



EXPLANATORY NOTES

Economic Crime (Transparency and Enforcement) Act 2022

Chapter 10

£12.65

ECONOMIC CRIME (TRANSPARENCY AND ENFORCEMENT) ACT 2022

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Economic Crime (Transparency and Enforcement) Act 2022 which received Royal Assent on 15 March 2022 (c. 10).

- These Explanatory Notes have been prepared by the Home Office, Department for Business, Energy and Industrial Strategy, HM Treasury and the Foreign, Commonwealth and Development Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act affects existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 The Economic Crime (Transparency and Enforcement) Act 2022 has four main objectives:
 - Prevent and combat the use of land in the UK for money laundering purposes by increasing the transparency of beneficial ownership information relating to overseas entities that own land in the UK. The Act therefore creates a register of the beneficial owners of such entities. The register will be held by Companies House and made public.
 - Reform the UK's Unexplained Wealth Order (UWO) regime to enable law enforcement to investigate the origin of property and recover the proceeds of crime. The measures in the Act aim to strengthen the UK's fight against serious economic crime; to clarify the scope of UWO powers; and to increase and reinforce operational confidence in relation to UWO powers.
 - Amend financial sanctions legislation, including the monetary penalty legal test and information sharing powers to help deter and prevent breaches of financial sanctions.
 - Amend sanctions legislation to enable Ministers to impose sanctions quicker and in concert with others. The measures in the Act reform how sanctions are imposed, how sanctions are reviewed, and how challenges to sanctions are dealt with.

Policy background

Registration of Overseas Entities

- 2 There has been widespread concern expressed about the lack of transparency around who ultimately owns land in the UK, where the land is registered to an overseas company or other entity. Currently, the information available about overseas owners of land (or registered leaseholders) is, at best, limited to the entity's name and territory of incorporation. It is therefore not clear who really owns and controls the entity and, by extension, the land itself.
- 3 Evidence from UK law enforcement and transparency campaigners shows that overseas entities are often used as a vehicle by criminal organisations and corrupt individuals to hide and launder the proceeds of bribery, corruption and organised crime. The UK's property market is particularly attractive because of the UK's stable and open political and business environment. Law enforcement investigations, including those targeting the proceeds of corruption, are often hampered by an inability to access information about the individuals who ultimately own or control overseas entities that have been used to conceal the proceeds of crime and corruption.
- 4 In contrast, most UK entities have, since the implementation of the People with Significant Control (PSC) register in June 2016, been required to provide information about their ultimate owners and controllers to the Registrar of Companies ("Companies House"), where they are held on the publicly accessible companies register.
- 5 In 2016, at the Anti-Corruption Summit held in London, a commitment was made to establish a public register of beneficial owners of non-UK entities that own or buy land in the UK. A call for evidence was issued in 2017 and in 2018, the Government published its Government response, followed by a draft Act. The draft Act was scrutinised by a joint Parliamentary committee in 2019.

- 6 The register has two primary objectives:
 - a. To prevent and combat the use of land in the UK by overseas entities as a means to launder money or invest illicit funds;
 - b. To increase transparency and public trust in overseas entities engaged in land ownership in the UK.
- 7 The desired outcome of this Act is to deliver transparency about who ultimately owns and controls overseas entities that own land in the UK. It is intended to act as a deterrent to those who would seek to hide and launder the proceeds of bribery, corruption and organised crime in land in the UK. Wider benefits will include improving confidence and trust among the wider public and legitimate investors as to who they are doing business with in any land transaction.
- 8 The Economic Crime (Transparency and Enforcement) Act 2022 will require any overseas entity that wishes to own UK land to take steps to identify their beneficial owner(s) and to register them. It also imposes a duty on overseas entities to update the information provided to the register annually. Failure to update the register is an offence, as is delivering (or causing to be delivered) misleading, false or deceptive information.
- 9 In order to register title to land, an overseas entity will have to be registered with Companies House and comply with the updating duty. A failure to register, or to comply with the updating duty, will in most cases affect the ability of the entity to:
 - (i) acquire legal title to land, as the entity will be unable to register as proprietor or owner (as the case may be) of land in the UK with the three Land Registries of England and Wales, Scotland and Northern Ireland; and
 - (ii) sell or lease the land, or create a charge over the land, as any buyer, tenant or a mortgagee (as the case may be) would be unable to register that disposition (sale, lease or charge) with the (relevant) land registry in any part of the UK.

