) a person who is subject to director disqualification sanctions (within the meaning of section 11A) is not personally responsible under subsection (1)(a) for any relevant debts of the company incurred at a time when the person did not know and could not reasonably have been expected to know that they were subject to director disqualification sanctions;
 - (b) a person is not personally responsible under subsection (1)(c) for any relevant debts of the company incurred at a time when the person reasonably believed that the instructions were authorised.”;
- (g) after subsection (5) insert –
- “(6) Subsection (7) applies where a person (“P”) at any time –
 - (a) was involved in the management of a company, and
 - (b) acted on instructions where –
 - (i) the instructions were given by a person (“D”) whom P knew at that time to be subject to director disqualification sanctions (within the meaning of section 11A),
 - (ii) the giving of the instructions did not fall within any exception from section 11A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and
 - (iii) the instructions were not authorised,
 unless P reasonably believed at that time that the instructions were authorised.
 - (7) For the purposes of this section P is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by D.
 - (8) For the purposes of this section instructions are “authorised” if they are given under the authority of a licence issued by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018.””

Member’s explanatory statement

This amendment means that a person is not responsible for debts incurred when they didn’t know they were sanctioned, or they reasonably believed they were acting on instructions under a licence. A person who acts on instructions given by a sanctioned person is presumed to be willing to do so thereafter.

Clause 38

LORD JOHNSON OF LAINSTON

8 Page 28, line 24, leave out “(see section 3A of that Act)” and insert “and section 11A of the Company Directors Disqualification Act 1986 (see section 3A of the Sanctions and Anti-Money Laundering Act 2018)”

Member's explanatory statement

This amendment makes it clear that a person who is subject to director disqualification sanctions will be so subject both for the purposes of section 11A of the Company Directors Disqualification Act 1986 and for the purposes of Article 15A of the Company Directors Disqualification (Northern Ireland) Order 2002.

- 9 Page 28, leave out lines 36 to 46 and insert “where –
- (i) the instructions are given by a person whom they know at that time to be subject to director disqualification sanctions (within the meaning of Article 15A),
 - (ii) the giving of the instructions does not fall within any exception from Article 15A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and
 - (iii) the instructions are not authorised,
- (but see paragraph (3A)).”

Member's explanatory statement

This amendment ensures that a person who acts on instructions that were given by a person that they did not know was subject to director disqualification sanctions would not be responsible for all of the relevant debts, and is otherwise consequential on my amendment to page 28, line 47.

- 10 Page 28, line 47, at end insert –
- “(f) after paragraph (3) insert –
 - “(3A) But –
 - (a) a person who is subject to director disqualification sanctions (within the meaning of Article 15A) is not personally responsible under paragraph (1)(a) for any relevant debts of the company incurred at a time when the person did not know and could not reasonably have been expected to know that they were subject to director disqualification sanctions;
 - (b) a person is not personally responsible under paragraph (1)(c) for any relevant debts of the company incurred at a time when the person reasonably believed that the instructions were authorised.”;
 - (g) in paragraph (5), in the closing words, after “given” insert “by”;
 - (h) after paragraph (5) insert –
 - “(6) Paragraph (7) applies where a person (“P”) at any time –
 - (a) was involved in the management of a company, and
 - (b) acted on instructions where –
 - (i) the instructions were given by a person (“D”) whom P knew at that time to be subject to director disqualification sanctions (within the meaning of Article 15A),
 - (ii) the giving of the instructions did not fall within any exception from Article 15A(1) created by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018, and

Clause 38 - continued

- (iii) the instructions were not authorised, unless P reasonably believed at that time that the instructions were authorised.
- (7) For the purposes of this Article P is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by D.
- (8) For the purposes of this Article instructions are “authorised” if they are given under the authority of a licence issued by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018.””

Member’s explanatory statement

This amendment means that a person is not responsible for debts incurred when they didn’t know they were sanctioned, or they reasonably believed they were acting on instructions under a licence. A person who acts on instructions given by a sanctioned person is presumed to be willing to do so thereafter.

11 Page 28, line 47, at end insert –

- “(5) In Article 22 (register of disqualification orders and undertakings), in paragraph (3), after sub-paragraph (c) insert –
- “(d) persons who are subject to director disqualification sanctions within the meaning of Article 15A;
- (e) any licences issued by virtue of section 15(3A) of the Sanctions and Anti-Money Laundering Act 2018 that authorise such a person to do anything that would otherwise be prohibited by Article 15A(1).””

Member’s explanatory statement

This amendment ensures that the register of disqualification orders kept by the Department for the Economy in Northern Ireland includes details of persons who are subject to director disqualification sanctions and any licences that allow those persons to act in Northern Ireland.

Clause 46

LORD JOHNSON OF LAINSTON

12 Page 35, line 29, after “changes” insert “and, at the time of the change, it is a non-traded company”

Member’s explanatory statement

This amendment means that only non-traded companies are required to keep old information about their members (eg old addresses).

13 Page 35, line 30, leave out “that” and insert “the fact that the information has changed”

Member’s explanatory statement

This is consequential on my amendment to Clause 46, page 35, line 29.

- 14 Page 35, line 38, at end insert –
- “(6B) Where any of the information required to be entered in a company’s register of members changes and, at the time of the change, it is a traded company, the company is not required to include or retain the old information in the register.
 - (6C) The Secretary of State may by regulations –
 - (a) amend subsection (6A) so as to provide for it to apply in relation to traded companies, and
 - (b) repeal subsection (6B) in consequence.
 - (6D) Regulations under subsection (6C) are subject to affirmative resolution procedure.”

Member’s explanatory statement

This amendment means that traded companies are not required to keep old information about their members (eg old addresses). It also confers a regulation-making power to require them to keep old information in future.

- 15 Page 35, line 39, at end insert –
- “(g) after subsection (8) insert –
 - “(9) In this section –
 - “non-traded company” means a company that is not a traded company;
 - “relevant market” has the meaning given by section 853E(6);
 - “traded company” means a company any of whose shares are admitted to trading on a relevant market or on any other market which is outside the United Kingdom.””

Member’s explanatory statement

This is consequential on my other amendments to Clause 46.

LORD VAUX OF HARROWDEN
LORD FOX

- 16 Page 36, line 14, at end insert –
- “113BA Required information about members: nominees**
- The required information about a member includes a statement by the individual, or where the member is a body corporate, or a firm that is a legal person under the law by which it is governed, by an officer of that body corporate or firm, as to whether or not they are holding the shares on behalf of, or subject to the direction of, another person or persons, and if they are –
- (a) where any such person is an individual, the information required by section 113A in relation to that individual;
 - (b) where any such person is a body corporate or firm that is a legal person under the law by which it is governed, the information required by section 113B in relation to that body corporate or firm.”

Member's explanatory statement

This amendment would require a person or firm holding shares as a nominee to declare whether or not that is the case, and to provide the details of the person or persons on whose behalf, or under whose control the shares are held. This would assist the company in identifying Persons of Significant Control, and would introduce an offence for a nominee who did not declare themselves as such.

LORD VAUX OF HARROWDEN

17 Page 36, line 14, at end insert –

“113BA Required information about members: shareholding threshold

If the member, or any person identified in accordance with section *(Required information about members: nominees)* (Required information about members: nominees), holds more than 5% of any class of share or more than 5% of the total voting rights, required information also includes a statement confirming that the member's and such person's identity has been verified (see section 1110A).”

Member's explanatory statement

This amendment would reduce the shareholding threshold that would require the identity to be verified down from 25% to 5%. It references persons identified by virtue of another amendment to Clause 46 in the name of Lord Vaux of Harrowden.

Schedule 2

LORD JOHNSON OF LAINSTON

18 Page 200, line 15, leave out “206(7)” and insert “207(1)”

Member's explanatory statement

This amendment corrects a cross-reference in Schedule 2 to the Bill.

After Clause 52

LORD AGNEW OF OULTON

19 Insert the following new Clause –

“Disclosure of shares held by nominee

After section 660 of the Companies Act 2006 (treatment of shares held by nominee) insert –

“660A Disclosure of shares held by nominee

- (1) Any person holding shares in a limited company in relation to which section 660 applies must disclose that fact to the registrar.
- (2) The registrar may impose a penalty on any person who fails to comply with subsection (1).
- (3) Any regulations made under section 1132A (power to make provision for financial penalties) apply to any penalty imposed under this section.””

Member's explanatory statement

This amendment mandates companies to disclose whether their shareholders are acting as nominees. Nominee shareholders protect the identity of the beneficiary of the shareholding. This measure will help mitigate the risk of abuse through nominee shareholders. Failure to comply would incur a penalty.

After Clause 55

LORD JOHNSON OF LAINSTON

20 Insert the following new Clause—

“Use or disclosure of profit and loss accounts for certain companies

(1) The Companies Act 2006 is amended as follows.

(2) After section 468 insert—

“468A Use or disclosure of profit and loss accounts for certain companies

(1) The Secretary of State may by regulations make provision requiring the registrar, on application or otherwise—

- (a) not to make available for public inspection profit and loss accounts, or parts of them, delivered to the registrar under—
section 443A (micro-entities), or
section 444 (other small companies);
- (b) to refrain from disclosing such accounts, or parts of them, except in specified circumstances.

