

Economic Crime (Transparency and Enforcement) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 14th March 2022, as follows –

Clauses 1 to 4	Schedules 3 to 5
Schedules 1 and 2	Clauses 33 to 65
Clauses 5 to 32	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 4

LORD CALLANAN

- 1★** Page 2, line 19, at end insert “and, where applicable, the statement and information mentioned in subsection (2A)”

Member’s explanatory statement

This amendment requires an application for registration as an overseas entity to include the information and statement required by subsection (2A) (information about trusts).

- 2★** Page 3, line 20, at end insert –
- “(2A) Where an application includes information that a registrable beneficial owner is a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the application must also include –
- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
 - (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.”

Member’s explanatory statement

This amendment provides that where an application for registration as an overseas entity discloses that a registrable beneficial owner is a trustee, it must include additional information about the trust.

Schedule 1

LORD CALLANAN

- 3★ Page 41, line 6, leave out “the table in section 4” and insert “sections 4, 7 and 9”

Member’s explanatory statement

This amendment is consequential on changes to clauses 4, 7 and 9.

- 4★ Page 42, line 3, at end insert –

“(f) whether the individual meets that condition by virtue of being a trustee.”

Member’s explanatory statement

This amendment would mean that the required information about a registrable beneficial owner who is an individual includes information about whether the individual is a trustee.

- 5★ Page 42, line 3, at end insert –

“(g) whether the individual is a designated person (within the meaning of section 9(2) of the Sanctions and Anti-Money Laundering Act 2018), where that information is publicly available.”

Member’s explanatory statement

This amendment would mean that the required information about a registrable beneficial owner who is an individual includes information about whether the individual is designated by virtue of the Sanctions and Anti-Money Laundering Act 2018.

- 6★ Page 42, line 21, at end insert –

“(g) whether the entity is a designated person (within the meaning of section 9(2) of the Sanctions and Anti-Money Laundering Act 2018), where that information is publicly available.”

Member’s explanatory statement

This amendment would mean that the required information about a registrable beneficial owner which is a government or public authority includes information about whether the entity is designated by virtue of the Sanctions and Anti-Money Laundering Act 2018.

- 7★ Page 42, line 36, at end insert –

“(h) whether the entity meets that condition by virtue of being a trustee.”

Member’s explanatory statement

This amendment would mean that the required information about a registrable beneficial owner who is a legal entity includes information about whether the entity is a trustee.

- 8★ Page 42, line 36, at end insert –

“(i) whether the entity is a designated person (within the meaning of section 9(2) of the Sanctions and Anti-Money Laundering Act 2018), where that information is publicly available.”

Member's explanatory statement

This amendment would mean that the required information about a registrable beneficial owner which is a legal entity includes information about whether the entity is designated by virtue of the Sanctions and Anti-Money Laundering Act 2018.

9★ Page 43, line 37, at end insert –

“PART 4A

TRUSTS

7A(1) The required information about a trust is –

- (a) the name of the trust or, if it does not have a name, a description by which it may be identified;
 - (b) the date on which the trust was created;
 - (c) in relation to each person who has at any time been a registrable beneficial owner in relation to the overseas entity by virtue of being a trustee of the trust –
 - (i) the person's name,
 - (ii) the date on which the person became a registrable beneficial owner in that capacity, and
 - (iii) if relevant, the date on which the person ceased to be a registrable beneficial owner in that capacity;
 - (d) in relation to each beneficiary under the trust, the information that would be required under paragraph 3(1)(a) to (c) or 5(1)(a) to (e) if the beneficiary were a registrable beneficial owner in relation to the overseas entity;
 - (e) in relation to each settlor or grantor, the information that would be required under paragraph 3(1)(a) to (c) or 5(1)(a) to (e) if the settlor or grantor were a registrable beneficial owner in relation to the overseas entity;
 - (f) in relation to any interested person (see sub-paragraph (3)) –
 - (i) the information that would be required under paragraph 3(1)(a) to (c) or 5(1)(a) to (e) if the interested person were a registrable beneficial owner in relation to the overseas entity, and
 - (ii) the date on which the person became an interested person.
- (2) In sub-paragraph (1)(c) “name”, in relation to an individual, has the meaning given by paragraph 3(2).
- (3) In sub-paragraph (1)(f) “interested person”, in relation to a trust, means any person who, under the terms of the trust, has rights in respect of –
- (a) the appointment or removal of trustees, or
 - (b) the exercise by the trustees of their functions.”

