

Economic Crime and Corporate Transparency Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON THIRD READING

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 61

LORD JOHNSON OF LAINSTON

1 Insert the following new Clause –

“Duty to deliver information about exemption from Part 21A

In section 853H of the Companies Act 2006 (duty to deliver information about exemption from Part 21A), after subsection (2) insert –

“(2A) The statement under subsection (2) must specify –

- (a) whether the company falls within the description specified in section 790B(1)(a) or a description specified in regulations under section 790B(1)(b), and
- (b) if it falls within a description specified in regulations under section 790B(1)(b), what that description is.”

Member’s explanatory statement

A company that is exempt from Part 21A of the Companies Act 2006 (information about persons with significant control) has to confirm that it is exempt in each confirmation statement. This new clause would require it to explain why. See the Minister's undertaking at report stage (20 June, col. 149)

Clause 63

LORD JOHNSON OF LAINSTON

2 Page 52, line 23, leave out “790LD” and insert “790LDA”

Member’s explanatory statement

This is consequential on my amendment to Schedule 2, page 222, line 31. See the Minister's undertaking at report stage (20 June, col. 149).

3 Page 56, line 8, leave out “790LA” and insert “790LCB”

Member's explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 17 inserting a new section 790LCB into the Companies Act 2006. See the Minister's undertaking at report stage (20 June, col. 149).

- 4 Page 57, line 2, leave out “790LA” and insert “790LCB”

Member's explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 17 inserting a new section 790LCB into the Companies Act 2006. See the Minister's undertaking at report stage (20 June, col. 149).

Clause 68

LORD JOHNSON OF LAINSTON

- 5 Page 67, line 7, after “statement” insert “or other document”

Member's explanatory statement

Clauses 68, 136 and 166 ensure that certain documents are withheld from public inspection. My amendments to those Clauses protect similar documents delivered under regulations under section 1067A(5)(a) and (6) of the CA 2006. My amendments are therefore consequential on those regulation-making powers, which were added at earlier stages.

- 6 Page 67, line 16, leave out “(1) or (2)”

Member's explanatory statement

See the explanatory statement to my first amendment to Clause 68.

Clause 136

LORD JOHNSON OF LAINSTON

- 7 Page 135, line 5, after “statement” insert “or other document”

Member's explanatory statement

See the explanatory statement to my first amendment to Clause 68.

- 8 Page 135, line 6, leave out “(1) or (2)”

Member's explanatory statement

See the explanatory statement to my first amendment to Clause 68.

After Clause 160

LORD JOHNSON OF LAINSTON

- 9 Insert the following new Clause –

“Registrable beneficial owners: nominees

- (1) The Economic Crime (Transparency and Enforcement) Act 2022 is amended as follows.
- (2) In Schedule 1 (required information) –

After Clause 160 - continued

- (a) in paragraph 3(1), for paragraphs (e) and (f) substitute—
 - “(e) whether the individual is a registrable beneficial owner by virtue of paragraph 2(1) of Schedule 2 or paragraph 2(2) of that Schedule;
 - (f) if the individual is a registrable beneficial owner by virtue of paragraph 2(1) of Schedule 2—
 - (i) a statement as to which of the conditions in paragraph 6 of that Schedule is met and why, and
 - (ii) a statement as to whether that condition is met by virtue of the individual being a trustee;
 - (fa) if the individual is a registrable beneficial owner by virtue of paragraph 2(2) of Schedule 2, a statement as to which of the conditions in paragraph 6A of that Schedule is met and why;”;
 - (b) in paragraph 4, for sub-paragraph (f) substitute—
 - “(f) whether the government or public authority is a registrable beneficial owner by virtue of paragraph 4(1) of Schedule 2 or paragraph 4(2) of that Schedule;
 - (fa) if the government or public authority is a registrable beneficial owner by virtue of paragraph 4(1) of Schedule 2, a statement as to which of the conditions in paragraph 6 of that Schedule is met and why;
 - (fb) if the government or public authority is a registrable beneficial owner by virtue of paragraph 4(2) of Schedule 2, a statement as to which of the conditions in paragraph 6A of that Schedule is met and why;”;
 - (c) in paragraph 5(1), for paragraphs (g) and (h) substitute—
 - “(g) whether the entity is a registrable beneficial owner by virtue of paragraph 3(1) of Schedule 2 or paragraph 3(2) of that Schedule;
 - (h) if the entity is a registrable beneficial owner by virtue of paragraph 3(1) of Schedule 2—
 - (i) a statement as to which of the conditions in paragraph 6 of that Schedule is met and why, and
 - (ii) a statement as to whether that condition is met by virtue of the entity being a trustee;
 - (ha) if the entity is a registrable beneficial owner by virtue of paragraph 3(2) of Schedule 2, a statement as to which of the conditions in paragraph 6A of that Schedule is met and why;”.
- (3) In Schedule 2 (registrable beneficial owners)—
- (a) in paragraph 2—
 - (i) the existing text becomes sub-paragraph (1);
 - (ii) in paragraph (a) of that sub-paragraph, for “(see Part 2)” substitute “by virtue of paragraph 6”;
 - (iii) after that sub-paragraph insert—