(2) Regulations under subsection (1) which provide for the making of an application may make provision as to—

- (a) who may make an application;
- (b) the grounds on which an application may be made;
- (c) the information to be included in and documents to accompany an application;
- (d) the notice to be given of an application and of its outcome;
- (e) how an application is to be determined;
- (f) the duration of, and procedures for revoking, any restrictions on the making of information available for public inspection or its disclosure.

(3) Provision under subsection (2)(e) or (f) may in particular provide for a question to be referred to a person other than the registrar for the purposes of determining the application or revoking the restrictions.

(4) The circumstances that may be specified under subsection (1)(b) by way of an exception to a restriction on disclosure include circumstances where the court has made an order, in accordance with the regulations, authorising disclosure.

(5) Regulations under subsection (1)(b) may not require the registrar to refrain from disclosing information under section 1110F (general powers of disclosure by the registrar).

(6) Regulations under this section may in particular confer a discretion on the registrar.

(7) Regulations under this section are subject to affirmative resolution procedure.”

(3) In section 1087 (material not available for public inspection), in subsection (1), after paragraph (bb) insert—

After Clause 55 - continued

“(bba) the following—

- (i) any application or other document delivered to the registrar under regulations under section 468A (regulations protecting profit and loss accounts for certain companies);
- (ii) any information which regulations under section 468A require not to be made available for public inspection;”.

Member’s explanatory statement

This allows the Secretary of State to make regulations requiring the registrar not to disclose profit and loss accounts for micro entities and other small entities. The regulations might cover all such accounts or only accounts relating to certain descriptions of company (see section 1292 of the Companies Act 2006).

Clause 63

LORD JOHNSON OF LAINSTON

21 Page 54, line 20, leave out “under section 1110A(1)(b) or”

Member’s explanatory statement

This has the effect that the registrar is required to make verification statements available for public inspection. A “verification statement” is the statement that an authorised corporate service provider is required to make to confirm that it has verified an individual’s identity.

22 Page 54, line 34, at end insert —

- “(2A) A verification statement must also specify the authorised corporate service provider’s supervisory authority or authorities for the purposes of the Money Laundering Regulations.
- (2B) The Secretary of State may by regulations make further provision about the contents of verification statements (including provision amending this section).”

Member’s explanatory statement

This amendment requires a verification statement to specify the authorised corporate service provider’s supervisory authority or authorities. It also confers a regulation-making power to make further provision about the contents of verification statements.

23 Page 54, line 40, after “may” insert “by regulations”

Member’s explanatory statement

This amendment spells out that the power conferred by new section 1110A(4) is exercisable by regulations.

24 Page 55, line 6, after “statement” insert “: (A)”

Member’s explanatory statement

This is consequential on my amendment to Clause 63, page 55, line 8

- 25 Page 55, line 8, at end insert “(B) specifying the authorised corporate service provider’s supervisory authority or authorities for the purposes of the Money Laundering Regulations, and (C) containing anything else required by the regulations.”

Member’s explanatory statement

This amendment requires a reverification statement to specify the authorised corporate service provider’s supervisory authority or authorities and to contain anything else required by regulations.

- 26 Page 55, line 10, at end insert –

“(7) In this section –

“Money Laundering Regulations” means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692);

“supervisory authority” means an authority that is a supervisory authority under the Money Laundering Regulations (see regulation 7 of those Regulations).”

Member’s explanatory statement

This is consequential on my amendments to Clause 63, page 54, line 34 and page 55, line 8.

Clause 64

LORD JOHNSON OF LAINSTON

- 27 Page 56, line 24, leave out “section 1098G” and insert “section 1098F.”

Member’s explanatory statement

This amendment is consequential on my amendment to page 59, line 36.

- 28 Page 57, line 7, leave out “may grant the application only” and insert “must grant the application”

Member’s explanatory statement

This amendment is consequential on my amendment to page 57, line 16.

- 29 Page 57, line 16, at end insert “, and

(d) the registrar is not required by subsection (4A) to refuse the application.

(4A) The registrar must refuse the application if it appears to the registrar that the applicant is not a fit and proper person to carry out the functions of an authorised corporate service provider.”

Member’s explanatory statement

This amendment requires the registrar to refuse an application for authorisation as a corporate service provider if it appears that the applicant is not a fit and proper person to become an authorised corporate service provider.

- 30 Page 58, line 22, leave out “(a) and (d)”

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

- 31 Page 59, line 36, at end insert “, whether automatically or as a result of a decision taken by the registrar;
- (b) provide for circumstances in which the registrar may suspend a person's status as an authorised corporate service provider pending a decision by the registrar under regulations made by virtue of paragraph (a).
- (2A) The provision that can be made under subsection (2) includes provision as to—
- (a) procedure;
 - (b) the period of a suspension;
 - (c) the revocation of a suspension.”

Member's explanatory statement

This amendment and my amendment to leave out lines 1 to 13 on page 60 are intended to narrow the power to make regulations for suspension of an authorised corporate service provider's status so that it is available only pending a decision as to termination of an authorised corporate service providers' status.

- 32 Page 60, leave out lines 1 to 13

Member's explanatory statement

This would remove the power to make regulations for suspension of an authorised corporate service provider's status. My amendment to page 59, line 36 introduces a narrower power to suspend.

LORD AGNEW OF OULTON

- 33 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).

Clause 64 - continued

- (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.

LORD JOHNSON OF LAINSTON

- 34 Page 60, leave out lines 16 to 23 and insert “require a person who is or has been an authorised corporate service provider to provide information to the registrar in accordance with the regulations (including information for the purpose of monitoring compliance with the requirements of this Act).”

Member’s explanatory statement

This ensures that the registrar can obtain information about compliance with provisions such as new section 1110B of the Companies Act 2006 (see Clause 63), including from former authorised corporate service providers (including suspended providers).

- 35 Page 60, line 24, leave out “(a)”

Member’s explanatory statement

This is consequential on my amendment to page 60, lines 16 to 23.

- 36 Page 60, line 27, leave out from “1098F(2)” to “include” on line 29

Member’s explanatory statement

This is consequential on my amendment to page 60, lines 1 to 13.

- 37 Page 60, line 30, leave out “(a)”

Member’s explanatory statement

This is consequential on my amendment to page 60, lines 16 to 23.

Clause 66

LORD JOHNSON OF LAINSTON

- 38 Page 62, line 28, at end insert—
“(zi) after “may” insert “by regulations”;

Member's explanatory statement

This amendment corrects a mistake in section 1082(1) of the Companies Act 2006 by spelling out that the power conferred by that subsection is exercisable by regulations (that this was always the intention is clear from the subsequent subsections).

Clause 67

LORD JOHNSON OF LAINSTON

39 Page 63, line 16, leave out “(3) or (4)” and insert “(1) or (2)”

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

Before Clause 68

LORD JOHNSON OF LAINSTON

40 Insert the following new Clause –

“Registrar’s power to strike off company registered on false basis

- (1) The Companies Act 2006 is amended as follows.
- (2) After section 1002 insert –

“Registrar’s power to strike off company registered on false basis

1002A Power to strike off company registered on false basis

- (1) The registrar may strike a company’s name off the register if the registrar has reasonable cause to believe that –
 - (a) any information contained in the application for the registration of the company, or in any application for restoration of the company to the register, is misleading, false or deceptive in a material particular, or
 - (b) any statement made to the registrar in connection with such an application is misleading, false or deceptive in a material particular.
- (2) In subsection (1) the reference to an application includes any documents delivered to the registrar in connection with the application.
- (3) The registrar may not exercise the power in subsection (1) unless –
 - (a) the registrar has published a notice in the Gazette that, at the end of the period of 28 days beginning with the date of the notice, the name of the company mentioned in the notice will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved, and
 - (b) the period mentioned in paragraph (a) has expired.
- (4) If the registrar exercises the power in subsection (1), the registrar must publish a notice in the Gazette of the company’s name having been struck off the register.
- (5) On the publication of the notice in the Gazette the company is dissolved.
- (6) However –
 - (a) the liability (if any) of every director, managing officer or member of the company continues and may be enforced as if the company had not been dissolved, and

Before Clause 68 - continued

- (b) nothing in this section affects the power of the court to wind up a company the name of which has been struck off the register.”
- (3) In section 1024 (application for administrative restoration to the register), in subsection (1), for the words from “section” to the end substitute “—
 - (a) section 1000 or 1001 (power of registrar to strike off defunct company), or
 - (b) section 1002A (power of registrar to strike off company registered on false basis).”
- (4) In section 1025 (requirements for administrative restoration), for subsection (2) substitute—
 - “(2) The first condition is that—
 - (a) in the case of a company struck off the register under section 1000 or 1001, the company was carrying on business or in operation at the time of its striking off;
 - (b) in the case of a company struck off the register under section 1002A, at the time of its striking off, the registrar did not have reasonable cause to believe the matter set out in section 1002A(1)(a) or (b).”
- (5) In section 1028A (administrative restoration of company with share warrants), in subsection (1), for “or 1001” substitute “, 1001 or 1002A”.
- (6) In section 1029 (application to court for restoration to the register), in subsection (1)(c)—
 - (a) omit the “or” at the end of sub-paragraph (i);
 - (b) after that sub-paragraph insert—
 - “(ia) under section 1002A (power of registrar to strike off company registered on false basis), or”.
- (7) In section 1030 (timing for application to court for restoration to the register), in subsection (5)(a), after “company)” insert “or section 1002A (power of registrar to strike off company registered on false basis)”.
- (8) In section 1031 (decision on application for restoration by the court), in subsection (1)—
 - (a) after paragraph (a) insert—
 - “(aa) if the company was struck off the register under section 1002A (power of registrar to strike off company registered on false basis) and the court considers that, at the time of the striking off, the registrar did not have reasonable cause to believe the matter set out in section 1002A(1)(a) or (b);”;
 - (b) in paragraph (c), for “other case” substitute “case (including a case falling within paragraph (a), (aa) or (b))”.