Member's explanatory statement

This amendment sets out the required information about a trust for the purposes of the amendments to clauses 4, 7 and 9.

10★ Page 43, line 41, leave out “7” and insert “7A”

Member's explanatory statement

This amendment expands the power to make further provision about the information required by the Schedule so that the power extends to the new paragraph 7A.

Clause 7

LORD CALLANAN

- 11★** Page 4, line 13, at end insert “and, where applicable, the statement and information mentioned in subsection (2A)”

Member's explanatory statement

This amendment requires an overseas entity when complying with the updating duty to include the information and statement mentioned in subsection (2A) (information about trusts).

- 12★** Page 4, line 15, at end insert “and, where applicable, the statement and information mentioned in subsection (2B)”

Member's explanatory statement

This amendment requires an overseas entity when complying with the updating duty to include the information and statement mentioned in subsection (2B) (information about trusts).

- 13★** Page 4, line 42, at end insert –

“(2A) Where information provided under subsection (1)(a) includes information that a registrable beneficial owner is a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(a) to provide –

- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
- (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.

(2B) Where information provided under subsection (1)(b) includes information that a person who became or ceased to be a registrable beneficial owner was a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(b) to provide –

- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
- (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.”

Member's explanatory statement

This amendment requires an overseas entity, when complying with its updating duty, to provide additional information and statements about trusts, where relevant.

- 14★** Page 5, line 2, leave out from “The” to “, must” in line 3 and insert “information required by subsection (1)(a), and any statements required by subsection (1)(a) or (b)”

Member's explanatory statement

This amendment is consequential on the amendments to clause 7(1)(a) and (b).

- 15★ Page 5, line 5, leave out “in relation to a person who has” and insert “as a result of a person having”

Member's explanatory statement

This amendment is consequential on the amendment to clause 7(1)(b).

Clause 9

LORD CALLANAN

- 16★ Page 6, line 14, at end insert “and, where applicable, the statement and information mentioned in subsection (2A)”

Member's explanatory statement

This amendment requires an overseas entity when applying for removal from the register to provide the information and statement mentioned in subsection (2A) (information about trusts).

- 17★ Page 6, line 16, at end insert “and, where applicable, the statement and information mentioned in subsection (2B)”

Member's explanatory statement

This amendment requires an overseas entity when applying for removal from the register to provide the information and statement mentioned in subsection (2B) (information about trusts).

- 18★ Page 6, line 43, at end insert –

“(2A) Where information provided under subsection (1)(b) includes information that a registrable beneficial owner is a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(b) to provide –

- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
- (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.

(2B) Where information provided under subsection (1)(c) includes information that a person who became or ceased to be a registrable beneficial owner was a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(c) to provide –

- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
- (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.”

Member's explanatory statement

This amendment requires an overseas entity, when applying for removal from the register, to provide additional information and statements about trusts, where relevant.

- 19★ Page 7, line 6, leave out from “The” to “, must” in line 7 and insert “information required by subsection (1)(b), and any statements required by subsection (1)(b) or (c)”

Member's explanatory statement

This amendment is consequential on the amendments to clause 9(1)(b) and (c).

- 20★ Page 7, line 9, leave out “in relation to a person who has” and insert “as a result of a person having”

Member's explanatory statement

This amendment is consequential on the amendment to clause 9(1)(c) about trusts information.

