

# Criminal Finances Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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**Clause 1**

LORD FAULKES  
LORD ANDERSON OF SWANSEA

Page 3, line 5, at end insert –

“(c) the respondent has a financial interest in land or property in England and Wales which is registered in the name of an overseas company.”

**After Clause 11**

BARONESS KRAMER  
BARONESS HAMWEE

Insert the following new Clause –

**“Whistleblowing**

- (1) The Secretary of State must by regulations made by statutory instrument establish an Office of the Whistleblower.
- (2) The functions of the Office shall be the administration of arrangements to facilitate whistleblowing in respect of corrupt or suspected corrupt practices in systematically important financial institutions including in particular with regard to fraud, tax evasion, money laundering or miss-selling.
- (3) The Office shall have powers –
  - (a) to give directions as to the records kept by each institution and to check compliance with its directions including by audit;
  - (b) to award financial compensation to any person voluntarily providing information to –
    - (i) the Financial Conduct Authority;
    - (ii) the Prudential Regulation Committee of the Bank of England;
    - (iii) the Serious Fraud Office; or
    - (iv) any other organisation designated by the Secretary of State;leading to enforcement action against the institution sanctioned by way of penalty of not less than £500,000; and

**After Clause 11 - continued**

- (c) to set the level of compensation awarded in each case between 10% and 30% of the total collected.
- (4) The Secretary of State must by regulations made by statutory instrument make provision with regard to retaliatory action against whistleblowers.
- (5) For the purposes of this section a “systematically important financial institution is an institution” designated by the Bank of England in consultation with the Financial Stability Board and the Basel Committee on Banking Supervision.”

LORD ROSSER  
LORD KENNEDY OF SOUTHWARK

Insert the following new Clause—

**“Suspicious Activity Reports: prioritising resources**

- (1) The National Crime Agency is required to designate a qualifying suspicious activity report as “a high priority investigation”.
- (2) In this section a “qualifying suspicious activity report” is a report which the Director General or a National Crime Agency authorised officer considers to—
  - (a) suggest the presence of serious organised crime; and
  - (b) be an efficient and effective use of National Crime Agency resources for further investigation.
- (3) In this section “a high priority investigation” is an investigation which takes priority over other possible investigations in terms of time and other National Crime Agency resources.”

Insert the following new Clause—

**“Duty on Secretary of State: money laundering**

The Secretary of State must lay before each House of Parliament an annual statement on the money laundering supervision regime and any plans the Government has to amend it.”

**After Clause 20**

LORD ROSSER  
LORD KENNEDY OF SOUTHWARK

Insert the following new Clause—

**“Report to Parliament on impact on enforcement authorities**

- (1) The Secretary of State must, within 18 months of the day on which this Act is passed, lay before both Houses of Parliament a report on the implementation of this Act and the impact on enforcement authorities.
- (2) The report must include an assessment of—
  - (a) what, if any, additional resources are required by enforcement authorities in order to carry out their functions and powers under this Act;

**After Clause 20 - continued**

- (b) what, if any, additional resources have been provided to enforcement authorities to support them in carrying out their functions and powers under this Act;
  - (c) what additional training has been provided by enforcement authorities to staff members in order to allow them to effectively carry out their functions and powers under this Act;
  - (d) to what extent enforcement authorities have used the powers provided under this Act.
- (3) In this section “enforcement authorities” means –
- (a) the National Crime Agency;
  - (b) Her Majesty’s Revenue and Customs;
  - (c) the Financial Conduct Authority;
  - (d) the Serious Fraud Office; and
  - (e) the Director of Public Prosecutions (in relation to England and Wales) or the Director of Public Prosecutions for Northern Ireland (in relation to Northern Ireland).”

**After Clause 47**

BARONESS BOWLES OF BERKHAMSTED

Insert the following new Clause –

**“Failure to prevent an economic criminal offence**

- “(1) The commencement of the following provisions is subject to subsections (11) to (14).
- (2) A relevant body (B) is guilty of an offence if a person commits an economic criminal offence when acting in the capacity of a person associated with (B).
- (3) For the purposes of this section “economic criminal offence” means –
- (a) the common law offence of conspiracy to defraud;
  - (b) an offence under section 1 of the Fraud Act 2006 (fraud);
  - (c) an offence under section 17 of the Theft Act 1968 (false accounting); and
  - (d) an offence under sections 327 to 333 of the Proceeds of Crime Act 2002.
- (4) It is a defence for B to prove that, when the economic criminal offence was committed –
- (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
  - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (5) For the avoidance of doubt, the defence under subsection (4) is satisfied by the civil standard.
- (6) In subsection (4) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing an economic criminal offence.
- (7) A relevant body guilty of an offence under this section is liable –