Member’s explanatory statement

This Clause amends the Companies Act 2006 to confer on the registrar a power to strike off a company where the company was registered on a false basis, and makes provision for restoration of such a company to the register.

Clause 69

LORD JOHNSON OF LAINSTON

- 41** Page 64, line 7, at end insert –
 “(1A) In section 9 (registration documents), omit subsection (3).”

Member’s explanatory statement

This is consequential on the other amendments made by Clause 69.

- 42** Page 64, line 10, leave out subsection (3) and insert –
 “(3) After section 1067 insert –

“Who may deliver documents to the registrar

1067A Delivery of documents: identity verification requirements etc

- (1) An individual may not deliver a document to the registrar on their own behalf unless –
 - (a) their identity is verified (see section 1110A), and
 - (b) the document is accompanied by a statement to that effect.
- (2) An individual (A) may not deliver a document to the registrar on behalf of another person (B) who is of a description specified in column 1 of the following table unless –
 - (a) the individual is of a description specified in the corresponding entry in column 2, and
 - (b) the document is accompanied by the statement specified in the corresponding entry in column 3.

Clause 69 - continued

	<i>1</i>	<i>2</i>	<i>3</i>
	<i>Description of person on whose behalf document delivered (B)</i>	<i>Description of individual who may deliver document on B’s behalf (A)</i>	<i>Accompanying statement</i>
1	Firm	Individual who is an officer or employee of the firm and whose	Statement by A – (a) that A is an officer or employee of the firm,

		identity is verified (see section 1110A).	(b) that A is delivering the document on the firm's behalf, and (c) that A's identity is verified.
2	Firm	Individual who is an officer or employee of a corporate officer of the firm and whose identity is verified.	Statement by A – (a) that A is an officer or employee of a corporate officer of the firm, (b) that A is delivering the document on the firm's behalf, and (c) that A's identity is verified.
3	Firm	Individual who is an authorised corporate service provider (see section 1098A).	Statement by A – (a) that A is an authorised corporate service provider, and (b) that A is delivering the document on the firm's behalf.
4	Firm	Individual who is an officer or employee of an authorised corporate service provider.	Statement by A (a) that A is an officer or employee of an authorised corporate service provider, and b) that A is delivering the document on the firm's behalf.

5	Individual	Individual whose identity is verified.	Statement by A – (a) that A is delivering the document on B’s behalf, and (b) that A’s identity is verified.
6	Individual	Individual who is an authorised corporate service provider.	Statement by A – (a) that A is an authorised corporate service provider, and (b) that A is delivering the document on B’s behalf.
7	Individual	Individual who is an officer or employee of an authorised corporate service provider.	Statement by A – (a) that A is an officer or employee of an authorised corporate service provider, and (b) that A is delivering the document on B’s behalf.

- (3) In relation to a corporate officer that has only corporate officers, the reference in row 2 of the table to an individual who is one of its officers is to –
- (a) an individual who is an officer of one of those corporate officers, or
 - (b) if the officers of those corporate officers are all corporate officers, an individual who is an officer of any of the corporate officer’s corporate officers,
- and so on until there is at least one individual who is an officer.
- (4) The Secretary of State may by regulations –
- (a) create exceptions to subsections (1) or (2) (which may be framed by reference to the person by whom or on whose behalf a document is delivered or by reference to descriptions of document or in any other way);
 - (b) amend this section for the purpose of changing the effect of the table in subsection (2).
- (5) Regulations under subsection (4)(a) –

Clause 69 - continued

- (a) may require any document delivered to the registrar in reliance on an exception to be accompanied by a statement;
- (b) may amend this section.
- (6) The Secretary of State may by regulations make provision requiring a statement delivered to the registrar under subsection (2) to be accompanied by additional statements or additional information in connection with the subject-matter of the statement.
- (7) Regulations under this section are subject to affirmative resolution procedure.
- (8) In this section “corporate officer” means an officer that is not an individual.””

Member’s explanatory statement

This changes the categories of people who may deliver documents on another’s behalf. Among other things, it means an individual whose identity is verified can only deliver documents on behalf of a firm if they are an officer or employee of the firm or one of its corporate officers.

Clause 70

LORD JOHNSON OF LAINSTON

43 Page 65, line 22, after first “an” insert “officer or”

Member’s explanatory statement

This allows officers as well as employees or authorised corporate service providers to deliver documents on behalf of a disqualified person.

44 Page 65, line 23, leave out “and acting in the course of their employment”

Member’s explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10. An employee delivering a document under new section 1067B(2)(b) must be acting in the course of their employment without the need for express provision to that effect.

45 Page 65, line 33, leave out from “person” to end of line 37

Member’s explanatory statement

This amendment removes the requirement for a statement to include certain information that will be covered by the statement that a person must make under new section 1067A of the Companies Act 2006 (inserted by Clause 69) when delivering documents.

Clause 82

LORD JOHNSON OF LAINSTON

46 Page 71, line 46, at end insert –

“(4A) Regulations under this section may in particular confer a discretion on the registrar.”

Member's explanatory statement

This amendment enables any provision made by regulations under new section 1094A of the Companies Act 2006 to confer a discretion on the registrar.

Clause 88

LORD JOHNSON OF LAINSTON

47 Page 75, leave out line 35

Member's explanatory statement

This amendment is consequential on my amendment to Clause 88, page 76, line 11.

48 Page 76, line 11, at end insert –

“(8A) Regulations under this section may in particular confer a discretion on the registrar.”

Member's explanatory statement

This amendment enables any provision made by regulations under new section 1088 of the Companies Act 2006 to confer a discretion on the registrar.

Clause 89

LORD AGNEW OF OULTON

49 Page 76, line 21, at end insert –

“(1A) As part of the risk-based approach under subsection (1), the registrar must carry out a risk assessment to identify where the information it holds might give rise to a matter of concern.

(1B) Where the assessment identifies a matter of concern, the registrar must –

- (a) carry out whatever further analysis it considers necessary, including into the role of authorised corporate service providers in the provision of this information, and
- (b) share any evidence of unlawful activity it identifies with the relevant law enforcement agency.

(1C) For the purposes of this section, a “matter of concern” includes –

- (a) inaccurate information,
- (b) information that might create a false or misleading impression, or
- (c) evidence of economic crime.

Member's explanatory statement

This amendment informs the ways in which the Registrar should decide on cases or entities it must investigate using a framework of intervention criteria.

Clause 90

LORD JOHNSON OF LAINSTON

50 Page 76, line 41, at end insert –

“(ba) any function of the Secretary of State under or in connection with regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 that make provision in connection with licences of the kind mentioned in section 15(3A) of that Act;”

Member’s explanatory statement

This enables fees set under the Companies Act 2006 to be set at a level to cover the Secretary of State’s costs in connection with licences for people who are subject to director disqualification sanctions under the Sanctions and Anti-Money Laundering Act 2018.

Clause 91

LORD JOHNSON OF LAINSTON

51 Page 77, line 34, at end insert –

“(1A) In section 243 (permitted disclosure by registrar), for subsection (6) substitute –

“(6) Regulations under subsection (4) may in particular confer a discretion on the registrar.

(6A) Provision under subsection (5)(d) may in particular provide for a question to be referred to a person other than the registrar for the purposes of determining the application.””

Member’s explanatory statement

This amendment enables any provision made by regulations under section 243 of the Companies Act 2006 to confer a discretion on the registrar.

Clause 101

LORD JOHNSON OF LAINSTON

52 Page 85, line 40, after “if” insert “ –

- (i) proceedings have been brought against the person for that offence in respect of that conduct and the proceedings are ongoing, or
- (ii) ”

Member’s explanatory statement

This amendment and my other amendment to Clause 101 would mean that regulations must provide that no financial penalty may be imposed on a person in respect of whom criminal proceedings are ongoing; at the moment it is the other way around so that criminal proceedings cannot be continued once a penalty is imposed.

53 Page 85, line 43, leave out “or continued”

Member’s explanatory statement

See the explanatory statement to my other amendment to Clause 101.

Clause 102

LORD JOHNSON OF LAINSTON

54 Page 87, line 23, at end insert –

“(4C) Regulations under this section may in particular confer a discretion on the registrar.”

Member’s explanatory statement

This amendment enables any provision made by regulations under section 1097A of the Companies Act 2006 to confer a discretion on the registrar.

Clause 103

LORD JOHNSON OF LAINSTON

55 Page 89, line 15, at end insert –

“(11A) Regulations under this section may in particular confer a discretion on the registrar.”

Member’s explanatory statement

This amendment enables any provision made by regulations under section 1097B of the Companies Act 2006 to confer a discretion on the registrar.

Clause 104

LORD JOHNSON OF LAINSTON

56 Page 91, line 9, at end insert –

“(11A) Regulations under this section may in particular confer a discretion on the registrar.”

Member’s explanatory statement

This amendment enables any provision made by regulations under section 1097C of the Companies Act 2006 to confer a discretion on the registrar.