- 21★ Page 7, line 23, leave out sub-paragraph (i) and insert –
 “(i) is 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,”

Member's explanatory statement

This amendment expands the scope of circumstances where an overseas entity is registered as the proprietor of a relevant interest in land for the purpose of clause 9 (to include, for example, Keeper-induced registration) by removing the requirement for there to have been an application for registration.

- 22★ Page 7, line 33, leave out sub-paragraph (iii) and insert –
 “(iii) is the tenant under a lease that was registered in the Land Register of Scotland on or after that date, or”

Member's explanatory statement

This amendment rephrases clause 9(8)(b)(iii) to ensure consistency with the language used at paragraphs 10(1) and 11(1) of Schedule 4.

- 23★ Page 7, leave out line 45

Member's explanatory statement

This amendment is consequential on the amendment inserting a new subsection (10) into clause 9.

- 24★ Page 7, line 45, at end insert –
 “(10) For the purposes of subsection (8)(b)(i) –
 (a) the reference to an overseas entity's being entered as proprietor in the proprietorship section of a title sheet is a reference to the name of the entity being so entered, and

Clause 9 - continued

- (b) the date on which an overseas entity is entered as proprietor in the proprietorship section of a title sheet is, where the entry is made by virtue of an application for registration, the date of registration as determined under section 37 of the Land Registration etc. (Scotland) Act 2012 (date and time of registration).”

Member’s explanatory statement

This amendment applies terminology used in the Land Registration etc.(Scotland) Act 2012 to clause 9(8)(b)(i) to ensure consistency between the two legislative schemes.

Clause 12

LORD CALLANAN

- 25★ Page 8, line 28, leave out from “obtain” to end of line 29 and insert “, for the purposes of the application under section 4 or 9 or for the purposes of complying with the updating duty under section 7 –
- (i) the required information about each registrable beneficial owner, and
 - (ii) in respect of any registrable beneficial owner who is a trustee, the required information about the trust.”

Member’s explanatory statement

This amendment requires an overseas entity to take reasonable steps to obtain information about trusts, where relevant.

- 26★ Page 8, line 40, at end insert “, and
- (c) if the person is a registrable beneficial owner by virtue of being a trustee, to confirm or correct any of the required information about the trust that is specified in the notice and to supply any of the required information about the trust that the notice states the overseas entity does not already have.”

Member’s explanatory statement

This amendment requires an information notice under clause 12 to deal with information about trusts, where relevant.

Clause 18LORD FOX
LORD COAKER

- 27★ Page 11, line 18, leave out paragraph (b)

Member’s explanatory statement

This amendment removes the ability of the Secretary of State to exempt an individual from the requirements to register their overseas entities on the grounds of the economic wellbeing of the United Kingdom.

Clause 22

LORD CALLANAN

28★ Page 13, line 14, at end insert –

“(ba) any required information about a trust delivered to the registrar by virtue of section 4(2A), 7(2A) or (2B) or 9(2A) or (2B) (required information about trusts),”

Member’s explanatory statement

This amendment means that the required information about trusts will be unavailable for inspection on the public register.

29★ Page 13, line 27, leave out paragraph (a) and insert –

“(a) it relates to a registrable beneficial owner or managing officer in relation to an overseas entity,”

Member’s explanatory statement

This amendment ensures that date of birth and residential address information is protected even if it relates to a person who has ceased to be a registrable beneficial owner.

30★ Page 13, line 35, at end insert “, and

(d) it is not information about a trust delivered to the registrar by virtue of section 4(2A), 7(2A) or (2B) or 9(2A) or (2B).”

Member’s explanatory statement

This amendment excludes information about trusts from the definition of “protected” date of birth and residential address information. This is because other amendments create different provisions governing the disclosure etc of information about trusts.