Unexplained Wealth Orders

- 10 The UK has one of the world's largest and most open economies, and London is one of the world's most attractive destinations for overseas investors. These factors make the UK attractive for legitimate business, but also expose the UK to money laundering risks from Politically Exposed Persons (PEPs) (as defined in section 362B and 396B of the Proceeds of Crime Act 2002). As noted in the joint Home Office and HM Treasury National Risk Assessment of money laundering and terrorist financing 2020, property in the UK is attractive to both foreign and domestic criminals seeking to conceal large amounts of illicit funds, disguise their ownership, and realise the proceeds of their criminal activities.
- 11 The UK is internationally recognised as having some of the strongest controls worldwide when it comes to tackling money laundering and bringing to justice those who seek to use or hide the proceeds of crime. To continue to deliver the Government's economic crime agenda and target more kleptocrats and corrupt elites, enforcement agencies must be equipped with the appropriate powers to investigate.
- 12 An Unexplained Wealth Order (UWO) requires a person who is a PEP or reasonably suspected of involvement in, or of being connected to a person involved in, serious crime to explain the origin of assets (minimum combined value of £50,000) that appear to be disproportionate to their known lawfully obtained income.
- 13 A UWO is not (by itself) a power to recover assets. However, any response from a UWO can be used in subsequent civil recovery proceedings.

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- 14 Legislative reform is required to strengthen and reinforce the UWO regime to ensure the powers can be used to maximum effect, particularly to ensure property held via complex ownership structures and trusts is within the scope of the regime. The reforms are also intended to mitigate the significant operational risks to an enforcement authority.
- 15 The desired outcome of these amendments is to strengthen the UWO regime to enable law enforcement to take more effective action against kleptocrats and serious and organised criminals who launder their funds in the UK. In turn, this will lead to greater prospects of the recovery of assets bought with the proceeds of serious and organised crime, particularly corruption.
- 16 The UWO amendments have four primary objectives and are intended to both extend and clarify the scope of the powers by:
 - a. Countering the inability or unwillingness of kleptocratic foreign states to provide reliable support to enforcement authorities investigations.
 - b. Better enabling enforcement authorities to meet the evidential standard at the outset of the investigation, thereby allowing powers to be used to maximum effect in the broadest range of suitable cases.
 - c. Allowing a fuller investigation to take place by extending the maximum time a court can allow property to be frozen in relation to a UWO.
 - d. Removing a barrier to the use of UWOs, enabling legal costs to be limited for enforcement authorities unless they have used the powers unreasonably, improperly or dishonestly, increasing risk appetite and operational confidence.

Sanctions Enforcement

- 17 Sanctions are an important foreign policy and national security tool. They are restrictive measures which are designed to be temporary and can be used to coerce a change in behaviour, to constrain behaviour, or to communicate a clear political message to other countries or persons. The UK currently implements over 35 sanctions regimes. These include country-specific sanctions regimes, including in relation to Russia, North Korea and Iran, as well as regimes targeting Da'esh, Al Qaida and other terrorist groups. Like all other UN states, the UK is obliged under international law to implement UN sanctions. There are currently over 2,000 individuals, entities and ships subject to sanctions implemented by the UK.
- 18 The Office of Financial Sanctions Implementation (OFSI), part of HM Treasury, is the UK's competent authority for financial sanctions and performs HM Treasury's functions in respect of implementing financial sanctions, including issuing licences; imposing monetary penalties for breaches of these sanctions; issuing guidance and engaging with stakeholders.
- 19 OFSI's current powers are contained in different places. Specific financial sanctions regimes are contained in regulations made under the Sanctions and Anti-Money Laundering Act 2018 ("the Sanctions Act"). These regulations contain the obligations and prohibitions specific to each sanctions regime. OFSI's ability to impose monetary penalties for breaches of these prohibitions is contained in the Policing and Crime Act 2017.
- 20 The sanctions measures will strengthen enforcement by providing for:
 - a. A more robust legal test that will support compliance and help OFSI to impose monetary penalties for breaches of financial sanctions.
 - b. Greater flexibility in how the Treasury manages the review process for monetary penalties.

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- c. Enhanced intelligence and information sharing powers to give OFSI better tools to do enforcement through greater access to information from other agencies.
- d. A statutory power to publicly censure for financial sanctions non-compliance even if a decision is made not to impose a monetary penalty for the breach.

Sanctions Measures

- 21 The UK currently implements over 35 sanctions regimes via regulations made under the Sanctions Act. Individuals and entities may be designated under these regulations for the purposes of an asset freeze, a travel ban, or other measures.
- 22 Making designations is an administrative process. The amendments are intended to enable designations to be made more quickly and increase coordination with the UK's allies. The amendments will remove the statutory test of 'appropriateness' in designating individuals and entities, which is intended to speed up the making of designations. The amendments will remove constraints around designation by description, which is intended to ensure the Government can designate groups of individuals more quickly, providing the Government with maximum flexibility. The amendments are also intended to ensure the UK can mirror the listings already adopted by allies, via an urgent designation procedure, enabling Ministers to swiftly designate individuals, entities and categories of persons designated by the UK's international partners.
- 23 The amendments will only permit the payment of damages in connection with designations in cases of bad faith, removing the possibility of damages for negligence. The Act also provides a power to impose a cap on damages for actions under the Sanctions Act. These provisions in respect of damages will apply to any proceedings issued after 4 March, when the amendments were tabled, even if these proceedings relate to designations made previously.
- 24 The way in which sanctions designations and regulations are reviewed will be reformed. Obligations on reporting will be removed to allow Ministers and officials to focus efforts on targeting those who could harm the national interest.

