



HOUSE OF LORDS

Delegated Powers and Regulatory Reform
Committee

23rd Report of Session 2021–22

Economic Crime (Transparency and Enforcement) Bill: Government Response

Ordered to be printed 14 March 2022 and published 14 March 2022

Published by the Authority of the House of Lords

The Delegated Powers and Regulatory Reform Committee

The Committee is appointed by the House of Lords each session and has the following terms of reference:

- (i) To report whether the provisions of any bill inappropriately delegate legislative power, or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny;
- (ii) To report on documents and draft orders laid before Parliament under or by virtue of:
 - (a) sections 14 and 18 of the Legislative and Regulatory Reform Act 2006,
 - (b) section 7(2) or section 19 of the Localism Act 2011, or
 - (c) section 5E(2) of the Fire and Rescue Services Act 2004;

and to perform, in respect of such draft orders, and in respect of subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001, the functions performed in respect of other instruments and draft instruments by the Joint Committee on Statutory Instruments; and

- (iii) To report on documents and draft orders laid before Parliament under or by virtue of:
 - (a) section 85 of the Northern Ireland Act 1998,
 - (b) section 17 of the Local Government Act 1999,
 - (c) section 9 of the Local Government Act 2000,
 - (d) section 98 of the Local Government Act 2003, or
 - (e) section 102 of the Local Transport Act 2008.

Membership

Baroness Browning
Lord Cunningham of Felling
Lord Goddard of Stockport
Lord Haselhurst
Lord Hendy

Lord Janvrin
Lord McLoughlin (Chair)
Baroness Meacher
Lord Rooker
Lord Tope

Registered Interests

Committee Members' registered interests may be examined in the online Register of Lords' Interests at www.parliament.uk/hlregister. The Register may also be inspected in the Parliamentary Archives.

Publications

The Committee's reports are published by Order of the House in hard copy and on the internet at www.parliament.uk/hldprcrpublications.

General Information

General information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at <http://www.parliament.uk/business/lords/>.

Contacts for the Delegated Powers and Regulatory Reform Committee

Any query about the Committee or its work should be directed to the Clerk of Delegated Legislation, Legislation Office, House of Lords, London, SW1A 0PW. The telephone number is 020 7219 3103. The Committee's email address is hldelgatedpowers@parliament.uk.

Historical Note

In February 1992, the Select Committee on the Committee work of the House, under the chairmanship of Earl Jellicoe, noted that "in recent years there has been considerable disquiet over the problem of wide and sometimes ill-defined order-making powers which give Ministers unlimited discretion" (Session 1991–92, HL Paper 35-I, paragraph 133). The Committee recommended the establishment of a delegated powers scrutiny committee which would, it suggested, "be well suited to the revising function of the House". As a result, the Select Committee on the Scrutiny of Delegated Powers was appointed experimentally in the following session. It was established as a sessional committee from the beginning of Session 1994–95. The Committee also has responsibility for scrutinising legislative reform orders under the Legislative and Regulatory Reform Act 2006 and certain instruments made under other Acts specified in the Committee's terms of reference.

Twenty Third Report

ECONOMIC CRIME (TRANSPARENCY AND ENFORCEMENT) BILL: GOVERNMENT RESPONSE

1. We considered this Bill in our 22nd Report of this Session.¹ The Government have responded by way of a letter from Lord Callanan, Minister for Business, Energy and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, and Lord Ahmad, Minister of State, South and Central Asia, North Africa, United Nations and the Commonwealth at the Foreign, Commonwealth and Development Office. The response is printed at Appendix 1.

¹ [22nd Report](#), Session 2021–22 (HL Paper 172).

APPENDIX 1: ECONOMIC CRIME (TRANSPARENCY AND ENFORCEMENT) BILL: GOVERNMENT RESPONSE

Letter from Lord Callanan, Minister for Business, Energy and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy, and Lord Ahmad, Minister of State, South and Central Asia, North Africa, United Nations and the Commonwealth at the Foreign, Commonwealth and Development Office, to the Rt Hon. the Lord McLoughlin CH, Chair of the Delegated Powers and Regulatory Reform Committee

We are writing to thank you for the Committee's report on the Economic Crime (Transparency and Enforcement) Bill, particularly in the context of this Bill's expedited passage through Parliament.

We have noted that the Committee recommended that the powers in clauses 53 and 54 (to add countries to the list used for the purposes of the urgent procedure) be made subject to the affirmative resolution procedure, with the made affirmative procedure applying in cases of urgency. It is worth noting that there is no split procedure in the Sanctions and Anti-Money Laundering Act 2018 but the Foreign, Commonwealth and Development Office will give further consideration to what further action may be required pursuant to the Committee's recommendation.

Without wanting to pre-empt the will of the House, given the pace of passage for this Bill we wanted to share some further information on the Government amendments tabled ahead of Committee stage on 14 March. The impact of these on the delegated powers in the Bill is summarised at Annex A.

Should you have any questions regarding the Bill, please do not hesitate to contact us. Thank you once again.

Annex A

Amendments 21 and 32

1. The Government is making a series of amendments so that where an overseas entity's beneficial owners are trusts or offshore trust-like arrangements, certain information has to be provided to the registrar about them. Amendment 21 gives the registrar a power to disclose information received about beneficial owners which are trusts/offshore trust-like arrangements to (1) HMRC and (2) any other person who has functions of a public nature who is specified in regulations made by the Secretary of State. These regulations are subject to the negative procedure. We consider this level of scrutiny is appropriate for the specification of recipients of information; this mirrors provision in s.243(2) of the Companies Act 2006, which is concerned with the disclosure of "protected information" held by registrar about company directors' usual residential addresses and dates of birth. S.234(2) regulations are also subject to the negative procedure (subsection (8)).
2. Amendment 32 gives the Secretary of State a power to specify descriptions of offshore arrangements which are or are not to be treated as of a similar character to a trust in the UK. This is subject to the negative procedure, which is considered appropriate for a mechanism which is used to prescribe which sorts of offshore arrangement are to be caught by the disclosure obligation.

Amendment 31

3. Amendment 30 provides for an obligation on certain unregistered overseas entities to make a statement containing details of any “relevant disposition of land” in a period beginning with the date of publication of the Bill (28 February) and the end of the transition period. Amendment 31 gives a power to Ministers to make regulations, subject to the negative procedure, to make further provision in connection with (a) the provision of information by overseas entities under the new statement obligation; (b) the verification of that information; and (c) the processing of that information by the registrar.
4. This power enables Ministers to include provision modifying any provision made by or under Part 1 of the Bill or applying any provision made by or under Part 1 with modifications. The purpose of this power is to ensure that, for example, the administrative matters contained in clauses 5 and 6 of the Bill, about the allocation by the registrar of IDs to overseas entities when they register, and the registrar’s duty to give notice to them about the ID allocated to them, can be adapted so as to work in the context of unregistered overseas entities who, rather than applying for registration, are delivering the statement required under amendment 30. These regulations are subject to the negative procedure. We consider this is an appropriate level of scrutiny for a power whose purpose is to adapt existing provisions of Part 1 of the Bill concerned with registration, and matters that flow from that, to make them work for the different context of the giving of a statement.

13 March 2022

APPENDIX 2: MEMBERS' INTERESTS

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <https://www.parliament.uk/hlregister>. The Register may also be inspected in the Parliamentary Archives.