After Clause 22

LORD CALLANAN

31★ Insert the following new Clause –

“Disclosure of information about trusts

- (1) This section applies to information delivered to the registrar by virtue of section 4(2A), 7(2A) or (2B) or 9(2A) or (2B) (required information about trusts).
- (2) The registrar may not disclose the information unless –
 - (a) the same information is made available by the registrar for public inspection otherwise than by virtue of being delivered to the registrar by virtue of a provision mentioned in subsection (1), or
 - (b) the disclosure is permitted by subsection (3).
- (3) The registrar may disclose the information to –
 - (a) the Commissioners for Her Majesty’s Revenue and Customs, or
 - (b) any other person who –
 - (i) has functions of a public nature, and

After Clause 22 - continued

- (ii) is specified for the purposes of this section by regulations made by the Secretary of State.
- (4) Regulations under this section are subject to the negative resolution procedure.”

Member’s explanatory statement

This new clause generally prevents the registrar from disclosing the required information about trusts. But it also includes a new power to disclose information to HMRC or other specified persons with public functions.

Clause 25

LORD CALLANAN

- 32★ Page 15, line 26, after “21” insert “, (Disclosure of information about trusts)”

Member’s explanatory statement

This amendment is consequential on the new clause about disclosure of information about trusts.

Clause 31

LORD CALLANAN

- 33★ Page 18, line 13, leave out “knowingly or recklessly” and insert “, without reasonable excuse,”

Member’s explanatory statement

This amendment removes the mental element for the offence under clause 31 and introduces a reasonable excuse defence instead (for example to cater for cases where an overseas entity reasonably relies on information provided by others which turns out to be untrue).

- 34★ Page 18, line 18, at end insert –

“(1A) An offence under this section is aggravated if, when the document or statement is delivered, the person knows that it is misleading, false or deceptive in a material particular.”

Member’s explanatory statement

This amendment provides that an offence under clause 31 is aggravated if it is committed by a person who knew that the document or statement provided is misleading, false or deceptive in a material particular. A later amendment imposes a higher penalty for an aggravated offence.

- 35★ Page 18, line 18, at end insert –

“(1B) A person guilty of an offence under this section, other than an aggravated offence, is liable –

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland, to a fine not exceeding level 5 on the standard scale;

Clause 31 - continued

- (c) on summary conviction in Northern Ireland, to a fine not exceeding level 5 on the standard scale.”

Member’s explanatory statement

This amendment provides for the penalty for an offence under clause 31 other than an aggravated offence.

- 36★ Page 18, line 19, after “an” insert “aggravated”

Member’s explanatory statement

This amendment provides for the current penalty under clause 31 to apply only where the offence is an aggravated offence (because of the defendant’s knowledge).

Clause 32

LORD CALLANAN

- 37★ Page 19, line 13, at end insert –
“(5A) The Secretary of State must consult the Department of Finance in Northern Ireland before making regulations under subsection (4).”

Member’s explanatory statement

This amendment requires the Secretary of State to consult a Northern Ireland department before making regulations under clause 32(4).

Schedule 3

LORD CALLANAN

- 38★ Page 55, line 20, leave out “period of 6 months beginning with the commencement date” and insert “transitional period”

Member’s explanatory statement

This amendment and related amendments align the transitional periods under Schedule 3 with the period in new clause (Applications in the transitional period: information about land transactions).

- 39★ Page 56, line 9, leave out from “estate” to end of line 10 and insert “as soon as reasonably practicable and in any event before the end of the transitional period”

Member’s explanatory statement

This amendment requires the Chief Land Registrar to act as soon as reasonably practicable, and in any event before the end of the transitional period, to enter a restriction in relation to an estate in land owned by an overseas entity since before the Bill comes into force.

- 40★ Page 56, line 11, leave out “period of 6 months beginning with the commencement date” and insert “transitional period”

Member's explanatory statement

This amendment and related amendments align the transitional periods under Schedule 3 with the period in new clause (Applications in the transitional period: information about land transactions).

- 41★ Page 56, line 15, leave out “this Part of this Schedule comes” and insert “section 3(1) comes fully”

Member's explanatory statement

This amendment changes the definition of “the commencement date” in Schedule 3 so that it is the same as the date from which the transitional period (as amended) would run.

- 42★ Page 56, line 21, at end insert –
 ““the transitional period” has the meaning given by section (Applications in the transitional period: information about land transactions)(10).”