Legal background

Registration of Overseas Entities

- 25 The information aspects of the register mirror as far as possible the regime currently in place for UK entities subject to the PSC regime, though there are differences in enforcement of the regime given that some of the PSC enforcement mechanisms cannot be applied to overseas entities (other than the imposition of criminal offences).
- 26 The PSC regime originated in the Small Business, Enterprise and Employment Act 2015 (SBEA). In summary, all UK registered companies (with some specified exceptions) are obliged to keep a register of "people with significant control" over that company, and to disclose that information to the public register held at Companies House. Unlike the PSC regime, however, overseas entities will not be required to keep their own registers; instead they will be required to deliver the information directly to the Registrar with their application for an overseas entity ID.
- 27 The PSC regime was intended to capture individuals who exercise 'significant influence and control' over a company – over and above the control you would expect a typical director or shareholder to exercise (although occupying those roles does not preclude an individual from being a PSC). A number of conditions are specified to determine whether or not an individual is a PSC – these conditions were based on the definition of 'beneficial ownership', a concept which forms part of the Money Laundering Regulations 2007, and which is used within EU legislation, including the Anti-Money Laundering Directives.

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- 28 These conditions capture individuals who own a significant share in the company's share capital, those who have the right to exercise significant control through voting rights, which may or may not be directly related to the size of their shareholding, and those who control the company through other means, including by control of the management.
- 29 UK-registered companies are required to take reasonable steps to find out if they have a registrable person or registrable legal entity, and if so to identify them. This includes via the means of sending notices to anyone a company might reasonably think is a registrable person, or to anyone who the company thinks might know the identity of a registrable person. These requirements are mirrored in this Act.
- 30 A protection regime is in place for individuals that may be placed at risk as a result of being identified on the public register; this regime will also be in place for overseas entities.
- 31 Company law requires UK-registered companies to annually check and confirm that the information held on the register remains accurate. A similar requirement will be imposed also on overseas entities via this Act.
- 32 As mentioned above, the overseas entities register will be held by the Registrar of Companies and will be, for the most part, accessible to the public. Many of the powers and functions of the Registrar contained in the Companies Act 2006 in relation to the register kept for UK-registered companies have to be replicated in the Act. The information that an overseas entity must provide in order to register, and detail as to who is a beneficial owner of an overseas entity, is closely modelled on the PSC regime for UK-registered companies (and contained in Schedules 1 and 2 to the Act respectively).
- 33 In order to deliver the policy aims, an enforcement mechanism had to be devised through (i) primarily, novel land registration requirements in England and Wales, Scotland and Northern Ireland (taking into account differences in land registration laws), (ii), civil financial penalties which can be enforced against land owned by a non-compliant overseas entity, and (iii) criminal sanctions. As noted above, this Act amends the Land Registration Act 2002, the Land Registration Act etc. (Scotland) Act 2012 and the Land Registration Act (Northern Ireland) 1970.
- 34 Certain Act provisions will apply to current registered proprietors of land in England and Wales and in Scotland as at the commencement date. Paragraph 3 of Schedule 3 to the Act inserts a new Schedule 4A into the LRA 2002. Paragraph 3(1) of Schedule 4A requires HMLR to enter a restriction on the title register of a "qualifying estate" in England and Wales where satisfied that the registered proprietor is an overseas entity, and that entity became registered as proprietor on or after 1 January 1999.
- 35 The practical effect of the restriction is that where an overseas entity makes a relevant disposition (e.g. sale, lease or charge) at a time when it is not a registered overseas entity, is not exempt and no exceptions apply, those dispositions cannot be completed by registration. In relation to overseas entities that are registered proprietors before the commencement date (and registered on or after 1 January 1999) the restriction will, however, not come into effect until six months after the commencement date. There are equivalent transitional provisions in relation to existing overseas entity proprietors of land in Scotland who became proprietors on or after 8 December 2014. As there is no equivalent of a "restriction" (or an "inhibition" in the case of Northern Ireland) in land registration law for Scotland, there will be no entry on the title registers of land owned by overseas entities in Scotland but the same six-month transitional period will apply to them. In Northern Ireland, the Act provisions will apply only to new registrations that occur after the commencement date.

Unexplained Wealth Orders

- 36 In 2002, Parliament enacted the Proceeds of Crime Act 2002 (“POCA”), which contains provisions to allow the investigation and recovery of any property obtained through unlawful conduct, or which is intended to be used for unlawful conduct. For a recovery order to be obtained under Part 5 of POCA (civil recovery), there must be sufficient evidence to indicate, through a judicial process, that on the balance of probabilities the property is related to unlawful activity.
- 37 Part 8 of POCA (investigation) includes various powers for law enforcement authorities to investigate assets, including production orders; search and seizure warrants; disclosure orders; customer information orders; and account monitoring orders.
- 38 The Criminal Finances Act 2017 inserted sections 362A to 362I into Chapter 2 of Part 8 of POCA which make provision for the High Court to make an Unexplained Wealth Order (“UWO”) in England, Wales and Northern Ireland. It also inserted sections 396A to 396U in Chapter 3 of that Part, providing for the Court of Session to make a UWO in Scotland.