After Clause 160 - continued

- “(2) An individual is also a “registrable beneficial owner” in relation to an overseas entity if the individual is treated as a beneficial owner of the overseas entity by virtue of paragraph 6A.”;
- (b) in paragraph 3—
- (i) the existing text becomes sub-paragraph (1);
 - (ii) in paragraph (a) of that sub-paragraph, for “(see Part 2)” substitute “by virtue of paragraph 6”;
 - (iii) after that sub-paragraph insert—

“(2) A legal entity other than a government or public authority is also a “registrable beneficial owner” in relation to an overseas entity if it is treated as a beneficial owner of the overseas entity by virtue of paragraph 6A.”;
- (c) in paragraph 4—
- (i) the existing text becomes sub-paragraph (1);
 - (ii) in that sub-paragraph, for “(see Part 2)” substitute “by virtue of paragraph 6”;
 - (iii) after that sub-paragraph insert—

“(2) A government or public authority is also a “registrable beneficial owner” in relation to an overseas entity if it is treated as a beneficial owner of the overseas entity by virtue of paragraph 6A.”;
- (d) after paragraph 6 insert—
- “Persons treated as beneficial owners where entity holds land as nominee*
- 6A A person (“X”) is to be treated as a beneficial owner of an overseas entity (“Y”) if one or more of the following conditions are met.
- Y holds land in England or Wales as nominee for X*
- Condition 1 is that Y—
- (a) is registered in the register of title kept under the Land Registration Act 2002 as the proprietor of a qualifying estate within the meaning of Schedule 4A to that Act,
 - (b) became so registered in pursuance of an application made on or after 1 January 1999, and
 - (c) holds the qualifying estate as nominee for—
 - (i) X, or
 - (ii) an entity of which X is a beneficial owner by virtue of paragraph 6.
- Y holds land in Scotland as nominee for X*
- Condition 2 is that—
- (a) Y—
 - (i) holds an interest in land by virtue of being entered, on or after 8 December 2014, as proprietor in the proprietorship section of the title sheet for a plot of land that is registered in the Land Register of Scotland,

After Clause 160 - continued

- (ii) is, in relation to a lease that was recorded in the General Register of Sasines or registered in the Land Register of Scotland before that date, by virtue of an assignation of the lease registered in the Land Register of Scotland on or after that date, the tenant under the lease, or
- (iii) is the tenant under a lease that was registered in the Land Register of Scotland on or after that date, and
- (b) Y holds the interest in land referred to in paragraph (a)(i), (ii) or (iii) as nominee for –
 - (i) X, or
 - (ii) an entity of which X is a beneficial owner by virtue of paragraph 6.

Y holds land in Northern Ireland as nominee for X

Condition 3 is that Y –

- (a) is registered in the register kept under the Land Registration Act (Northern Ireland) 1970 (c. 18 (N.I.)) as the owner of a qualifying estate within the meaning of Schedule 8A to that Act,
- (b) became so registered on or after the day on which that Schedule came into force, and
- (c) holds the qualifying estate as nominee for –
 - (i) X, or
 - (ii) an entity of which X is a beneficial owner by virtue of paragraph 6.”;
- (e) in paragraph 8, for “paragraphs 2(b) and 3(c)” substitute “paragraphs 2(1)(b) and 3(1)(c)”.

Member’s explanatory statement

This amendment means that where an overseas entity holds certain interests in land as a nominee for another person that person is treated as a beneficial owner for the purposes of the register of overseas entity. It also deals with less direct relationships. See the Minister's undertaking at report stage (20 June, col. 187).