After Clause 105

LORD AGNEW OF OULTON

57 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;

After Clause 105 - continued

- (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.

Clause 107

LORD JOHNSON OF LAINSTON

58

Page 92, line 32, at end insert —

“(3) In this section “the Companies Acts” has the meaning given by section 2(1) of the Companies Act 2006.”

Member’s explanatory statement

This amendment inserts a definition of “the Companies Acts” into the Limited Partnerships Act 1907.

Clause 119

LORD JOHNSON OF LAINSTON

59 Page 109, leave out lines 24 to 26

Member's explanatory statement

This amendment removes the definition of a term that is no longer used in the section.

Clause 123

LORD JOHNSON OF LAINSTON

60 Page 116, line 30, leave out “and (b)” and insert “to (c)”

Member's explanatory statement

This amendment means that notice changing a general partner's registered officer must be delivered at the same time as a confirmation statement, if the registered officer is not ID verified.

Clause 134

LORD JOHNSON OF LAINSTON

61 Page 127, line 14, leave out “(4) or”

Member's explanatory statement

This amendment corrects a mistake. A statement under 8R(4) is not required to confirm that an individual is an individual whose identity is verified.

62 Page 127, line 19, leave out “(3) or (4)” and insert “(1) or (2)”

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

After Clause 135

LORD AGNEW OF OULTON

63 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,
 - (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.

After Clause 135 - continued

- (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 136

LORD JOHNSON OF LAINSTON

- 64 Page 129, line 31, leave out “and (6)” and insert “to (6A)”

Member’s explanatory statement

This is consequential on my amendment to Clause 91, page 77, line 34.

Clause 142

LORD JOHNSON OF LAINSTON

- 65 Page 138, line 12, leave out “and (3)”

Member’s explanatory statement

This is consequential on my amendment to Clause 142, page 138, lines 18 to 25.

- 66 Page 138, line 16, after first “an” insert “officer or”

Member’s explanatory statement

Certain documents under the Limited Partnerships Act 1907 can only be delivered to the registrar by authorised corporate service providers or their employees. This amendment adds officers of authorised corporate service providers to those who are allowed to deliver those documents.

- 67 Page 138, line 17, leave out “and is acting in the course of their employment”

Member’s explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10. An employee delivering a document under new section 1067B(2)(b) must be acting in the course of their employment without the need for express provision to that effect.

- 68 Page 138, leave out lines 18 to 25

Member’s explanatory statement

This amendment removes the requirement for a statement to include certain information that will be covered by the statement that a person must make under new section 1067A of the Companies Act 2006 (inserted by Clause 69) when delivering documents.

After Clause 149

LORD AGNEW OF OULTON

69 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.

70 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.

After Clause 158

LORD JOHNSON OF LAINSTON

71 Insert the following new Clause—

“Information about changes in beneficiaries under trusts

- (1) Schedule (*Duty to deliver information about changes in beneficiaries*) (duty to deliver information about changes in beneficiaries) imposes further duties on registered overseas entities to deliver information.
- (2) The amendments made by paragraph 2 of Schedule (*Duty to deliver information about changes in beneficiaries*) do not apply in relation to any statements or information delivered to the registrar under section 7 of the Economic Crime (Transparency and Enforcement) Act 2022 during the period of 3 months beginning when that paragraph comes fully into force.”

Member’s explanatory statement

This introduces the new Schedule to which it refers and makes transitional provision.

After Clause 160

LORD VAUX OF HARROWDEN
LORD FOX

72 Insert the following new Clause—

“Updating the register of overseas entities

- (1) The Economic Crime (Transparency and Enforcement) Act 2002 is amended as follows.
- (2) In section 7, after subsection (8) insert—
 - “(8A) A registered overseas entity must, as soon as reasonably possible 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.
 - (8B) A registered overseas entity must deliver to the registrar the information required in accordance with subsection (8A), or deliver to the registrar a statement that there has been no change to the information currently held on the register, no more than 14 days prior to the acquisition or disposal of any qualifying estate in the United Kingdom.
 - (8C) For the purposes of this section, “qualifying estate” has the meaning given by paragraph 1 of Schedule 4A to the Land Registration Act 2002.”
- (3) In section 8, at the end of subsection (3) omit “(1).”

Member’s explanatory statement

This amendment would require that changes be notified to the registrar within 14 days of becoming aware of such change, bringing the register into line with the rules that apply to Persons with Significant Control under the Companies Act 2006, and adds an obligation to update the register immediately prior to property transactions in order to protect innocent counterparties.

LORD VAUX OF HARROWDEN

73 Insert the following new Clause—

“Persons with control over qualifying estates

- (1) Schedule 2 of the Economic Crime (Transparency and Enforcement) Act 2022 is amended as follows.
- (2) In paragraph 6 the existing text becomes sub-paragraph (1).
- (3) At the end of paragraph 6 insert—
 - “Condition 6 is that X has the right to exercise, or actually exercises, significant influence or control over any qualifying estate held by Y.
- (2) For the purposes of this Schedule, “qualifying estate” has the meaning given by paragraph 1 of Schedule 4A to the Land Registration Act 2002.”

Member's explanatory statement

The Economic Crime (Transparency and Enforcement) Act 2022 identifies the beneficial owners of the overseas entity, but it currently does not identify persons who have control of the property registered in the name of that entity through nominee arrangements or similar. This amendment seeks to close that loophole by extending the definition of registerable beneficial owners to include such arrangements.

Clause 162

LORD JOHNSON OF LAINSTON

74 Page 150, line 44, at end insert –

“(ba) any application or other document delivered to the registrar under regulations under section 23(1A) (disclosure of protected trusts information);”

Member's explanatory statement

This means that applications or other documents delivered to the registrar under new section 23(1A)(inserted by my other amendment to Clause 162) are not to be made available for public inspection as part of the register of overseas entities.

75 Page 151, line 15, leave out “(3) or (4)” and insert “(1) or (2)”

Member's explanatory statement

This is consequential on my amendment to Clause 69, page 64, line 10.

76 Page 151, line 41, leave out “4(3), 7(3) and (4) and 9(3) and (4)” and insert “4(3)(a), 7(3)(a) and (4)(a) and 9(3)(a) and (4)(a)”

Member's explanatory statement

This is consequential on my amendment to insert a new Schedule before Schedule 6.

77 Page 151, line 44, after “by” insert “virtue of section 7(3)(c) or (4)(c) or 9(3)(c) or (4)(c) or”

Member's explanatory statement

This is consequential on my amendment to insert a new Schedule before Schedule 6.

78 Page 152, line 16, at end insert “, or

(c) the disclosure is permitted by regulations under subsection (1A).

(1A) The Secretary of State may by regulations make provision requiring the registrar, on application, to disclose relevant protected trusts information to a person (unless required to refrain from doing so by regulations under section 25).

(1B) In subsection (1A) “relevant protected trusts information” means protected trusts information other than information as to –

(a) the day of the month (but not the month or year) on which an individual was born, or

(b) the usual residential address of an individual.

(1C) The regulations may make provision as to –

(a) who may make an application;

Clause 162 - continued

- (b) the grounds on which an application may be made;
 - (c) the information to be included in and documents to accompany an application;
 - (d) the notice to be given of an application and of its outcome;
 - (e) how an application is to be determined.
- (1D) Provision under subsection (1C)(e) may in particular provide for a question to be referred to a person other than the registrar for the purposes of determining the application.
- (1E) The regulations may include provision authorising or requiring the registrar to impose conditions subject to which the information is disclosed (including conditions restricting its use or further disclosure).
- (1F) The regulations may create offences in relation to failures to comply with conditions imposed by virtue of subsection (1E).
- (1G) 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.
- (1H) Regulations under this section may in particular confer a discretion on the registrar.
- (1I) Regulations under this section are subject to affirmative resolution procedure.”

Member’s explanatory statement

This confers a regulation-making power on the Secretary of State to make provision requiring the registrar to disclose protected trusts information where an application is made by a person in accordance with the regulations.

79

Page 152, line 20, at end insert –

“24 Consultation about regulations under section 23

- (1) The Secretary of State must consult the Scottish Ministers before making regulations under section 23 that contain provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (2) The Secretary of State must consult the Department of Finance in Northern Ireland before making regulations under section 23 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 for an Act of 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 requires the Secretary of State to consult before making regulations about the disclosure of protected trusts information (see my amendment to Clause 162, page 152, line 16) if that provision would be within the legislative competence of the Scottish Parliament or Northern Ireland Assembly.

Clause 163

LORD JOHNSON OF LAINSTON

80 Page 153, leave out line 1

Member's explanatory statement

This amendment is consequential on my amendment to page Clause 163, page 153, line 21.

81 Page 153, line 21, at end insert –

“(7A) Regulations under this section may in particular confer a discretion on the registrar.”

Member's explanatory statement

This amendment enables any provision made by regulations under new section 25 of the Economic Crime (Transparency and Enforcement) Act 2022 to confer a discretion on the registrar.

Clause 165

LORD JOHNSON OF LAINSTON

82 Page 155, line 3, at end insert –

“(4A) Regulations under this section may in particular confer a discretion on the registrar.”

Member's explanatory statement

This amendment enables any provision made by regulations under new section 28A of the Economic Crime (Transparency and Enforcement) Act 2022 to confer a discretion on the registrar.