Sanctions Enforcement

- 39 UK sanctions are underpinned by regulations made under the Sanctions Act. These regulations outline the obligations and prohibitions of specific sanctions regimes and contain the criminal offences for breaching them. Section 16 of the Sanctions Act makes provision for the sharing of information and the retention of records.
- 40 The power to impose monetary penalties for breaches of financial sanctions is contained in section 146 of the Policing and Crime Act. Monetary penalties for breaches of financial sanctions can be up to 50% of the value of the breach or £1 million, whichever is greater. To impose a penalty, the person suspected of breaching financial sanctions must have “known, or had reasonable cause to suspect” they were in breach of the obligations or prohibitions imposed by financial sanctions legislation. Section 149 of the Policing and Crime Act contains a duty to publicise information about these penalties.
- 41 Once a relevant party has been notified that OFSI intends to issue a monetary penalty, they have a statutory right, as set out in section 147 of the Policing and Crime Act, to request a review of their case by the Minister. The Minister may uphold the decision to impose the penalty and its amount, substitute a different amount, or cancel the decision to impose the penalty altogether. Section 147 of the Policing and Crime Act currently specifies that such monetary penalty reviews must be conducted “personally” by the Minister.
- 42 This Act makes amendments to both the Policing and Crime Act 2017 and the Sanctions and Anti-Money Laundering Act 2018.

Sanctions Measures

- 43 The Sanctions Act provides the legal framework for the UK to impose, update and lift sanctions both autonomously and in compliance with UN obligations. The Sanctions Act provides powers for Ministers to create sanctions regulations through statutory instruments. Through these regulations, specific provisions can be applied to designated persons.
- 44 Designated persons can be individuals or entities. A person may be designated by the UK acting autonomously or in order to implement a designation made by the UN.
- 45 The power to make sanctions regulations is found in Section 1 of the Sanctions Act. Sections 11 and 12 specify provision which must be included in regulations which confer a power to designate. The Sanctions Act also contains reporting and review processes, including a process for designated persons to challenge their designation.

Territorial extent and application

Registration of Overseas Entities

- 46 Sections 1 to 44 of, and Schedules 1 and 2 to, the Act apply and extend to England and Wales, Scotland and Northern Ireland. Schedules 3, 4 and 5 make amendments to the applicable land registration legislation in each of the three jurisdictions.
- 47 The elements of the Act that deal with land registration are delivered by the three Land Registries responsible for land registration across England and Wales, Scotland, and Northern Ireland. There are some differences in the way that the land registries operate, and as far as possible these differences have been addressed within the Act.

Unexplained Wealth Orders

- 48 The intention is for the Unexplained Wealth Order regime to extend across the UK. The sections relating to UWOs have the same extent as those they amend.

Sanctions Enforcement

- 49 Sanctions measures are enforceable against all persons within the UK and all UK persons abroad.
- 50 The matters to which the provisions of the Act relate are not within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.

Sanctions Measures

- 51 These amendments extend to the whole of the UK. The provisions of Part 1 of SAMLA and regulations made under it can be extended to the Crown Dependencies, with modifications, by Order in Council. Sanctions Orders extend to the Overseas Territories except for Bermuda and Gibraltar who implement the same measures or the Sanctions Order via their own local legislation.

See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Act

Part 1: Registration of Overseas Entities

Introduction

Section 1: Overview

- 52 This section explains that Part 1 of the Act creates a new register that holds information about the ‘beneficial owners’ of overseas entities, as well as other pertinent information, and provides that, in most circumstances, overseas entities must register if they own land.

Section 2: Definition of “overseas entity” etc

- 53 This section provides definitions of the most important terms that are used in the legislation.
- 54 Subsection 1: This explains what is meant by “an overseas entity”: this term means a “legal entity” (see below) that is not governed by the law of the UK.
- 55 Subsection 2: defines what is meant by “legal entity” within Part 1. This includes a body corporate (e.g. a company) or a partnership or other type of entity. What is key is that whatever the type of corporate vehicle, it must have legal personality under the law by which it is governed.

The register and registration

Section 3: Register of overseas entities

- 56 This section gives effect to the establishment of a register of overseas entities and states, in subsection (1), that the register must be kept by the registrar of companies for England and Wales. Subsection (2) lists what must be contained on the register, which will be comprised of three categories of information: the list of registered overseas entities; documents delivered with applications for registration or otherwise in connection with the register, and a further category of ‘any other information’ that may be required to be included elsewhere in Part 1 of the Act.
- 57 The Registrar must also ensure that the list of registered overseas entities includes the names of each entity that has made an application for registration and that has not been removed under section 10(2).