**After Clause 47 - continued**

- (a) on conviction on indictment, to a fine,
  - (b) on summary conviction in England and Wales, to a fine,
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (8) It is immaterial for the purposes of this section whether –
- (a) any relevant conduct of a relevant body, or
  - (b) any conduct which constitutes part of a relevant criminal financial offence,
- takes place in the United Kingdom or elsewhere.
- (9) The Chancellor of the Exchequer and the Secretary of State must prepare and publish guidance about procedures that relevant bodies can put in place to prevent persons acting in the capacity of an associated person from committing an economic criminal offence.
- (10) Sections 44 to 47 apply in respect of an offence under this section as they apply to an offence under sections 42 and 43.
- (11) The provisions in subsection (1) to (9) of this section come into force on whatever day or days the Secretary of State appoints by regulations made by statutory instrument.
- (12) The Secretary of State may not make regulations under this section until a consultation on economic criminal offences has been carried out and a report on the results of the consultation has been published.
- (13) This section ceases to have effect on 1 January 2020 if the Secretary of State has not made regulations under this section by that date.
- (14) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORD ROSSER

LORD KENNEDY OF SOUTHWARK

Insert the following new Clause –

**“Exclusion of companies from public procurement**

The Secretary of State must publish an annual report on the number of companies which have been excluded from tendering for public contracts under the Public Contracts Regulations 2015 or had an existing public contract terminated as a result of being charged with an offence under section 42 or 43 of this Act.”

Insert the following new Clause –

**“Corporate probation order**

- (1) A court before which a relevant body (“B”) is convicted of an offence under section 42 or 43 of this Act may make a corporate probation order in relation to B.
- (2) A corporate probation order –

**After Clause 47 - continued**

- (a) shall require B to implement a compliance procedure or make changes to an existing compliance procedure to prevent persons acting in the capacity of a person associated with B from committing UK tax evasion facilitation offences or foreign tax evasion facilitation offences;
  - (b) may require B to appoint an external body to verify that compliance procedure, costs of which shall be met by B.
- (3) A corporate probation order may be made only on an application by the prosecution specifying the terms of the proposed order, and any such order must be on such terms (whether those proposed or others) as the court considers appropriate having regard to any representations made, and any evidence adduced, in relation to that matter by the prosecution and on behalf of B.
- (4) Before making an application for a probation order, the prosecution must consult such an enforcement authority or authorities as it considers appropriate.
- (5) An organisation that fails to comply with a corporate probation order is guilty of an offence, and is liable—
- (a) on conviction on indictment, to a fine,
  - (b) on summary conviction in England and Wales, to a fine,
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (6) For the purposes of this section “relevant body” has the same meaning as in section 41 of this Act.”

Insert the following new Clause—

**“Corporate criminal liability for economic crime**

- (1) The Secretary of State must issue a public consultation on new criminal offences for corporate criminal liability for economic crime within 6 months of the day on which this Act is passed.
- (2) The Secretary of State must bring forward legislative proposals in response to the consultation in subsection (1) within 12 months of the day on which this Act is passed.”

**After Clause 48**

LORD ROSSER  
LORD KENNEDY OF SOUTHWARK

Insert the following new Clause—

**“Public register of beneficial ownership of UK property by companies registered outside the UK**

- (1) In Part 1 of the Proceeds of Crime Act 2002 (introductory), after section 2A, insert—  
**“2AA Duty of Secretary of State: Public registers of beneficial ownership of UK property by companies registered outside the UK**

**After Clause 48 - continued**

- (1) It shall be the duty of the Secretary of State, in furtherance of the purposes of—
  - (a) this Act; and
  - (b) Part 3 of the Criminal Finances Act 2017,
 to take the actions set out in this section.
- (2) The first action is to issue a public consultation on the establishment of a publicly accessible register of the beneficial ownership of UK property by companies registered in non-UK jurisdictions within 6 months of the commencement of section 1 of this Act.
- (3) The second action is to bring forward legislative proposals for the establishment of a publicly accessible register of the beneficial ownership of UK property by companies registered in non-UK jurisdictions within 12 months of the commencement of section 1 of this Act.
- (4) In this section “a publicly accessible register of the beneficial ownership of companies” means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006.”

Insert the following new Clause—

**Public registers of beneficial ownership of companies registered in Crown Dependencies**

In Part 1 of the Proceeds of Crime Act 2002 (introductory), after section 2A, insert—

**“2AA Duty of Secretary of State: public registers of beneficial ownership of companies registered in Crown Dependencies**

- (1) It shall be the duty of the Secretary of State, in furtherance of the purposes of—
  - (a) this Act; and
  - (b) Part 3 of the Criminal Finances Act 2017,
 to take the actions set out in this section.
- (2) The first action is, no later than 31 December 2018, to provide all reasonable assistance to the governments of Crown Dependencies to enable each of those governments to establish a publicly accessible register of the beneficial ownership of companies registered in that government’s jurisdiction.
- (3) The second action is, no later than 31 December 2018, to lay a report before both Houses of Parliament on progress made in the establishment, by the governments of each Crown Dependency, of a publicly accessible register of the beneficial ownership of companies registered in that government’s jurisdiction.
- (4) In this section “a publicly accessible register of the beneficial ownership of companies” means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006.””

**Clause 55**

BARONESS BOWLES OF BERKHAMSTED

Page 115, line 6, at beginning insert “Subject to section (*Failure to prevent an economic criminal offence*),”

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*23 March 2017*

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