Clause 166

LORD JOHNSON OF LAINSTON

- 10** Page 159, line 42, after “statement” insert “or other document”

Member’s explanatory statement

See the explanatory statement to my first amendment to Clause 68.

- 11** Page 159, line 43, leave out “(1) or (2)”

Member’s explanatory statement

See the explanatory statement to my first amendment to Clause 68.

Clause 184

LORD SHARPE OF EPSOM

- 12 Page 178, line 4, leave out “337ZL(5)” and insert “339ZL(5)”

Member’s explanatory statement

This amendment corrects a cross-reference.

Schedule 2

LORD JOHNSON OF LAINSTON

- 13 Page 222, line 9, leave out paragraph 9 and insert –
 “9 In section 790C (key terms), omit subsection (10).”

Member’s explanatory statement

This is consequential on my other amendments to Schedule 2 and leaves out a definition that is no longer used. See the Minister’s undertaking at report stage (20 June, col. 149).

- 14 Page 222, line 30, at end insert –
 “9A After section 790C insert –

“790CA References to “confirmation” etc of information

For the purposes of this Part a company has had confirmation of –

- (a) a person’s status as a registrable person or a registrable relevant legal entity in relation to the company,
- (b) the required particulars of a person (see section 790K),
- (c) any other information about a person,

if the person has supplied that information to the company whether or not in pursuance of any duty imposed by this Part (and references to a company obtaining confirmation of information are to be read accordingly).”

Member’s explanatory statement

This defines what is meant by “confirmation” for the purposes of my other amendments to Schedule 2, which mean that a company which knows of a person with significant control etc only has to notify the registrar if it has had confirmation from the person. See the Minister’s undertaking at report stage (20 June, col. 149).

- 15 Page 222, line 31, leave out paragraphs 10 to 13 and insert –
 “10 For sections 790D and 790E substitute –

“790CB Duty to find out about persons with significant control

A company to which this Part applies must take reasonable steps to find out if there is anyone who is a registrable person or a registrable relevant legal entity in relation to the company and, if so, to identify them.

790D Company’s duty to give notices to persons with significant control

- (1) A company to which this Part applies must give a notice to a person under this section if –

Schedule 2 - continued

- (a) the company knows or has cause to believe that the person is a registrable person or a registrable relevant legal entity in relation to the company, but
 - (b) the company has not had confirmation of the person's status as a registrable person or registrable relevant legal entity or has not had confirmation of all of the required particulars of the person (see section 790K).
- (2) The notice must require the person –
- (a) to inform the company whether the person is a registrable person or a registrable relevant legal entity in relation to the company, and
 - (b) if they are, to give the company all of the required particulars of the person (see section 790K).
- (3) The notice must require the person to whom it is given to comply with the notice by no later than the end of the period of one month beginning with the day on which it is given.
- (4) The company must give the notice –
- (a) as soon as reasonably practicable after the company becomes subject to the duty to give a notice under this section, and
 - (b) in any event before the end of the period of 14 days beginning with the day on which the company becomes so subject.
- (5) A company is not required to give a notice under this section to a person if –
- (a) the application for the registration of the company contained a statement of initial significant control naming the person as someone who would, on the company's incorporation, become a registrable person or a registrable relevant legal entity in relation to the company, and
 - (b) the company has no cause to believe that at any time since its incorporation the person has ceased to be a registrable person or a registrable relevant legal entity in relation to the company.
- (6) The Secretary of State may by regulations make further provision about the giving of notices under this section, including provision about their form and content and the manner in which they must be given.
- (7) Regulations under subsection (6) are subject to negative resolution procedure.

790DA Obtaining information from third parties

- (1) A company to which this Part applies may give a notice to a person under this section if it knows or has cause to believe that the person –
- (a) knows the identity of someone who falls within subsection (2), or
 - (b) knows the identity of someone likely to have that knowledge.
- (2) The persons who fall within this subsection are –
- (a) a registrable person in relation to the company;
 - (b) a relevant legal entity in relation to the company;
 - (c) an entity which would be a relevant legal entity in relation to the company but for the fact that section 790C(6)(b) does not apply in respect of it.