Section 4: Application for registration

- 58 This section describes what an overseas entity must provide in an application for registration. An overseas entity is required to confirm that it has taken reasonable steps to identify its beneficial owners pursuant to section 12, and to make a statement (subsection (2)) declaring:
- a. that it has identified one or more beneficial owners and has no reason to believe there are others, and that it is able to provide the required information about those identified; or
 - b. that it has no reason to believe that it has any registrable beneficial owners – in which case, the entity must provide required information about its managing officer(s) (for example, directors or company secretary); or
 - c. (i) that it has reasonable cause to believe that it has a registrable beneficial owner, but has been unable to identify the beneficial owner and therefore cannot provide the required information; or (ii) that it has identified beneficial owners but cannot provide

all of the required information about all or one of them; or (iii) that the circumstances in both (i) and (ii) apply. The overseas entity must in this case provide the required information about each managing officer of the entity and as much of the required information as it has been able to obtain about the beneficial owner(s).

- 59 In all scenarios mentioned above, the overseas entity must also provide the required information about the entity itself.
- 60 Subsection (3) sets out that where an application includes information that a registrable beneficial owner is a trustee, the application must also include the required information about the trust or so much of that information as the overseas entity has been able to obtain, and 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.
- 61 Subsections (4) and (5) signpost that the “required information” is set out in Schedule 1 and that the meaning of “registrable beneficial owner” can be found in Schedule 2.
- 62 Subsection (6) enables the Secretary of State to prescribe by regulations additional statements or information that the overseas entity has to provide. For example, the regulations might specify that details about the notice(s) the overseas entity has sent out under section 12 need to be included in an application. Subsection (7) provides that any such regulations will be subject to the negative resolution procedure.

Section 5: Registration and allocation of overseas entity ID

- 63 This section describes what happens when an application is received by the Registrar, and what the Registrar must do (subsection (1)). On the registration of an overseas entity, the Registrar must record the date of registration and allocate an overseas entity ID to the entity (and record this ID in the register).
- 64 The Registrar may decide what form (consisting of one or more sequences of numbers and letters) an overseas ID will take, that the form of ID may change as necessary, and that any change of overseas entity ID takes effect from the date on which the overseas entity is informed of the change (subsections (2), (3) and (4)).
- 65 The intention is that the overseas entity ID will be a similar concept to the registered number of UK companies; unique to the entity and once allocated to the entity a permanent ID, which will not change in relation to that entity.

Section 6: Notice of registration

- 66 The Registrar is obliged to notify overseas entities where their applications have been successful and that they have been registered. Subsection (2) describes what must be contained in the notification (the date of registration and the overseas entity ID allocated to the entity).
- 67 In addition, the notice must tell overseas entities that they have a duty to update their information in accordance with section 7 and the consequences of failing to comply with that duty. Failure to comply would result in that overseas entity having committed an offence under section 8.
- 68 In addition, failure by the overseas entity to comply with the update duty may cause that entity difficulties in relation to buying and selling land (these are discussed further in respect of Schedules 3, 4 and 5). The notice sent by the Registrar must also contain information about how an entity can apply for removal from the register (subsection (3)). Removal from the register, among other things, would mean that the overseas entity would no longer be required to comply with the updating duty.

Updating

Section 7: Updating duty

- 69 This section explains that registered overseas entities are required to annually update the statements and information provided to the Registrar and must do so within 14 days after the end of the ‘update period’. The first update is 12 months beginning with the date of the overseas entity’s registration.
- 70 The information required at update is set out in subsection (1); the required information includes a ‘record of events’ within the update period as regards to changes of beneficial ownership within the period. The entity remains obliged to take reasonable steps to identify beneficial owners, even if none could be identified at the time of registration or the previous update (as the case may be). Subsections (2) to (10) provide further details and explanation about updating requirements, the “update period” and explain that the entity can provide updates earlier than required if they choose to do so.
- 71 Where an entity chooses to update before the end of the update period, this has the effect of re-setting the clock in respect of when the next update is due.
- 72 Example: Update period
- a. An example would be where an overseas entity registers on 1 January 2023. Its update period would therefore expire on 31 December 2023, with the update due in respect of that period by 14 January 2024. If the overseas entity chooses instead to update on 6 July 2023 and notifies the Registrar that it has shortened its update period so that the update is in respect of the period between 1 January and 6 July, the next update period will run from 7 July 2023 to 6 July 2024, with the update due 14 days after the expiry of that update period.
- 73 Subsections (3) and (4) require an overseas entity, when complying with its updating duty, to provide additional information and statements about trusts, where a registrable beneficial owner of the overseas entity is or was a trustee.
- 74 Subsections (11) and (12) provide that the Secretary of State may amend the update period by regulations. This would allow the Government, were it to become clear that the 12-month update period was not sufficient, to shorten or extend it as the case may be. Any such regulations would be subject to affirmative resolution procedure.