After Clause 169

LORD JOHNSON OF LAINSTON

83 Insert the following new Clause –

“Financial penalties: interaction with offences

In section 39 of the Economic Crime (Transparency and Enforcement) Act 2022 (financial penalties), in subsection (4) –

(a) for paragraph (a) (but not the “and” at the end) substitute –

“(a) no financial penalty may be imposed under the regulations on a person 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

After Clause 169 - continued

- (ii) the person has been convicted of that offence in respect of that conduct;”;
- (b) in paragraph (b), omit “or continued”.”

Member’s explanatory statement

This amendment provides that regulations must provide that no financial penalty may be imposed on a person in respect of whom criminal proceedings are ongoing; at the moment it is the other way around so that criminal proceedings cannot be continued once a penalty is imposed.

Before Schedule 6

LORD JOHNSON OF LAINSTON

84 Insert the following new Schedule—

“SCHEDULE 5A

DUTY TO DELIVER INFORMATION ABOUT CHANGES IN BENEFICIARIES

- 1 The Economic Crime (Transparency and Enforcement) Act 2022 is amended as follows.
- 2 (1) Section 7 (updating duty) is amended as follows.
 - (2) In subsection (1)(a) and (b), for “statement and information mentioned” substitute “statements and information mentioned”.
 - (3) In subsection (3)—
 - (a) omit the “and” at the end of paragraph (a);
 - (b) at the end of paragraph (b) insert “, and
 - (c) the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table.”
 - (4) In subsection (4)—
 - (a) omit the “and” at the end of paragraph (a);
 - (b) at the end of paragraph (b) insert “, and
 - (c) in the case where the information provided under subsection (1)(b) includes information that a person who ceased to be a registrable beneficial owner was a trustee, the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table.”
- (5) After subsection (4) insert—

“(4A) This is the table referred to in subsections (3)(c) and (4)(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 at a time during the update period when the trustee was a registrable beneficial owner of the overseas entity.	
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 at a time during the update period when the trustee was a registrable beneficial owner of the overseas entity.	<p>1. The information specified in paragraph 8(1)(d) of Schedule 1 about each such person, or so much of that information as the entity has been able to obtain.</p> <p>2. The date on which that person became or ceased to be a beneficiary under the trust, if the entity has been able to obtain that information.”</p>

- (6) For subsections (6) and (7) substitute –
 - “(6) Any statements required by subsection (1)(a) or (b) must relate to the state of affairs as at the end of the update period.
 - (7) Any information –
 - (a) required by subsection (1)(a) or (b) as a result of a person having become or ceased to be a beneficiary under a trust, or
 - (b) required by subsection (1)(b) as a result of a person having become or ceased to be a registrable beneficial owner of an overseas entity,
 must relate to the time when the person so became or so ceased.
 - (7A) Any other information required by subsection (1)(a) must relate to the state of affairs as at the end of the update period.”

- 3 (1) Section 9 (application for removal) is amended as follows.
 - (2) In subsection (1)(b) and (c), for “statement and information mentioned” substitute “statements and information mentioned”.
 - (3) In subsection (3) –
 - (a) omit the “and” at the end of paragraph (a);
 - (b) at the end of paragraph (b) insert “, and

Before Schedule 6 - continued

- (c) the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table.”
- (4) In subsection (4) –
 - (a) omit the “and” at the end of paragraph (a);
 - (b) at the end of paragraph (b) insert “, and
 - (c) in the case where the information provided under subsection (1)(c) includes information that a person who ceased to be a registrable beneficial owner was a trustee, the statement in row 1 of the table set out in subsection (4A), or the statement and information listed in row 2 of that table.”
- (5) After subsection (4) insert –
 - “(4A) This is the table referred to in subsections (3)(c) and (4)(c) –

	<i>Statement</i>	<i>Information</i>
1	A statement that the entity has no reasonable cause to believe that anyone became or ceased to be a beneficiary under the trust at a time during the relevant period when the trustee was a registrable beneficial owner of the overseas entity.	
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 at a time during the relevant period when the trustee was a registrable beneficial owner of the overseas entity.	1. The information specified in paragraph 8(1)(d) of Schedule 1 about each such person, or so much of that information as the entity has been able to obtain. 2. The date on which that person became or ceased to be a beneficiary under the trust, if the entity has been able to obtain that information.”

- (6) In subsection (6), for “subsection (2)” substitute “this section”.

Before Schedule 6 - continued

- (7) For subsections (7) and (8) substitute –
- “(7) Any statements required by subsection (1)(b) or (c) must relate to the state of affairs as at the time of the application for removal.
- (8) Any information –
- (a) required by subsection (1)(b) or (c) as a result of a person having become or ceased to be a beneficiary under a trust, or
- (b) required by subsection (1)(c) as a result of a person having become or ceased to be a registrable beneficial owner of an overseas entity,
- must relate to the time when the person so became or so ceased.
- (8A) Any other information required by subsection (1)(b) must relate to the state of affairs as at the time of the application for removal.”
- 4 For section 12 substitute –
- “12 Duty to take steps to obtain information**
- (1) Before making an application for registration under section 4(1) an overseas entity must take reasonable steps to obtain all of the information that it is required to deliver to the registrar under that section if it is able to obtain it.
- (2) Before complying with the updating duty under section 7 an overseas entity must take reasonable steps to obtain all of the information that it is required to deliver to the registrar under that section if it is able to obtain it.
- (3) Before making an application for removal under section 9 an overseas entity must take reasonable steps to obtain all of the information that it is required to include in the application if it is able to obtain it.
- (4) The steps that an overseas entity must take by virtue of subsection (1), (2) or (3) include giving a notice to any person that it knows, or has reasonable cause to believe, is a registrable beneficial owner in relation to the entity, requiring the person –
- (a) to state whether or not they are such a person, and
- (b) if they are, to provide or confirm information of the kind mentioned in subsection (1), (2) or (3) so far as relating to the person, or a trust of which they are or were a trustee.
- (5) The steps that an overseas entity must take by virtue of subsection (2) or (3) also include giving a notice to any person that it knows, or has reasonable cause to believe, has ceased to be a registrable beneficial owner in relation to the entity during the update period (within the meaning of section 7) or relevant period (within the meaning of section 9), requiring the person –
- (a) to state whether or not they are such a person, and
- (b) if they are, to provide or confirm information of the kind mentioned in subsection (2) or (3) so far as relating to the person, or a trust of which they are or were a trustee.
- (6) A notice under subsection (4) or (5) must require the person to whom it is given to comply with the notice within the period of one month beginning with the day on which it is given.

Before Schedule 6 - continued

- (7) A person given a notice under subsection (4) or (5) is not required by that notice to disclose any information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality of communications, could be maintained in legal proceedings.”
- 5 In section 13, at the end insert –
 “(6) A reference in this section to a person who is a registrable beneficial owner in relation to an overseas entity includes, in connection with the obtaining of information required by section 7(1)(b), 9(1)(c) or 42(1)(c)(i), a reference to a person who has ceased to be a registrable beneficial owner.”
- 6 After section 17 insert –
“17A Exceptions to duty to provide change of beneficiary information
 (1) The Secretary of State may by regulations provide for exceptions to the requirement to deliver information by virtue of section 7(3)(c) or (4)(c) or 9(3)(c) or (4)(c).
 (2) The Secretary of State must consult the Scottish Ministers before making regulations under subsection (1) 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 consult the Department of Finance in Northern Ireland before making regulations under subsection (1) 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 for an Act of 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.
 (4) Regulations under subsection (1) are subject to the negative resolution procedure.”
- 7 In section 43 (transitional information), after subsection (1) insert –
 “(1A) In subsection (1) the reference to section 12 is to that section as it had effect before the amendments made by Schedule (*Duty to deliver information about changes in beneficiaries*) to the Economic Crime and Corporate Transparency Act 2023 (duty to deliver information about changes in beneficiaries).”
- 8 In section 44 (interpretation), omit subsection (2).”

Member’s explanatory statement

This requires an overseas entity that has a beneficial owner who is a trustee to provide information about changes in beneficiaries under the trust that take place during an update or other period (rather than just providing a snapshot of the beneficiaries at the end of the period).

Schedule 6

LORD JOHNSON OF LAINSTON

85 Page 220, line 42, at end insert –

“(1A) No regulations may be made under sub-paragraph (1) after the end of the period of two years beginning with the day on which the Economic Crime and Corporate Transparency Act 2023 is passed.”

Member’s explanatory statement

This provides that the power to make regulations under new paragraph 9 of Schedule 6 to the Economic Crime (Transparency and Enforcement) Act 2022 (exclusion of descriptions of registrable beneficial owner) cannot be used after the end of the period of two years beginning with the day on which the Bill receives royal assent.

86 Page 220, line 42, at end insert –

“(1A) The Secretary of State must consult the Scottish Ministers before making regulations under sub-paragraph (1) that contain provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.”

Member’s explanatory statement

This requires the Secretary of State to consult before making regulations under new paragraph 9 of Schedule 6 to the Economic Crime (Transparency and Enforcement) Act 2022 (exclusion of descriptions of registrable beneficial owner) that contain provision that would be within the legislative competence of the Scottish Parliament.

Clause 170

LORD JOHNSON OF LAINSTON

87 Page 157, line 38, leave out “place, insert –” and insert “places, insert –

““the Companies Acts” has the meaning given by section 2(1) of the Companies Act 2006;”

Member’s explanatory statement

This amendment inserts a definition of “the Companies Acts” into the Economic Crime (Transparency and Enforcement) Act 2022.