Schedule 2 - continued

- (3) A company must give a notice under subsection (1) to a person (“a third party”) if the company –
 - (a) knows or has cause to believe that a person is a registrable person or a registrable relevant legal entity in relation to the company (“a suspected PSC”),
 - (b) is under a duty to give the suspected PSC a notice under section 790D but does not have the information that it needs in order to contact them, and
 - (c) knows or has cause to believe that the third party –
 - (i) knows the identity of the suspected PSC, or
 - (ii) knows the identity of someone likely to have that knowledge.
- (4) A notice under subsection (1) must require the person to whom it is given (“the recipient”) –
 - (a) to inform the company whether the recipient knows the identity of any person who –
 - (i) falls within subsection (2), or
 - (ii) is likely to know the identity of anyone who falls within subsection (2), and
 - (b) if the recipient does, to give the company any information within the recipient’s knowledge that would allow the company to contact each such person.
- (5) The notice must require the person to whom it is given to comply with the notice by no later than the end of the period of one month beginning with the day on which it is given.
- (6) A person to whom a notice under subsection (1) is given is not required by that notice to disclose any information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (7) The Secretary of State may by regulations make further provision about the giving of notices under this section, including provision about their form and content and the manner in which they must be given.
- (8) Regulations under subsection (7) are subject to negative resolution procedure.
- (9) In this section a reference to knowing the identity of a person includes knowing information from which that person can be identified.

790E Company’s duty to find out about changes in PSC information

- (1) This section applies if a company –
 - (a) knows or has cause to believe that there has been a change in the required particulars of a registrable person or a registrable relevant legal entity in relation to the company (see section 790K), but
 - (b) has not had confirmation that the change has occurred or has not had confirmation of all of the information that the company would need to include in a notice of the change under section 790LC(1) or 790LCA(1).
- (2) The company must give the person a notice requiring the person –
 - (a) to inform the company whether the change has occurred, and

Schedule 2 - continued

- (b) if it has, to give the company the information that the company would need to include in a notice of the change under section 790LC(1) or 790LCA (1).
- (3) The notice must require the person to whom it is given to comply with the notice by no later than the end of the period of one month beginning with the day on which it is given.
- (4) The company must give the notice—
 - (a) as soon as reasonably practicable after the company becomes subject to the duty to give a notice under subsection (2), and
 - (b) in any event before the end of the period of 14 days beginning with the day on which the company becomes so subject.
- (5) The Secretary of State may by regulations make further provision about the giving of notices under this section, including provision about their form and content and the manner in which they must be given.
- (6) Regulations under subsection (5) are subject to negative resolution procedure.

790EA Company's duty to find out about persons ceasing to be PSCs

- (1) This section applies if a company—
 - (a) knows or has cause to believe that a person has ceased to be a registrable person or a registrable relevant legal entity in relation to the company, but
 - (b) has not had confirmation that the person has ceased to be a registrable person or a registrable relevant legal entity in relation to the company or has not had confirmation of the date on which the person so ceased.
- (2) The company must give the person a notice requiring the person—
 - (a) to inform the company whether the person has ceased to be a registrable person or a registrable relevant legal entity in relation to the company, and
 - (b) if the person has, to inform the company of the date on which the person so ceased.
- (3) The notice must require the person to whom it is given to comply with the notice by no later than the end of the period of one month beginning with the day on which it is given.
- (4) The company must give the notice—
 - (a) as soon as reasonably practicable after the company becomes subject to the duty under subsection (2), and
 - (b) in any event before the end of the period of 14 days beginning with the day on which the company becomes so subject.
- (5) The Secretary of State may by regulations make further provision about the giving of notices under this section, including provision about their form and content and the manner in which they must be given.
- (6) Regulations under subsection (5) are subject to negative resolution procedure.

790EB Company's duty to notify failure to comply with notices

Schedule 2 - continued

- (1) A company must notify the registrar if a person fails to comply with a notice given by the company under section 790D, 790DA, 790E or 790EA within the period specified in it.
- (2) The notice must be given within the period of 14 days beginning with end of the period specified in the notice under section 790D, 790DA, 790E or 790EA .

790EC Company's duty to notify of late compliance with notices

- (1) A company must notify the registrar if a person who has failed to comply with a notice given by the company under section 790D, 790DA, 790E or 790EA within the period specified in it subsequently complies.
- (2) The notice must be given within the period of 14 days beginning with the day on which the person complied with the notice under section 790D, 790DA, 790E or 790EA .”