Section 8: Failure to comply with updating duty

- 75 It is a criminal offence to fail to comply with the updating duty. Section 8 provides that if the duty is not complied with, not only does the entity commit an offence, but also every officer of the entity who is in default (subsection (1)). The supplementary provisions in section 34 provide for what it means to be an “officer in default” for the purposes of Part 1 of the Act.
- 76 Subsection (2) sets out that a person guilty of an offence under subsection (1) is liable on summary conviction to an initial fine as well as a daily default fine for continued contravention. The contravention continues until such time as the registered overseas entity has delivered the required statements and information.
- 77 In the case of continued contravention, subsection (4) provides that the offence may also be committed by an officer who did not commit the offence in relation to the initial contravention, but who is in default in relation to the continued contravention.

Removal

Section 9: Application for removal

- 78 This section explains how an overseas entity can apply to be removed from the ‘live’ list of registered overseas entities. In order to be removed, an entity must, among other things, confirm that it is not, or is no longer, a registered proprietor of a relevant interest in land. It must also update the information previously delivered to the Registrar relating to it and its beneficial owners as at the time of the removal application or confirm that the information held on the register about the entity is up to date (subsections (1) to (9)).
- 79 The confirmation given by an overseas entity in its application for removal under subsection (1)(a) reflects the policy that an overseas entity which is the registered proprietor of certain estates in land is required to be registered in the overseas entity register.
- a. Subsection (10) provides for what is meant by the terms “qualifying estate in land” and “registered” in the context of this section. An overseas entity will be a proprietor of a relevant interest in land if: It is the proprietor of a qualifying estate in England and Wales (see Schedule 4A to the Land Registration Act 2002) and became so in pursuance of an application to register made on or after 1 January 1999;
 - b. It is the proprietor of a qualifying estate in Northern Ireland (see Schedule 8A to the Land Registration Act (Northern Ireland) 1970), and became so on or after the day on which that Schedule came into force; or
 - c. It is the proprietor of land in Scotland, or the tenant under a lease of land in Scotland, and became so on or after 8 December 2014.

Section 10: Processing of application under section 9

- 80 This section explains how applications under section 9 are processed. Subsection (1) places an obligation on the Registrar to verify with the relevant land registry of the UK that the entity making an application under section 9 has registered as the proprietor with a relevant interest in that land. The Registrar must remove the overseas entity if it is not registered as the proprietor of the relevant interest in land, under subsection (2). If the overseas entity is the registered proprietor, the registrar must refuse the application according to subsection (3). Subsection (4) requires the Registrar to send a notice to the overseas entity, communicating the outcome of the application and the date the removal will come into effect, if successful. Subsection (5) places an obligation on the Registrar to record the date of removal of the overseas entity from the register.
- 81 The effect of being removed from the list of registered overseas entities is that an overseas entity will no longer be required to comply with the updating duty and the entry on the register relating to that entity will be comprised of historic information previously provided, until such time as those records are transferred to the Public Record Office (see section 11). An overseas entity that has been removed from the list of registered overseas entities would have to reapply to register in the event that it chooses to be listed on the register again in the future or where it is required to do so in order to register title to land in the UK.

Section 11: Transfer of documents to the Public Record Office

- 82 This section enables the Registrar to transfer any records relating to an overseas entity that has been removed from the list of registered overseas entities to the Public Record Office after at least two years.

Obtaining, updating and verifying information

Section 12: Identifying registrable beneficial owners

- 83 Section 12 provides that before making an application to register under section 4, complying with the updating duty under section 7 or applying for removal under section 9, an overseas entity must take reasonable steps to find out who its registrable beneficial owners are and to obtain the relevant information (set out in Schedule 1) about them. The entity must take reasonable steps (i) to identify any beneficial owner that may be “registrable” in relation to the entity and (ii) to obtain the information about the beneficial owner (subsection (2))
- 84 As a minimum, an entity must, as part of its reasonable steps, send an information notice to any person that it knows or has reasonable cause to believe is a “registrable beneficial owner” (subsection (3)). A person who receives an information notice is required to reply to it within a month (subsection (5)), and where relevant (i.e. where they are the beneficial owner) confirm, correct or provide the required information set out in Part 3 of Schedule 1 to the overseas entity.

Section 13: Additional powers to obtain information

- 85 This section provides that an overseas entity can (but is not obliged to) send an information notice to an individual or legal entity if the overseas entity knows or has reasonable cause to believe that the person to whom the notice is sent knows the identity of the entity’s registrable beneficial owners and/or of any beneficial owners who would not be registrable or where there is reasonable cause to believe that person can identify a third party who may know this information.
- 86 Subsection (3) sets out the time limit for responding to an information notice. A person who receives a notice must respond within one month, stating whether or not they know the identity of any beneficial owner, or know the identity of another person who might have information about the entity’s beneficial owner(s). If they know any information that might help the overseas entity identify a beneficial owner, they must supply it to the overseas entity.
- 87 Subsection (4) provides that a recipient of a notice sent under subsection (1) is not required to disclose information in respect of which a claim to legal professional privilege (or, in Scotland, confidentiality of communications) could be maintained in legal proceedings.

Section 14: Sections 12 and 13: supplementary

- 88 Section 14 confers on the Secretary of State a power to make regulations about the giving of notices under sections 12 or 13, including the form and content of notices and the manner in which they must be given. Any regulations under this section will be subject to the negative resolution procedure.