Clause 171

LORD JOHNSON OF LAINSTON

88 Page 158, line 17, at end insert –

“(1A) In section 21 of the Land Registration etc. (Scotland) Act 2012 (application for registration of deed), the subsection (5) inserted by the Economic Crime (Transparency and Enforcement) Act 2022 is renumbered subsection (4A).”

Member’s explanatory statement

This amendment renumbers a provision to avoid two subsections which were inserted into a section by different Acts at around the same time from having the same subsection number.

After Clause 172

LORD AGNEW OF OULTON
LORD WALLACE OF SALTAIRE
THE LORD BISHOP OF ST ALBANS

89 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.

Schedule 8

LORD SHARPE OF EPSOM

90 Page 263, leave out lines 24 to 26 and insert—

- “(10) The Secretary of State may not make regulations under subsection (7) unless the Secretary of State has—
- (a) consulted the Scottish Ministers and the Department of Justice, and
 - (b) given a notice containing the relevant information to the Scottish Ministers and the Department of Justice.
- (11) Consultation under subsection (10)(a) must include consultation about any effects that the Secretary of State considers the regulations may have on—
- (a) a person in Scotland or Northern Ireland (as the case may be) applying for the forfeiture of cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order, and
 - (b) a sheriff or court in Scotland or a court in Northern Ireland (as the case may be) considering such an application or making an order for such forfeiture.
- (12) In subsection (10)(b) “relevant information” means—
- (a) a description of—
 - (i) the process undertaken in order to comply with subsection (10)(a) in relation to the Scottish Ministers or the Department of Justice (as the case may be), and
 - (ii) any agreement, objection or other views expressed as part of that process by the Scottish Ministers or the Department of Justice (as the case may be), and
 - (b) an explanation of whether and how such views have been taken into account in the regulations (including, in a case where the Secretary of State proposes to make the regulations despite an objection, an explanation of the reasons for doing so).”

Member's explanatory statement

This amendment provides for certain consultation requirements to apply before regulations may be made under inserted section 303Z42(7) of the Proceeds of Crime Act 2002 (forfeiture orders).

Clause 181

LORD SHARPE OF EPSOM

- 91 Page 171, line 27, leave out from “to” to end of line 28 and insert “–
- (a) prescribed high-risk countries;
 - (b) a list of high-risk countries published from time to time by the Treasury.
- (3) Where regulations make provision by virtue of subparagraph (2)(b) they must include provision that the Treasury –
- (a) may add a country to the list of high-risk countries only if it is on a list published by the Financial Action Task Force, and
 - (b) must remove a country from the list of high-risk countries within 4 weeks of it ceasing to be on a list published by the Financial Action Task Force.”;

Member's explanatory statement

This stipulates ways that regulations can identify high-risk countries. They can list the countries (in which case changes will be subject to the negative procedure) or they can refer to a list of countries published by the Treasury, which can only contain countries on a list published by the Financial Action Task Force.

- 92 Page 171, line 34, leave out “, omit subsections (2) and (9)” and insert “–
- (a) omit subsection (2);
 - (b) after subsection (5) insert –
 - “(5A) The reference in subsection (5)(d) to regulations under section 49 does not include regulations which only make provision prescribing high-risk countries by virtue of paragraph 4(2)(a) of Schedule 2.”;
 - (c) in subsection (5), omit the second sentence;
 - (d) omit subsection (9).”

Member's explanatory statement

This amendment means that regulations are subject to the negative procedure if all they do is change the countries to which enhanced customer due diligence measures are required to be taken.

After Clause 181

LORD AGNEW OF OULTON

- 93 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 –

After Clause 181 - continued**“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 183

LORD FAULKES

94 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 187

LORD ETHELTON

95★ Page 176, 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 187(1) and Schedule 10.

LORD SHARPE OF EPSOM

96 Page 176, line 34, leave out “, conspiracy or incitement” and insert “or conspiracy”

Member's explanatory statement

This amendment and my other amendments to clause 187 correct the definition of "economic crime" to include encouraging or assisting an offence under Part 2 of the Serious Crime Act, which replaced the common law offence of incitement in England and Wales and Northern Ireland.

LORD ETHERTON

97★ Page 176, 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 187(1) at page 176, line 33.

LORD SHARPE OF EPSOM

98 Page 176, line 35, at end insert –

“(ba) constitutes an offence –

- (i) under Part 2 of the Serious Crime Act 2007 (England and Wales and Northern Ireland: encouraging or assisting crime) in relation to a listed offence, or
- (ii) under the law of Scotland of inciting the commission of a listed offence,”

Member's explanatory statement

See the explanatory statement to my first amendment to clause 187.

LORD ETHERTON

99★ Page 176, 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 187(1) at page 176, line 33.

100★ Page 176, 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 187(1) at page 176, line 33.

LORD SHARPE OF EPSOM

101 Page 176, line 39, after "(b)" insert ", (ba)"

Member's explanatory statement

This amendment is consequential on my other amendments to clause 187.

After Clause 187

LORD BELLAMY

102 Insert the following new Clause—

*“Power to strike out certain claims***Strategic litigation against public participation: requirement to make rules of court**

- (1) The power to make Civil Procedure Rules must be exercised so as to secure that Civil Procedure Rules include provision for ensuring that a claim may be struck out before trial where the court determines—
 - (a) that the claim is a SLAPP claim (see section (*Meaning of “SLAPP claim”*)), and
 - (b) that the claimant has failed to show that it is more likely than not that the claim would succeed at trial.
- (2) Rules made in compliance with subsection (1) may include rules about how a determination under that subsection is to be made, including (in particular)—
 - (a) rules for determining the nature and extent of the evidence that may or must be considered;
 - (b) rules about the extent to which evidence may or must be tested;
 - (c) rules permitting or requiring the court to determine matters of fact by way of presumptions.
- (3) Rules made in compliance with subsection (1) must include rules under which the court may make a determination under that subsection of its own motion.
- (4) The power to make Civil Procedure Rules must be exercised so as to secure that Civil Procedure Rules include provision for securing that, in respect of a SLAPP claim, a court may not order a defendant to pay the claimant’s costs except where, in the court’s view, misconduct of the defendant in relation to the claim justifies such an order.
- (5) The Lord Chancellor may by regulations provide for subsections (1) to (4) to apply in relation to any rules of court that may be specified in the regulations as those subsections apply in relation to Civil Procedure Rules.
- (6) In this section—
 - “court” includes a tribunal;
 - “rules of court” means rules relating to the practice and procedure of a court or tribunal.”

Member’s explanatory statement

This new clause, new clause (Meaning of “SLAPP claim”) and my amendments at page 191, line 37, page 192 at line 33 and 192, line 38 provide for the making of rules of court with a view to preventing claimants from improperly using civil proceedings to restrain certain disclosures of information relating to economic crime.

103 Insert the following new Clause—

Meaning of “SLAPP” claim

- (1) For the purposes of section (*Strategic litigation against public participation: requirement to make rules of court*) a claim is a “SLAPP claim” if—

After Clause 187 - continued

- (a) the claimant's behaviour in relation to the matters complained of in the claim has, or is intended to have, the effect of restraining the defendant's exercise of the right to freedom of speech,
 - (b) any of the information that is or would be disclosed by the exercise of that right has to do with economic crime,
 - (c) any part of that disclosure is or would be made for a purpose related to the public interest in combating economic crime, and
 - (d) any of the behaviour of the claimant in relation to the matters complained of in the claim is intended to cause the defendant—
 - (i) harassment, alarm or distress,
 - (ii) expense, or
 - (iii) any other harm or inconvenience,beyond that ordinarily encountered in the course of properly conducted litigation.
- (2) For the purposes of determining whether a claim meets the condition in subsection (1)(a) or (c), any limitation prescribed by law on the exercise of the right to freedom of speech (for example in relation to the making of defamatory statements) is to be ignored.
- (3) For the purposes of this section, information mentioned in subsection (1)(b) "has to do with economic crime" if—
- (a) it relates to behaviour or circumstances which the defendant reasonably believes (or, as the case requires, believed) to be evidence of the commission of an economic crime, or
 - (b) the defendant has (or, as the case requires, had) reason to suspect that an economic crime may have occurred and believes (or, as the case requires, believed) that the disclosure of the information would facilitate an investigation into whether such a crime has (or had) occurred.
- (4) In determining whether any behaviour of the claimant falls within subsection (1)(d), the court may, in particular, take into account—
- (a) whether the behaviour is a disproportionate reaction to the matters complained of in the claim, including whether the costs incurred by the claimant are out of proportion to the remedy sought;
 - (b) whether the defendant has access to fewer resources with which to defend the claim than another person against whom the claimant could have brought (but did not bring) proceedings in relation to the matters complained of in the claim;
 - (c) any relevant failure, or anticipated failure, by the claimant to comply with a pre-action protocol, rule of court or practice direction, or to comply with or follow a rule or recommendation of a professional regulatory body.
- (5) For the purposes of subsection (4)(c) a failure, or anticipated failure, is "relevant" so far as it relates to—
- (a) the choice of jurisdiction,
 - (b) the use of dilatory strategies,
 - (c) the nature or amount of material sought on disclosure,

After Clause 187 - continued

- (d) the way to respond to requests for comment or clarification,
 - (e) the use of correspondence,
 - (f) making or responding to offers to settle, or
 - (g) the use of alternative dispute resolution procedures.
- (6) In this section—
- “court” has the same meaning as in section (*Strategic litigation against public participation: requirement to make rules of court*);
 - “economic crime” has the meaning given by section 187(1);
 - “the right to freedom of speech” means the right set out in Article 10 of the European Convention on Human Rights (freedom of expression) so far as it consists of a right to impart ideas, opinions or information by means of speech, writing or images (including in electronic form).
- (7) In the definition of “the right to freedom of speech” in subsection (6) “the European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950 as it has effect for the time being in relation to the United Kingdom.”