Member's explanatory statement

This amendment defines “the transitional period” for the purposes of Part 2 of Schedule 3 to have the same meaning as in new clause (Applications in the transitional period: information about land transactions).

Schedule 4

LORD CALLANAN

- 43★ Page 57, line 29, leave out “granted” and insert “delivered”

Member's explanatory statement

This amendment ensures consistency with paragraph 7 of Schedule 4, which prohibits the delivery of a qualifying registrable deed in specified circumstances.

- 44★ Page 58, line 34, at end insert –
 “(3) Sub-paragraph (2) does not apply where –
 (a) the application is made by a person other than the overseas entity referred to in sub-paragraph (1)(b)(i), and
 (b) the deed in respect of which the application is made is a lease or an assignation of a lease the subjects of which consist of or form part of an unregistered plot of land of which that overseas entity is the proprietor.”

Member's explanatory statement

This amendment provides an exception to the application of sub-paragraph (2) in circumstances where a third party makes an application to register a lease or an assignation of lease, which necessitates the registration of the overseas entity's title as a result of automatic plot registration.

- 45★ Page 58, line 40, leave out “was registered” and insert “is registered, having been so registered”

Member's explanatory statement

This amendment clarifies the point in time at which the overseas entity's interest must have been registered in order to fall within the scope of this provision.

46★ Page 59, line 2, after second “or” insert –

“(ii) in respect of a transfer of ownership or other event that”

Member's explanatory statement

This amendment clarifies that the exception provided for at paragraph 2(2)(a) applies in circumstances where the application for registration is in respect of a transfer of ownership or other event that occurs by operation of law.

47★ Page 59, line 48, at end insert –

“(3) Sub-paragraph (2) does not apply where –

- (a) the application is made by a person other than the overseas entity referred to in sub-paragraph (1)(b)(i), and
- (b) the deed in respect of which title is being completed is a lease or an assignation of a lease the subjects of which consist of or form part of an unregistered plot of land of which that overseas entity is the proprietor.”

Member's explanatory statement

This amendment provides an exception to the application of sub-paragraph (2) where a third party makes an application to complete title in respect of a lease or an assignation of lease, which necessitates the registration of the overseas entity's title as a result of automatic plot registration.

48★ Page 60, line 9, leave out “was registered” and insert “is registered, having been so registered”

Member's explanatory statement

This amendment clarifies the point in time at which the overseas entity's interest must have been registered in order to fall within the scope of this provision.

49★ Page 60, line 16, after second “or” insert –

“(ii) in respect of a transfer of ownership or other event that”

Member's explanatory statement

This amendment clarifies that the exception provided for at paragraph 4(2)(a) applies in circumstances where the application for registration is in respect of a transfer of ownership or other event that occurs by operation of law.

50★ Page 60, line 46, after “43(1)” insert “or (5)”

Member's explanatory statement

This amendment extends the scope of paragraph 5 to include applications made by virtue of section 43(5) of the Land Registration etc.(Scotland) Act 2012, provided such applications meet the other criteria set out in paragraph 5(1).

- 51★ Page 61, line 2, at end insert “, and
(ii) that entry would be marked as provisional under section 44(1).”

Member’s explanatory statement

This amendment narrows the scope of paragraph 5 to ensure that prescriptive claimants who are not overseas entities are not prevented from registering their prescriptive application where the existing title is held by an overseas entity.

- 52★ Page 63, line 5, leave out paragraph (a) and insert –
“(a) an overseas entity is entered as proprietor in the proprietorship section of the title sheet for a plot of land that is registered in the Land Register of Scotland, having been so entered during the pre-commencement period,”

Member’s explanatory statement

This amendment is consequential on the amendment to clause 9(8)(b)(i) and clarifies that the entry has to have been made during the pre-commencement period.