- 11 In section 790F (failure by company to comply with information duties), for subsection (1) substitute –

- “(1) If a company fails, without reasonable excuse, to comply with a duty under section 790CB, 790D, 790DA(3), 790E, 790EA, 790EB or 790EC to take steps or give a notice, an offence is committed by –
- (a) the company, and
 - (b) every officer of the company who is in default.”

- 12 For sections 790G and 790H substitute –

“790G Duty to notify company on becoming PSC

- (1) This section applies to a person if –
 - (a) the person knows that they are a registrable person or a registrable relevant legal entity in relation to a company,
 - (b) the material in the register that is available for public inspection does not indicate the person's status as a registrable person or registrable relevant legal entity in relation to the company, and
 - (c) the person –
 - (i) has not informed the company of the person's status as a registrable person or registrable relevant legal entity in relation to the company, or
 - (ii) has not given the company all of the required particulars of the person (see section 790K).
- (2) The person must –
 - (a) inform the company of the person's status as a registrable person or registrable relevant legal entity in relation to the company, and
 - (b) give the company the required particulars (see section 790K).
- (3) The person must comply with the duty in subsection (2) before the end of the period of one month beginning with the day on which the conditions in subsection (1) are met.

790H Duty to notify company of changes in PSC information

- (1) This section applies to a person if –
 - (a) the person knows that they are a registrable person or a registrable relevant legal entity in relation to a company,

Schedule 2 - continued

- (b) there has been a change in the required particulars of the person (see section 790K) and the person knows that to be the case, and
 - (c) the person has not informed the company of the change or has not given the company all of the information that the company would need to include in a notice of the change under section 790LC(1) or 790LCA(1).
- (2) The person must –
- (a) inform the company of the change, and
 - (b) give the company the information that the company would need to include in a notice of the change under section 790LC(1) or 790LCA(1).
- (3) The person must comply with the duty in subsection (2) before the end of the period of one month beginning with the day on which the conditions in subsection (1) are met.

790HA Duty to notify company of ceasing to be a PSC

- (1) This section applies to a person if –
- (a) the person knows that they have ceased to be a registrable person or a registrable relevant legal entity in relation to a company,
 - (b) the material in the register that is available for public inspection does not indicate the person as having ceased to be a registrable person or a registrable relevant legal entity in relation to a company, and
 - (c) the person has not informed the company of having ceased to be a registrable person or a registrable relevant legal entity in relation to the company or has not informed the company of the date on which the person so ceased.
- (2) The person must inform the company –
- (a) that the person has ceased to be a registrable person or a registrable relevant legal entity in relation to the company, and
 - (b) of the date on which the person so ceased.
- (3) The person must comply with the duty in subsection (2) before the end of the period of one month beginning with the day on which the conditions in subsection (1) are met.”
- 12A In section 790I (enforcement of disclosure requirements), for the words from “a notice” to the end substitute “ –
- (a) a notice under section 790D, 790DA, 790E or 790EA, or
 - (b) a duty under section 790G, 790H or 790HA.”
- 13 In section 790J (power to make exemptions) –
- (a) in subsection (2)(a), for “790D(2) or 790E” substitute “ 790D, 790E or 790EA”;
 - (b) in subsection (2)(c), for “790D(5)” substitute “790DA”;
 - (c) in subsection (2)(d), for “and 790H” substitute “, 790H and 790HA”;
 - (d) in subsection (2)(e) for “section 790M” substitute “any of sections 12A, 790LA, 790LBA, 790LC, 790LCA, 790LCB, 790LD, 790LDA”.”

Member's explanatory statement

This amendment changes provisions in Part 21A of the Companies Act 2006 that are aimed at ensuring that a company has information about persons with significant control. It is connected with the other amendments to that Part made by or proposed to be made by the Bill. See the Minister's undertaking at report stage (20 June, col. 149).

16 Page 224, line 5, at end insert “of persons with significant control”

Member's explanatory statement

This adjusts a heading in the material inserted into the Companies Act 2006, in consequence of my other amendments to Schedule 2. See the Minister's undertaking at report stage (20 June, col. 149).

