

# **Supplementary Delegated Powers Memorandum – Economic Crime and Corporate Transparency Bill**

1. This memorandum, supplementary to the Delegated Powers Memorandum published on 31 January 2023 and the supplementary memoranda published on the 21 March 2023, 19 April 2023, 14 June, 16 June and 21 June, has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Economic Crime and Corporate Transparency Bill (“the Bill”).
2. The Government tabled amendments to the Bill on 29 June 2023 which amend existing delegated powers. This memorandum explains these powers, why they are being taken, and the reason for the procedure being selected.

## **Companies House reform: transparency of ownership/control - Schedule 2 to the Bill - (replaces one power, adds three more similar powers)**

*Power conferred on: Secretary of State*

*Power exercised by: Statutory Instrument*

*Parliamentary procedure: negative*

### Context and Purpose

3. Companies have duties under sections 790D and 790E, including to take reasonable steps to find out if there are any PSCs and to send information notices to identify them. Section 790D(9) of the Companies Act 2006 allows the Secretary of State by regulations to make further provision about the giving of notices, including the form and content of any such notices and the manner in which they must be given.
4. The amendment substitutes sections 790D and 790E for new sections 790D, 790DA, 790E and 790EA. The substance of the provisions remains unchanged, but the provisions are restructured. Each new section contains a power which allows the Secretary of State by regulations to make further provision about the giving of notices, including the form and content of any such notices and the manner in which they must be given.

### Justification for taking the power

5. The level of detail required to be set out in notices is more appropriately contained in secondary legislation than primary legislation. This is beneficial in order to retain a degree of flexibility in what is to be prescribed in the notices. This is also in line with the existing power which is replaced by these

amendments and a similar power in section 14 of the Economic Crime (Transparency and Enforcement) Act 2022.

#### Justification for the procedure

6. Regulations made under this section are subject to the negative resolution procedure. This procedure is appropriate as the notice (and therefore the regulations) will reflect the content of the primary legislation, which will have been subject to full Parliamentary scrutiny.

#### **Companies House reform: transparency of ownership/control - Schedule 2 to the Bill - (extends scope of existing power to make it capable of being a Henry VIII power)**

*Power conferred on:* Secretary of State

*Power exercised by:* regulations made by statutory instrument

*Parliamentary procedure:* affirmative

#### Context and Purpose

1. This power relates to the provision of information by a company to Companies House in relation to people with significant influence and control over that company (PSCs).
2. A power already exists in Schedule 2 to the Bill, which inserts new section 790LE to the Companies Act 2006. This power allows the Secretary of State by regulations to impose new duties on a company to provide additional information about people or entities that are registrable under Part 21 A of, and Schedule 1A to, the Companies Act 2006. The amendments insert new text into the existing power broadening its scope.
3. The amendments broaden that scope so that regulations can require a company to provide information about whether it has any PSCs and about compliance by the company or any person to whom the company has given an information notice, including by requiring a company to provide a copy of said notice.
4. The amendments broaden the scope to allow regulations to amend Part 21A of the Act and make consequential amendments to other parts of the Act. It does not alter the substance of the power.

### Justification for taking the power

5. Please see the entry in the previous delegated powers memorandum for this Bill, published on 31 January 2023, but in brief the new section 790LE power can be used to introduce more requirements on companies to deliver information to the Registrar about their PSCs.
6. The justification for extending the scope of this power to make it capable of being used to amend Part 21A of the 2006 Act is to avoid having connected legislative provisions in both primary and secondary legislation.
7. This Bill removes the requirement for companies to maintain their own register of their People with Significant Control. Existing regulations require certain “additional matters” to be noted in a company’s own local register, such as whether a person has failed to respond to an information notice. The Bill, and proposed amendments to it, require the matters to instead be notified directly to the Registrar, so there is no loss of transparency.
8. Having a Henry VIII power allows flexibility to provide for any further “additional matters” to be added in primary legislation, which will make it easier for companies to understand and comply with the requirements.
9. The power to make consequential amendments elsewhere in the Companies Act 2006 under this amendment enables Government to ensure that any notice provided under the previous provision does not need to be made available for public inspection. Such notices may contain personal or sensitive information.

### Justification for the procedure

Please see the entry in the delegated powers memorandum for this Bill published on 31 January 2023.