- 53★ Page 63, line 33, leave out paragraph (a) and insert –
“(a) an overseas entity is entered as proprietor in the proprietorship section of the title sheet for a plot of land that is registered in the Land Register of Scotland, having been so entered during the pre-commencement period,”

Member’s explanatory statement

This amendment is consequential on the amendment to clause 9(8)(b)(i) and clarifies that the entry has to have been made during the pre-commencement period.

- 54★ Page 64, line 9, leave out “this Part of this Schedule comes” and insert “section 3(1) comes fully”

Member’s explanatory statement

This amendment changes the definition of “the commencement date” in Schedule 4 so that it is the same as the date from which the transitional period (as amended) would run.

- 55★ Page 64, leave out lines 22 and 23

Member’s explanatory statement

This amendment is consequential on the amendment inserting a paragraph 12A into new schedule 1A to the Land Registration etc.(Scotland) Act 2012.

- 56★ Page 64, line 24, leave out from “period” to end of line 25 and insert “has the meaning given by section (Applications in the transitional period: information about land transactions)(10).”

Member’s explanatory statement

This amendment aligns the transitional period under Part 2 of Schedule 4 with the period in new clause (Applications in the transitional period: information about land transactions).

57★ Page 64, line 25, at end insert –

“12A For the purposes of paragraphs 10(1)(a) and 11(1)(a) –

- (a) references to an overseas entity’s being entered as proprietor in the proprietorship section of a title sheet are references to the name of the entity being so entered, and
- (b) the date on which an overseas entity was entered as proprietor in the proprietorship section of a title sheet is, where the entry was made by virtue of an application for registration, the date of registration as determined under section 37 of the Land Registration etc. (Scotland) Act 2012 (date and time of registration).”

Member’s explanatory statement

This amendment applies terminology used in the Land Registration etc.(Scotland) Act 2012 to paragraphs 10(1)(a) and 11(1)(a) of new schedule 1A to ensure consistency between the two legislative schemes.

58★ Page 64, leave out lines 33 and 34 and insert “transitional period (within the meaning given by section (Applications in the transitional period: information about land transactions)(10)).”

Member’s explanatory statement

This amendment aligns the period mentioned in paragraph 13(2) of Schedule 4 with the transitional period in new clause (Applications in the transitional period: information about land transactions).

59★ Page 64, line 43, at end insert –

“(4A) The Secretary of State must consult the Scottish Ministers before making regulations under this paragraph 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 amendment requires the Secretary of State to consult the Scottish Ministers before making regulations under paragraph 13 of Schedule 4 that contain provision within devolved legislative competence.

After Clause 38

LORD CALLANAN

60★ Insert the following new Clause –

“Sharing of information by HMRC

Sharing of information by HMRC

- (1) The Commissioners for Her Majesty’s Revenue and Customs may disclose information to the Secretary of State or the registrar for the purpose of the taking of action in connection with an offence under this Part.
- (2) For the purposes of this section, the taking of action in connection with an offence under this Part includes any of the following –
 - (a) investigating whether an offence has been committed;

After Clause 38 - continued

- (b) prosecuting an offence;
 - (c) imposing financial penalties for conduct amounting to an offence.
- (3) A person who receives information as a result of this section –
- (a) may not use the information other than for the purpose of the taking of action in connection with an offence under this Part;
 - (b) may not further disclose the information unless the disclosure is necessary for the taking of action in connection with an offence under this Part.
- (4) It is an offence for a person to disclose, in contravention of subsection (3)(b), any revenue and customs information relating to a person whose identity –
- (a) is specified in the disclosure, or
 - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person reasonably believed –
- (a) that the disclosure was lawful, or
 - (b) that the information had already lawfully been made available to the public.
- (6) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under subsection (4) as they apply to an offence under that section.
- (7) In this section “revenue and customs information relating to a person” has the same meaning as in section 19 of the Commissioners for Revenue and Customs Act 2005 (see section 19(2) of that Act).”

Member’s explanatory statement

This amendment permits HMRC to disclose information to allow the registrar and the Secretary of State to take action in connection with offences.