17 Page 224, leave out lines 6 to 27 and insert –

“790LA Duty to notify registrar of confirmed persons with significant control

- (1) A company must give a notice to the registrar if it has had confirmation of –
 - (a) a person's status as a registrable person or a registrable relevant legal entity in relation to the company, and
 - (b) the required particulars of the person (see section 790K).
- (2) A notice under subsection (1) must contain a statement of the required particulars.
- (3) A notice under subsection (1) must be given within the period of 14 days beginning with the day on which the company had confirmation as mentioned in that subsection.
- (4) A company is not required to give a notice under this section in relation to a person if –
 - (a) the application for the registration of the company contained a statement of initial significant control naming the person as someone who would, on the company's incorporation, become a registrable person or a registrable relevant legal entity in relation to the company, and
 - (b) the company has no cause to believe that at any time since its incorporation the person has ceased to be a registrable person or a registrable relevant legal entity in relation to the company.
- (5) Nothing in section 126 (notice of trusts not receivable by registrar) affects the duty to give a notice under this section (or the receipt of that notice by the registrar).”

Member's explanatory statement

This means that a company will only need to notify the registrar of a person with significant control if the person has confirmed their status and information about them. See the Minister's undertaking at report stage (20 June, col. 149).

18 Page 224, line 29, leave out “(a)”

Member's explanatory statement

This is consequential on my amendment to Schedule 2, page 224, lines 6 to 27. See the Minister's undertaking at report stage (20 June, col. 149).

19 Page 224, line 32, leave out “(a)”

Member’s explanatory statement

This is consequential on my amendment to Schedule 2, page 224, lines 6 to 27. See the Minister’s undertaking at report stage (20 June, col. 149).

20 Page 225, line 2, at end insert –

“790LBA Duty to notify registrar of unconfirmed persons with significant control

- (1) A company must give a notice to the registrar if –
 - (a) it knows or has cause to believe that a person has become a registrable person or a registrable relevant legal entity in relation to the company, but
 - (b) it has not yet had confirmation as mentioned in section 790LA (1).
- (2) The notice must state that fact.
- (3) A notice under subsection (1) must be given within the period of 14 days beginning with the day on which the company first knows or has cause to believe that the person has become a registrable person or a registrable relevant legal entity in relation to the company.
- (4) Nothing in this section requires a company, on its incorporation, to give a notice in relation to a person included in the statement of initial significant control under section 12A.”

Member’s explanatory statement

This requires a company to notify the registrar if it knows or has cause to believe that someone has become a person with significant control but that fact, or the person’s required particulars, have not been confirmed. See the Minister’s undertaking at report stage (20 June, col. 149).

21 Page 225, line 2, at end insert –

“Duty to notify registrar of changes in required particulars”

Member’s explanatory statement

This adds a new heading in the run of sections inserted into the Companies Act 2006, in consequence of my other amendments to Schedule 2. See the Minister’s undertaking at report stage (20 June, col. 149).

22 Page 225, line 4, leave out from “if” to end of line 7 and insert “it –

- (a) has had confirmation that there has been a change in the required particulars of a registrable person, or a registrable relevant legal entity, in relation to the company (see section 790K), and
- (a) has had confirmation of how the required particulars have changed and the date on which they changed.”

Member’s explanatory statement

This means that a company only has to notify the registrar of a change in the required particulars of a person with significant control if the person has confirmed details of the change to the company. See the Minister’s undertaking at report stage (20 June, col. 149).

23 Page 225, leave out lines 11 to 14 and insert –

“(3) A notice under subsection (1) must be given within the period of 14 days beginning with the day on which the company had confirmation as mentioned in that subsection.”

Member’s explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 4. See the Minister's undertaking at report stage (20 June, col. 149).

24 Page 225, line 17, at end insert –

“Duty to notify registrar of person ceasing to be person with significant control etc”

Member’s explanatory statement

This adds a new heading in the run of sections inserted into the Companies Act 2006, in consequence of my other amendments to Schedule 2. See the Minister's undertaking at report stage (20 June, col. 149).

25 Page 225, line 17, at end insert –

“790LCA Duty to notify of pre-incorporation changes in required particulars

- (1) A company must give a notice to the registrar if it –
 - (a) has had confirmation that there was a pre-incorporation change in the required particulars of a proposed PSC (see section 790K), and
 - (b) has had confirmation of how the required particulars have changed and the date on which they changed.
- (2) But a company is not required to give a notice under subsection (1) in respect of a person if it has given a notice under section 790LD in respect of the person.
- (3) A notice under subsection (1) must state –
 - (a) the change in the required particulars, and
 - (b) the date on which the change occurred.
- (4) A notice under subsection (1) must be given within the period of 14 days beginning with the day on which the company had confirmation as mentioned in that subsection.
- (5) In this section –

“pre-incorporation change” means a change that occurred –

 - (a) after the application for the registration of the company was delivered to the registrar, but
 - (b) before the company was incorporated;

“proposed PSC”, in relation to a company, means a person who was named in a statement under section 12A(1)(a) as a person who would, on the company’s incorporation, become a registrable person or registrable relevant legal entity in relation to the company.”