Section 15: Failure to comply with notice under section 12 or 13

- 89 Any individual who does not comply with an information notice (as set out in sections 12 and 13) commits an offence unless they have a reasonable excuse for not complying with the notice (subsection (1)). An offence is also committed if a person appears to comply with the notice but makes a statement that they know is false or if they recklessly make a statement that is false in a material way (subsection (2)).
- 90 In some cases a notice may have been sent to a legal entity. Should a legal entity fail to respond to the notice the offence is committed by every officer of the entity in default (subsection (3)).

- 91 Subsection (4) provides that an offence is not committed if the person can prove that the requirement to give information was frivolous or vexatious. This test is likely to be met for example if the overseas entity repeatedly sends to a notice to a person where it has no reasonable cause to believe that the person is their beneficial owner or can assist that entity in identifying its beneficial owners.
- 92 Subsection (5) provides that a person guilty of an offence under this section may be subject to imprisonment and/or a fine. For England and Wales, on summary conviction, person is liable to the maximum summary term for an either-way offence, or a fine, or both. Subsection (6) defines “the maximum summary term for either-way offences” as being six months, if paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 has not yet come into force, or 12 months if it has. Maximum liability in Scotland is 12 months imprisonment and or a fine which does not exceed the statutory maximum. For Northern Ireland, the liability extends to six months imprisonment and or a fine not exceeding the statutory maximum. If a person is convicted on indictment for an offence under this section, they are liable up to a two-year term of imprisonment and or a fine.

Section 16: Verification of registrable beneficial owners and managing officers

- 93 Subsection (1) enables the Secretary of State to make provision by regulations to require the verification of information supplied with applications for registration, removal, and complying with the updating duty.
- 94 Subsection (2) states regulations are permitted to make, among other things, provisions about the information that must be verified, the person by whom the information must be verified and requiring statements, or other evidence to be delivered to the Registrar.
- 95 Regulations made under subsection (2) must be made before the register of overseas entities comes into operation (subsection (3)).

Exemptions

Section 17: Power to modify application process etc in certain cases

- 96 Section 17 provides that regulations may be made by the Secretary of State that modify the application (sections 4 and 9) or update requirements (section 7) in relation to a description of overseas entity specified in the regulations. Such modifications may only be made if the Secretary of State considers that they are appropriate, taking into consideration information that is already publicly available otherwise than under the provisions of Part 1 and the Schedules to the Act.
- 97 An example of where this power might be exercised is in relation to overseas entities that are already providing beneficial ownership information to registers in their own country of formation and the UK Government considers those registers to be equivalent to the overseas entities register. In such circumstances, the regulations may require that the overseas entity only provide details of that register, rather than be required to disclose beneficial ownership information again. Any such regulations made will be subject to the negative resolution procedure.

Section 18: Exemptions

- 98 The Secretary of State may exempt a person from certain requirements of Part 1 if it is necessary to do so: (a) in the interests of national security, or (b) for the purposes or preventing or detecting serious crime (subsection (1)).
- 99 In subsection (2) the effects of an exemption are set out. Overseas entities are not required to take steps to identify or obtain information about an exempt person or give notices to an exempt person; should such a notice be received the exempt person does not have to comply

with the notice requirements if that brings the existence of the exemption to the attention of the entity. Others are not required to provide information about the exempt person, and the exempt person is not regarded as a 'registrable beneficial owner' for the purposes of the Part 1 and the Schedules to the Act.

100 Subsection (3) defines the meaning of 'crime' and explains that it means conduct that is either a criminal offence, or would be a criminal offence if it took place in any one part of the United Kingdom. It is 'serious crime' if it would lead, on conviction, to a maximum prison sentence of 3 years or more, or if the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Language requirement

Section 19: Documents to be in English

101 Section 19 requires all documents sent to the Registrar under Part 1 or any regulations drawn up from it, to be delivered in English.

Annotation of the register

Section 20: Annotation of the register

102 It is important that the register is as useful and transparent a source of information as possible for users. This section provides that the Registrar must annotate the register in certain circumstances (i.e. on receipt, replacement and removal from the register of documents or material sent to the Registrar under this Act). The Registrar must also record the date on which documents are received under this Act. Removals from the register must be accompanied by an annotation detailing the power that permitted the removal, a general description of the material removed and the date on which removal took place.

103 Subsection (2) confers on the Secretary of State a power to make provision by regulations, authorising or requiring the Registrar to annotate the register in such other circumstances as may be specified in the regulations and as to the contents of any such annotation. Any such regulations will be subject to the negative resolution procedure (subsection (6)).

104 Documents treated as not being properly delivered as given by s1072(2) of the Companies Act 2006 do not require annotation (subsection (3)).

105 The Registrar has the discretion to remove notes where they no longer serve a useful purpose (subsection (4)).

106 The Court has override authority, under section 30, to direct for the removal of a note or to remove material specified in a court order without placing a note (subsection (5)).