61★ Insert the following new Clause –

“Applications in the transitional period: information about land transactions

- (1) This section applies where an overseas entity makes an application under section 4 for registration before the end of the transitional period.
- (2) If the entity has not made any relevant dispositions of land during the period –
 - (a) beginning with 28 February 2022, and
 - (b) ending with the making of the application,
 the application must include a statement to that effect.
- (3) If the entity has made any relevant dispositions of land during the period mentioned in subsection (2), the application must include –
 - (a) the required information about each relevant disposition of land made during that period (see subsection (5)),

After Clause 38 - continued

- (b) in relation to each such disposition, the statements and information mentioned in paragraphs (a), (b) and (c) of section 4(1) expressed by reference to the state of affairs immediately before the making of the disposition, and
 - (c) a statement that all of the information required by paragraphs (a) and (b) of this subsection has been included in the application.
- (4) In this section “relevant disposition of land”, in relation to an overseas entity, means –
- (a) a registrable disposition of a qualifying estate within section 27(2)(a), (b)(i) or (f) of the Land Registration Act 2002 other than –
 - (i) a disposition made in pursuance of a statutory obligation or court order, or occurring by operation of law, or
 - (ii) a disposition made by a specified insolvency practitioner in specified circumstances (within the meaning of paragraph 3(3) of Schedule 4A to the Land Registration Act 2002, as inserted by Schedule 3 to this Act);
 - (b) the delivery by the entity of a qualifying registrable deed granted by it where the entity’s interest in respect of which the deed was granted was registered in the Land Register of Scotland on or after 8 December 2014, unless the deed was granted –
 - (i) in pursuance of a statutory obligation or court order, or
 - (ii) by a specified insolvency practitioner in specified circumstances (within the meaning of paragraph 2(5) of schedule 1A of the Land Registration etc. (Scotland) Act 2012, as inserted by Schedule 4 to this Act).
- (5) The required information about a relevant disposition of land is –
- (a) where the relevant disposition of land is within subsection (4)(a) –
 - (i) the date of disposition, and
 - (ii) the registered title number of the qualifying estate;
 - (b) where the relevant disposition of land is within subsection (4)(b) –
 - (i) the date of delivery of the deed, and
 - (ii) the title number of the title sheet in which the entity’s interest is entered.
- (6) In subsection (4)(a) “qualifying estate” means –
- (a) a freehold estate in land, or
 - (b) a leasehold estate in land granted for a term of more than seven years from the date of grant,
- of which the overseas entity became a registered proprietor in pursuance of an application made on or after 1 January 1999.
- (7) In subsection (6) “registered proprietor”, in relation to an estate, means the person entered as proprietor of the estate in the register of title kept by the Chief Land Registrar.
- (8) In subsection (4)(b) “qualifying registrable deed” means a registrable deed (within the meaning of the Land Registration etc.(Scotland) Act 2012) which is –
- (a) a disposition,

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- (b) a standard security,
 - (c) a lease (including a sub-lease), or
 - (d) an assignation of a lease (including a sub-lease).
- (9) For the purposes of subsection (4)(b), a qualifying registrable deed is to be treated, as at the date of delivery, as having been granted even if at that time it has been executed by the overseas entity only.
- (10) In this section “the transitional period” means the period of 6 months beginning with the day on which section 3(1) comes fully into force.”

Member’s explanatory statement

This new clause requires an overseas entity, when making an application within the first 6 months of the commencement of clause 3(1), to provide additional information about relevant dispositions of land on or after 28 February 2022.