Member's explanatory statement

This moves material currently in new section 790LD of the Companies Act 2006 and means that a company will only need to notify the registrar of pre-incorporation changes in the particulars of a person with significant control if the changes have been confirmed by the person. See the Minister's undertaking at report stage (20 June, col. 149).

26 Page 225, line 17, at end insert –

“790LCB Duty to notify registrar when person ceases to have significant control

- (1) A company must give a notice to the registrar if it –
 - (a) has had confirmation that a person has ceased to be a registrable person or a registrable relevant legal entity in relation to it, and
 - (b) has had confirmation of the date on which the person so ceased.
- (2) A notice under subsection (1) must state –
 - (a) the person's name and service address, and
 - (b) the date on which the person ceased to be a registrable person or a registrable relevant legal entity in relation to the company.
- (3) A notice under subsection (1) must be given within the period of 14 days beginning with the day on which the company had confirmation as mentioned in that subsection.”

Member's explanatory statement

This is consequential on my amendment to Schedule 2, page 224, lines 6 to 27. See the Minister's undertaking at report stage (20 June, col. 149).

27 Page 225, line 18, leave out “changes occurring before company is incorporated” and insert “someone not becoming person with significant control on incorporation”

Member's explanatory statement

This amendment is consequential on my amendment to Schedule 2, page 225, line 17 inserting a new 790LCA into the Companies Act 2006. See the Minister's undertaking at report stage (20 June, col. 149).

28 Page 225, line 19, leave out “becomes aware” and insert “knows”

Member's explanatory statement

This changes the language of new section 790LD(1) of the Companies Act 2006 to conform with the language of the other notification duties in relation to persons with significant control (as amended). See the Minister's undertaking at report stage (20 June, col. 149).

29 Page 225, leave out lines 23 to 34

Member's explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 17 inserting a new 790LCA into the Companies Act 2006. See the Minister's undertaking at report stage (20 June, col. 149).

30 Page 225, line 36, leave out “becomes aware as” and insert “has the knowledge”

Member's explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 19. See the Minister's undertaking at report stage (20 June, col. 149).

31 Page 225, leave out lines 38 to 41

Member's explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 17 inserting a new 790LCA into the Companies Act 2006. See the Minister's undertaking at report stage (20 June, col. 149).

32 Page 225, line 41, at end insert –

“790LDA Duty to notify registrar if company ceases to have persons with significant control

- (1) A company must give a notice to the registrar if it knows or has cause to believe that –
 - (a) there has at some time been a person who is a registrable person or registrable relevant legal entity in relation to the company, and
 - (b) there has ceased to be anyone who is a registrable person or registrable relevant legal entity in relation to the company.
- (2) A notice under subsection (1) must –
 - (a) state that the company has that knowledge or cause to believe, and
 - (b) specify the date on which the company first had that knowledge or cause to believe.
- (3) A notice under subsection (1) must be given within the period of 14 days beginning with the day on which the company first had the knowledge or cause to believe mentioned in that subsection.”

Member's explanatory statement

This imposes a duty on a company to notify the registrar if there ceases to be any persons with significant control in relation to the company. See the Minister's undertaking at report stage (20 June, col. 149).

33 Page 226, line 2, at end insert “(including information about whether it has any);
 (b) compliance with Chapter 2 by the company or any person to whom the company has given a notice under that Chapter (including provision requiring a company to provide the registrar with a copy of any such notice, whether on request or otherwise).”

Member's explanatory statement

This expands the regulation-making power to require a company to provide further information in relation to persons with significant control. See the Minister's undertaking at report stage (20 June, col. 149).

34 Page 226, line 2, at end insert –

“(1A) The provision that may be made by regulations under subsection (1) includes provision amending this Part.

Schedule 2 - continued

- (1B) The consequential provision that may be made by regulations under subsection (1) by virtue of section 1292(1) also includes provision amending any other provision of this Act.”