Member’s explanatory statement

See the explanatory statement for new clause (*Strategic litigation against public participation: requirement to make rules of court*).

LORD SHARPE OF EPSOM

104

Insert the following new Clause—

“Attributing criminal liability for economic crimes to certain bodies

Attributing criminal liability for economic crimes to certain bodies

- (1) If a senior manager of a body corporate or partnership (“the organisation”) acting within the actual or apparent scope of their authority commits a relevant offence after this section comes into force, the organisation is also guilty of the offence.
- This is subject to subsection (3).
- (2) “Relevant offence” means an act which constitutes—
- (a) an offence listed in Schedule (*Criminal liability of bodies: economic crimes*) (“a listed offence”),
 - (b) an attempt or conspiracy to commit a listed offence,
 - (c) an offence—
 - (i) under Part 2 of the Serious Crime Act 2007 (England and Wales and Northern Ireland: encouraging or assisting crime) in relation to a listed offence, or
 - (ii) under the law of Scotland of inciting the commission of a listed offence, or
 - (d) aiding, abetting, counselling or procuring the commission of a listed offence.

After Clause 187 - continued

- (3) Where no act or omission forming part of the relevant offence took place in the United Kingdom, the organisation is not guilty of an offence under subsection (1) unless it would be guilty of the relevant offence had it carried out the acts that constituted that offence (in the location where the acts took place).
- (4) In this section—
- “body corporate” includes a body incorporated outside the United Kingdom, but does not include—
- (a) a corporation sole, or
 - (b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;
- “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;
- “senior manager”, in relation to a body corporate or partnership, means an individual who plays a significant role in—
- (a) the making of decisions about how the whole or a substantial part of the activities of the body corporate or (as the case may be) partnership are to be managed or organised, or
 - (b) the actual managing or organising of the whole or a substantial part of those activities.”

Member’s explanatory statement

This amendment sets out circumstances in which liability for an offence committed by a senior manager may be attributed to a body corporate or partnership.

105

Insert the following new Clause—

“Power to amend list of economic crimes

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

After Clause 187 - continued

- (b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.
- (4) The Secretary of State may from time to time by regulations restate Schedule (*Criminal liability of bodies: economic crimes*) as amended by virtue of subsection (1) to (3) (without changing the effect of the Schedule)."

Member's explanatory statement

See the explanatory statement for new Clause (Attributing criminal liability for economic crimes to certain bodies).

106

Insert the following new Clause—

“Offences under section (*Attributing criminal liability for economic crimes to certain bodies*) committed by partnerships

- (1) Proceedings for an offence alleged to have been committed by a partnership by virtue of section (*Attributing criminal liability for economic crimes to certain bodies*) 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 committed by virtue of section (*Attributing criminal liability for economic crimes to certain bodies*) is to be paid out of the partnership assets.
- (4) In this section “partnership” has the same meaning as in section (*Attributing criminal liability for economic crimes to certain bodies*).”

Member's explanatory statement

*This amendment makes provision in relation to offences committed by partnerships by virtue of section (*Attributing criminal liability for economic crimes of certain bodies*).*

LORD ALTON OF LIVERPOOL
LORD LEIGH OF HURLEY
LORD COAKER
LORD FOX

107 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 (power to make sanctions regulations) 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 the purposes of Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc. of unlawful conduct).
- (5) A court may only make an order for the confiscation or forfeiture of concealed assets if, or to the extent that, it would not be just and equitable to require the designated person to pay the amount recoverable under subsection (3) or to forfeit the property recoverable under subsection (4).
- (6) 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.

Schedule 10

LORD ETHERTON

108★ Leave out Schedule 10

Member's explanatory statement

In consequence of the proposed redefinition of "economic crime" in Clause 187(1) of the Bill, Schedule 10 is redundant.

After Schedule 10

LORD SHARPE OF EPSOM

109 Insert the following new Schedule –

"SCHEDULE

CRIMINAL LIABILITY OF BODIES: ECONOMIC CRIMES

Common law offences

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

Statutory offences

- 4 An offence under any of the following provisions of the Theft Act 1968 –
 - (a) section 1 (theft);
 - (b) section 17 (false accounting);
 - (c) section 19 (false statements by company directors etc);
 - (d) section 20 (suppression etc of documents);
 - (e) section 24A (dishonestly retaining a wrongful credit).
- 5 An offence under any of the following provisions of the Theft Act (Northern Ireland) 1969 –
 - (a) section 1 (theft);
 - (b) section 17 (false accounting);
 - (c) section 18 (false statements by company directors etc);
 - (d) section 19 (suppression etc of documents);
 - (e) section 23A (dishonestly retaining a wrongful credit).
- 6 An offence under any of the following provisions of the Customs and Excise Management Act 1979 –
 - (a) section 68 (offences in relation to exportation of prohibited or restricted goods);

After Schedule 10 - continued

- (b) section 167 (untrue declarations etc);
 - (c) section 170 (fraudulent evasion of duty).
- 7 An offence under the Forgery and Counterfeiting Act 1981 (forgery, counterfeiting and kindred offences).
- 8 An offence under section 72 of the Value Added Tax Act 1994 (fraudulent evasion of VAT).
- 9 An offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995 (false monetary instruments).
- 10 An offence under any of the following sections of the Financial Services and Markets Act 2000—
- (a) section 23 (contravention of prohibition on carrying on regulated activity unless authorised or exempt);
 - (b) section 25 (contravention of restrictions on financial promotion);
 - (c) section 85 (prohibition on dealing etc in transferable securities without approved prospectus);
 - (d) section 398 (misleading the FCA or PRA).
- 11 An offence under any of the following sections of the Terrorism Act 2000—
- (a) section 15 (fund-raising);
 - (b) section 16 (use and possession);
 - (c) section 17 (funding arrangements);
 - (d) section 18 (money laundering);
 - (e) section 63 (terrorist finance: jurisdiction).
- 12 An offence under any of the following sections of the Proceeds of Crime Act 2002—
- (a) section 327 (concealing etc criminal property);
 - (b) section 328 (arrangements facilitating acquisition etc of criminal property);
 - (c) section 329 (acquisition, use and possession of criminal property);
 - (d) section 330 (failing to disclose knowledge or suspicion of money laundering);
 - (e) section 333A (tipping off: regulated sector).
- 13 An offence under section 993 of the Companies Act 2006 (fraudulent trading).
- 14 An offence under any of the following sections of the Fraud Act 2006—
- (a) section 1 (fraud);
 - (b) section 6 (possession etc of articles for use in frauds);
 - (c) section 7 (making or supplying articles for use in frauds);
 - (d) section 9 (participating in fraudulent business carried on by sole trader);
 - (e) section 11 (obtaining services dishonestly).
- 15 An offence under any of the following sections of the Bribery Act 2010—
- (a) section 1 (bribing another person);
 - (b) section 2 (being bribed);
 - (c) section 6 (bribery of foreign public officials).

After Schedule 10 - continued

- 16 An offence under section 49 of the Criminal Justice and Licensing (Scotland) Act 2010 (possession, making or supplying articles for use in frauds).
- 17 An offence under any of the following sections of the Financial Services Act 2012 –
- (a) section 89 (misleading statements);
 - (b) section 90 (misleading impressions);
 - (c) section 91 (misleading statements etc in relation to benchmarks).
- 18 An offence under regulation 86 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.
- 19 An offence under regulations made under section 49 of the Sanctions and Anti-Money Laundering Act 2018 (money laundering and terrorist financing etc).
- 20 (1) An offence under an instrument made under section 2(2) of the European Communities Act 1972 for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation.
- (2) An offence under an Act or under subordinate legislation where the offence was created for the purpose of implementing a UN financial sanctions Resolution.
 - (3) An offence under paragraph 7 of Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (freezing orders).
 - (4) An offence under paragraph 30 or 30A of Schedule 7 to the Counter-Terrorism Act 2008 where the offence relates to a requirement of the kind mentioned in paragraph 13 of that Schedule.
 - (5) An offence under paragraph 31 of Schedule 7 to the Counter-Terrorism Act 2008.
 - (6) An offence under regulations made under section 1 of the Sanctions and Anti-Money Laundering Act 2018 (sanctions regulations).
 - (7) In this paragraph –
 - “EU financial sanctions Regulation” and “UN financial sanctions Resolution” have the same meanings as in Part 8 of the Policing and Crime Act 2017 (see section 143 of that Act);
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.”

Member’s explanatory statement

This amendment sets out the list of offences in relation to which liability may be attributed to the body in accordance with Clause (Attributing criminal liability for economic crimes to certain bodies)(1).