LORD COAKER

As an amendment to Amendment 61

- 62★** In subsection (10) leave out “6 months” and insert “90 days”

LORD CALLANAN

- 63★** Insert the following new Clause—

“Requirement for certain unregistered overseas entities to provide information

- (1) An overseas entity, and every officer of the entity who is in default, commits an offence if—
- (a) at any time during the period beginning with 28 February 2022 and ending with the end of the transitional period, the entity has made a relevant disposition of land,
 - (b) at the end of the transitional period the entity—
 - (i) is not registered as an overseas entity,
 - (ii) has not made an application for registration as an overseas entity that is pending, and
 - (iii) is not an exempt overseas entity, and
 - (c) the entity has not, after making the relevant disposition of land and before the end of the transitional period, delivered to the registrar—
 - (i) statements and information of the kind mentioned in paragraphs (a), (b), (c) and (d) of section 4(1), expressed by reference to the state of affairs immediately before the making of the relevant disposition of land, and
 - (ii) the required information about the relevant disposition of land (within the meaning of section (*Applications in the transitional period: information about land transactions*) (5)).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
- (a) in England and Wales to a fine and, for continued contravention, a daily default fine not exceeding the greater of £2,500 and one half of level 4 on the standard scale;

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- (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one half of level 5 on the standard scale.
- (3) The contravention continues until such time as the overseas entity has delivered the statements and information mentioned in subsection (1)(c).
- (4) In the case of continued contravention, an offence is also committed by every officer of the overseas entity who did not commit an offence under subsection (1) in relation to the initial contravention but who is in default in relation to the continued contravention.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction—
 - (a) in England and Wales, to a fine not exceeding the greater of £2,500 and one half of level 4 on the standard scale for each day on which the contravention continues and the person is in default;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding one half of level 5 on the standard scale for each day on which the contravention continues and the person is in default.
- (6) In this section—
 - “exempt overseas entity” means an entity of a description specified in regulations under section 33(6);
 - “relevant disposition of land” has the meaning given by section (*Applications in the transitional period: information about land transactions*) (4);
 - “transitional period” has the meaning given by section (*Applications in the transitional period: information about land transactions*) (10).”

Member’s explanatory statement

This new clause makes it an offence for certain unregistered overseas entities to fail to provide information about relevant dispositions of land made on or after 28 February.

64★

Insert the following new Clause—

“Section (Requirement for certain unregistered overseas entities to provide information): supplementary

- (1) Section 12 has effect as if—
 - (a) subsection (1) included a reference to an overseas entity being under a duty to comply with that section before delivering statements and information under section (*Requirement for certain unregistered overseas entities to provide information*)(1)(c)(i);
 - (b) subsection (2) included a reference to obtaining information for the purposes of section (*Requirement for certain unregistered overseas entities to provide information*)(1)(c)(i).
- (2) The Secretary of State may by regulations make further provision in connection with—
 - (a) the provision of information under section (*Requirement for certain unregistered overseas entities to provide information*)(1)(c),

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- (b) the verification of that information, or
 - (c) the processing of that information by the registrar,
- including provision modifying any provision made by or under this Part or applying any provision made by or under this Part with modifications.
- (3) Regulations under this section are subject to the negative resolution procedure.”

Member’s explanatory statement

This new clause makes further provision in connection with new clause (Requirement for certain unregistered overseas entities to provide information).

Clause 39

LORD CALLANAN

65★ Page 22, line 22, at end insert –

- “(2) A reference in section 12 or 13 to a person who is a registrable beneficial owner of an overseas entity includes, in connection with the obtaining of information required by section 7(1)(b), 9(1)(c), (*Applications in the transitional period: information about land transactions*)(3)(b) or (*Requirement for certain unregistered overseas entities to provide information*)(1)(c)(i), a reference to a person who has ceased to be a registrable beneficial owner.
- (3) A reference in this Part to a trust includes arrangements, under the law of a country or territory outside the United Kingdom, that are of a similar character to a trust, and any related expressions are to be read accordingly.
- (4) The Secretary of State may by regulations make provision specifying descriptions of arrangements that are, or are not, to be treated as being of a similar character to a trust for the purposes of subsection (3).
- (5) Regulations under subsection (4) are subject to the negative resolution procedure.”

Member’s explanatory statement

This amendment makes further interpretive provision, including provision extending the provisions of Part 1 of the Bill in relation to trusts so that they apply to arrangements of a similar character outside the UK.

Economic Crime (Transparency and Enforcement) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

14 March 2022