Member’s explanatory statement

This would allow regulations under new section 790LE of the Companies Act 2006 (power to create further duties to notify information about persons with significant control) to amend the relevant Part of the Act and make consequential amendments to other parts of the Act. See the Minister’s undertaking at report stage (20 June, col. 149).

- 35 Page 226, line 7, after “790LA” insert “, 790LBA”

Member’s explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 2 inserting a new section 790LBA into the Companies Act 2006. See the Minister’s undertaking at report stage (20 June, col. 149).

- 36 Page 226, line 7, leave out “or 790LD” and insert “, 790LCA, 790LCB, 790LD or 790LDA”

Member’s explanatory statement

This is consequential on my amendments to Schedule 2, page 225, lines 17 and 41. See the Minister’s undertaking at report stage (20 June, col. 149).

- 37 Page 226, line 18, after “790LA” insert “, 790LBA”

Member’s explanatory statement

This is consequential on my amendment to Schedule 2, page 225, line 2 inserting a new section 790LBA into the Companies Act 2006. See the Minister’s undertaking at report stage (20 June, col. 149).

- 38 Page 226, line 19, leave out “or 790LD” and insert “, 790LCA, 790LCB, 790LD or 790LDA”

Member’s explanatory statement

This is consequential on my amendments to Schedule 2, page 225, lines 17 and 41. See the Minister’s undertaking at report stage (20 June, col. 149).

- 39 Page 227, line 14, at end insert –

- 17A (1) Schedule 1B (enforcement of disclosure requirements in relation to persons with significant control) is amended as follows.
- (2) In each of the following provisions, for “or 790E” substitute “, 790DA, 790E or 790EA” –
- (a) paragraph 1(1)(a) and (3)(a);
 - (b) paragraph 8(3)(a);
 - (c) paragraph 11(a) and (b);
 - (d) paragraph 12(2)(b).

Schedule 2 - continued

- (3) For paragraphs 13 and 14 substitute—

“Offence of failing to comply with notices

- 13 (1) A person to whom a notice under section 790D, 790DA, 790E or 790EA is addressed commits an offence if the person fails, without reasonable excuse, to comply with the notice.
- (2) Where the person is a legal entity, the offence is also committed by every officer of the entity who is in default.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
 - (b) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court 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).

Offence of failing to provide information

- 14 (1) A person commits an offence if the person fails, without reasonable excuse, to comply with a duty under section 790G, 790H or 790HA.
- (2) Where the person is a legal entity, the offence is also committed by every officer of the entity who is in default.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
 - (b) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court 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).

False statements: basic offence

- 14A (1) A person commits an offence if, in purported compliance with a notice under section 790D, 790DA, 790E or 790EA or in purported compliance with a duty imposed by section 790G, 790H or 790HA, and without reasonable excuse, the person makes a statement that is misleading, false or deceptive in a material particular.
- (2) Where the person is a legal entity, the offence is also committed by every officer of the entity who is in default.

Schedule 2 - continued

- (3) A person guilty of an offence under this paragraph is liable on summary conviction—
- (a) in England and Wales, to a fine;
 - (b) in Scotland, to a fine not exceeding level 5 on the standard scale;
 - (c) in Northern Ireland, to a fine not exceeding level 5 on the standard scale.

False statements: aggravated offence

- 14B (1) A person commits an offence if, in purported compliance with a notice under section 790D, 790DA, 790E or 790EA or in purported compliance with a duty imposed by section 790G, 790H or 790HA, the person makes a statement that the person knows is misleading, false or deceptive in a material particular.
- (2) Where the person is a legal entity, the offence is also committed by every officer of the entity who is in default.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
 - (b) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or to a fine (or both);
 - (ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both).”

Member's explanatory statement

This introduces a reasonable excuse defence for offences relating to a failure to comply with duties relating to persons with significant control. It also replaces the offences relating to false or misleading information with a strict liability offence (not dependent on knowledge) and an aggravated offence (where there is knowledge). See the Minister's undertaking at report stage (20 June, col. 149).

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Page 228, line 27, leave out “or 790LC” and insert “, 790LBA, 790LC, 790LCA, 790LCB, 790LD or 790LDA”

Member's explanatory statement

This is consequential on my amendments to Schedule 2, page 225, lines 2, 17 and 41. See the Minister's undertaking at report stage (20 June, col. 149).

Economic Crime and Corporate Transparency Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON THIRD READING

3 July 2023