Clause 188

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

110 Page 177, line 23, leave out “which is a large organisation”

Member’s explanatory statement

This amendment, together with the amendment to leave out Clause 190, would remove the exemption for organisations that are not “large organisations” from the failure to prevent regime so that there are no exemptions, although the statutory defence will apply to all organisations.

LORD SHARPE OF EPSOM

111 Page 177, line 23, after “organisation” insert “(see sections 190 and (Large organisations: parent undertakings))”

Member’s explanatory statement

This amendment inserts a cross-reference relating to new Clause (Large organisations: parent undertakings).

112 Page 177, line 28, after “subsidiary” insert “undertaking”

Member’s explanatory statement

This amendment and my amendment at page 178, line 2 substitute the term “subsidiary undertaking” for “subsidiary”, for consistency with my amendment at page 178, line 3.

113 Page 177, line 29, at end insert –

“(1A) A relevant body is also guilty of an offence under subsection (1) if –

- (a) an employee of the relevant body commits a fraud offence intending to benefit (whether directly or indirectly) the relevant body,
- (b) the fraud offence is committed in a financial year of a parent undertaking of which the relevant body is a subsidiary undertaking (“the year of the fraud offence”), and
- (c) the parent undertaking is a relevant body which is a large organisation.”

Member’s explanatory statement

This amendment establishes that an offence of failure to prevent fraud may be committed by a subsidiary of a large organisation where an employee of the subsidiary commits a fraud offence, intending to benefit the subsidiary.

114 Page 177, line 39, leave out “as mentioned in subsection (1)”

Member’s explanatory statement

This amendment omits unnecessary words.

115 Page 178, line 2, after “subsidiary” insert “undertaking”

Member's explanatory statement

See the explanatory note for my amendment at page 177, line 28.

116 Page 178, line 3, at end insert –

“(6A) For the purposes of this section a person is also associated with a relevant body if the person is an employee of a subsidiary undertaking of the relevant body; but for the purpose of determining whether an offence is committed by virtue of this subsection, subsection (1) has effect with the omission of paragraph (b) (and the “or” preceding it).”

Member's explanatory statement

This amendment establishes that an offence of failure to prevent fraud may be committed where an employee of a subsidiary of a large organisation commits a fraud offence, intending to benefit the large organisation.

Clause 190

LORD GARNIER

117 Page 179, leave out lines 31 to 35 and insert –

Turnover	More than £10 million
Balance sheet total	More than £3 million
Number of employees	More than 25.

LORD SHARPE OF EPSOM

118 Page 179, line 35, at end insert –

“(1A) The reference in subsection (1) to a relevant body does not include a relevant body which is a parent undertaking (as to which see section (*Large organisations: parent undertakings*)).”

Member's explanatory statement

See the explanatory statement for new Clause (*Large organisations: parent undertakings*).

119 Page 180, line 16, after “(7)” insert “and section (*Large organisations: parent undertakings*)”

Member's explanatory statement

This amendment enables new Clause (*Large organisations: parent undertakings*) to be modified for the purpose of altering the meaning of “large organisation”.

120 Page 180, line 23, at end insert –

“(6A) Before making regulations under subsection (5) or (6) the Secretary of State must consult –

- (a) the Scottish Ministers, and
- (b) the Department of Justice in Northern Ireland.”

Member's explanatory statement

This amendment requires consultation to take place before the powers in subsections (5) and (6) are exercised.

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

121 Leave out Clause 190

After Clause 190

LORD SHARPE OF EPSOM

122 Insert the following new Clause –

“Large organisations: parent undertakings

- (1) For the purposes of section 188(1) and (1A) a relevant body which is a parent undertaking is a “large organisation” only if the group headed by it satisfied two or more of the following conditions in the financial year of the body that precedes the year of the fraud offence –

Aggregate turnover	More than £36 million net (or £43.2 million gross)
Aggregate balance sheet total	More than £18 million net (or £21.6 million gross)
Aggregate number of employees	More than 250.

- (2) The aggregate figures are ascertained by aggregating the relevant figures determined in accordance with section 190 for each member of the group.
- (3) In relation to the aggregate figures for turnover and balance sheet total, “net” and “gross” –
- except where paragraph (b) applies, have the meaning given by subsection (6) of section 466 of the Companies Act 2006;
 - in the case of accounts that are not of a kind specified in the definition of “net” in that subsection, have a corresponding meaning.
- (4) In this section –
- “balance sheet total” (in relation to a relevant body and a financial year) has the same meaning as in section 190;
 - “group” means a parent undertaking and its subsidiary undertakings;
 - “turnover” (in relation to a UK company or other relevant body) has the same meaning as in section 190;
 - “year of the fraud offence” is to be interpreted in accordance with section 188(1) or (1A) (as the case requires).
- (5) In this section “balance sheet total” and “turnover”, in relation to a subsidiary undertaking which is not a relevant body, have a meaning corresponding to the meaning given by subsection (4).”

Member's explanatory statement

This amendment and my amendment at page 179, line 35, enable certain parent undertakings to qualify as a "large organisation" for the purposes of the offence of failure to prevent fraud.

Clause 193

LORD SHARPE OF EPSOM

123 Page 181, line 23, at end insert –

“(5A) “Parent undertaking” has the same meaning as in the Companies Acts (see section 1162 of the Companies Act 2006).”

Member's explanatory statement

This amendment is supplementary to new Clause (Large organisations: parent undertakings).

124 Page 181, line 32, leave out subsection (8) and insert –

“(8) “Subsidiary undertaking” has the same meaning as in the Companies Acts (see section 1162 of the Companies Act 2006).”

Member's explanatory statement

This amendment is supplementary to new Clause (Large organisations: parent undertakings).

After Clause 194

LORD AGNEW OF OULTON

125 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.

Clause 197

LORD ETHERTON

126★ Page 184, line 42, leave out paragraph (i) 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 199

BARONESS BOWLES OF BERKHAMSTED

127 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 201

LORD COAKER

128★ 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—

After Clause 201 - continued

- (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 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.

After Clause 202

LORD AGNEW OF OULTON
LORD FAULKS
LORD FOX

129

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

After Clause 202 - continued

(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.

LORD GARNIER
BARONESS MORGAN OF COTES
LORD FAULKS
THE LORD BISHOP OF ST ALBANS

130 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 10;
 - “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 10.

LORD GARNIER
BARONESS MORGAN OF COTES

131

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.

After Clause 202 - continued

- (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).

132

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.

133

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) C 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 22 of Schedule 10.”

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.

134 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.

135 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

After Clause 202 - continued

- (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.

BARONESS KRAMER

136

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).

After Clause 202 - continued

- (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.

Clause 204

LORD BELLAMY

137 Page 191, line 37, after “State” insert “or the Lord Chancellor”

Member’s explanatory statement

See the explanatory statement for new clause (Strategic litigation against public participation: requirement to make rules of court).

LORD SHARPE OF EPSOM

138 Page 192, line 15, at end insert—

“(ea) regulations made by the Secretary of State under section (*Power to amend list of economic crimes*)(1);”

Member’s explanatory statement

*This amendment provides for regulations under new Clause (*Power to amend list of economic crimes*) made by the Secretary of State to be subject to the affirmative procedure.*

139 Page 192, line 24, after “section” insert “(*Power to amend list of economic crimes*)(1) or”

Member's explanatory statement

This amendment provides for regulations under new Clause (Power to amend list of economic crimes) made by the Scottish Ministers to be subject to the affirmative procedure.

- 140 Page 192, line 28, after “section” insert “(Power to amend list of economic crimes)(1) or”

Member's explanatory statement

This amendment provides for regulations under new Clause (Power to amend list of economic crimes) made by the Northern Ireland Department to be subject to the affirmative procedure.

Clause 205

LORD BELLAMY

- 141 Page 192, line 33, leave out “subsection” and insert “subsections (1A) and”

Member's explanatory statement

See the explanatory statement for new clause (Strategic litigation against public participation: requirement to make rules of court).

- 142 Page 192, line 33, at end insert –

“(1A) Sections (Strategic litigation against public participation: requirement to make rules of court) and (Meaning of “SLAPP” claim) extend to England and Wales only.”

Member's explanatory statement

See the explanatory statement for new clause (Strategic litigation against public participation: requirement to make rules of court).

Clause 206

LORD BELLAMY

- 143 Page 192, line 38, after “State” insert “or the Lord Chancellor”

Member's explanatory statement

See the explanatory statement for new clause (Strategic litigation against public participation: requirement to make rules of court).

LORD SHARPE OF EPSOM

- 144 Page 193, line 10, leave out “Section 201 comes” and insert “The following come”

Member's explanatory statement

This amendment and my other amendment to Clause 206 provide for new Clauses (Attributing liability for economic crimes), (Power to amend list of economic crimes) and (Offences under section (Attributing criminal liability for economic crimes to certain bodies) committed by partnerships) and new Schedule (Criminal liability of bodies: economic crimes) to come into force two months after Royal Assent.

- 145 Page 193, line 11, at end insert “–

- (a) section (Attributing criminal liability for economic crimes to certain bodies) and Schedule (Criminal liability of bodies: economic crimes);
- (b) section (Power to amend list of economic crimes);

Clause 206 - continued

- (c) section (Offences under section (Attributing criminal liability for economic crimes to certain bodies) committed by partnerships);
- (d) section 201.”

Member’s explanatory statement

See the explanatory statement for my other amendment to Clause 206.

Economic Crime and Corporate Transparency Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

16 June 2023