Inspection of the register and protection of information

Section 21: Inspection and copies of register

107 Section 21 ensures that the information on the overseas entities register is, as far as possible, publicly accessible. Subject to exceptions as set out in section 22, anyone may access the information that is on the register, and may require a copy of it. The Registrar is given, by subsection (2), the discretion to specify the form and manner applications may be made to request inspection or copies. Likewise, the Registrar under subsection (3) has the discretion to determine the form and manner in which copies are to be provided.

108 Under subsection (4), section 1091 of the Companies Act 2006 (certification of copies) and the regulations made under it apply equally to copies made under this section.

These Explanatory Notes relate to the Economic Crime (Transparency and Enforcement) Act 2022 which received Royal Assent on 15 March 2022 (c. 10)

Section 22: Material unavailable for inspection

109 This section lists certain information on the register that must not be made available by the Registrar for public inspection. The section makes unavailable for public inspection the following:

- a. Protected date of birth information under subsection (2).
- b. The name or contact details of individuals delivered to the registrar under an application for registration (section 4), updating duty (section 7) or application for removal (section 9).
- c. Any required information about a trust delivered to the registrar under sections 4(3), 7(3) and 9(3).
- d. Material that is protected by regulations made under section 25.
- e. Application and documents delivered under section 29 (application to rectify information on the register).
- f. Material that is covered by a court order made under section 30 (rectification of the register under court order), or material the court has ordered must not be made available for public inspection (section 31).
- g. Email addresses, passwords, or identification codes provided to authorise or facilitate electronic filing or providing information by telephone.

110 Some information is permanently suppressed from the public register in light of the potential risk to individuals if it were to be made publicly available, such as the day of a person's date of birth or information about their usual residential address (subsection (2-3)). Other information that cannot be made available for public inspection includes any information the Registrar is prevented from making publicly available by regulations made under the power in section 25.

111 The Registrar is not obliged to search for instances of information that should not be made available for public inspection by virtue of the provisions above if they do not appear in the kinds of documents mentioned above (subsection (4)).

Section 23: Disclosure of information about trusts

112 This section sets out the circumstances in which the Registrar may disclose the required information about trusts provided under sections 4(3), 7(3),(4) and 9(3),(4).

113 Subsection (2) states the Registrar may not disclose the information unless the same information is otherwise made publicly available.

114 Subsection (3) states the Registrar may disclose the information to the Commissioners for HMRC or any other person who has functions of a public nature, and is specified in regulations made by the Secretary of State. Subsection (4) provides that such regulations are subject to the negative resolution procedure.

Section 24: Disclosure of protected information

115 This section sets out what the Registrar may and may not do in respect of "protected" date of birth and residential address information (see section 22). In summary, the Registrar must not disclose protected date of birth information or protected residential address information, except in certain circumstances (subsection (1)).

116 These circumstances are:

- a. the same information is already publicly available on the register by virtue of it being included in another document public inspection of which is not restricted under section 22;
- b. disclosure of “protected information” is to any person or body who has functions of a public nature and is specified for the purposes of this section in regulations made by the Secretary of State.

117 The Secretary of State may by regulations specify conditions for the disclosure of protected date of birth and residential address information, and may provide for the charging of fees by the Registrar (subsection (3)). Regulations are subject to the negative resolution procedure (subsection (6)).

118 Subsection (4) disapples the provisions in relation to protected date of birth and residential address information (relating to a registrable beneficial owner or managing officer) where a person has made a successful application under section 25 to have their information suppressed. This is because a beneficial owner or managing officer who has made a successful application under section 25 will have all of the information that relates to them in respect of the overseas entity protected from public inspection and disclosure by the Registrar. This would include information about the day of their date of birth and their residential address information.

119 Subsection (5) signposts where to find the definitions of the categories of protected information that is otherwise to be made unavailable for public inspection.

Section 25: Power to protect other information

120 As mentioned above, there may be circumstances in which all of a beneficial owner or managing officer’s required information (over and above the day of birth and usual residential address) should be suppressed from public disclosure. For example, if the activities of the overseas entity meant that the public disclosure of information relating to the individual would put that individual at serious risk of violence or intimidation.

121 This section therefore enables the Secretary of State to make regulations which allow an application to be made to the Registrar for a “relevant individual’s” detail to be protected from public inspection on the register (or from disclosure by the Registrar). The regulations would then require the Registrar to make information relating to that individual unavailable for public inspection and to refrain from disclosing that information, except in specified circumstances (subsection (1)). Any such regulations will be subject to the affirmative resolution procedure (subsection (6)).

122 A relevant individual is defined by subsection (2) to be a registrable beneficial owner in relation to an overseas entity or a managing officer of an overseas entity.

123 Regulations under this section may make provision as to who may make an application, the grounds on which an application can be made and the process by which applications are determined. They may also make provision in respect of the duration of the protection; procedures for its revocation; and the charging of fees by the Registrar in relation to access to such information in prescribed circumstances (subsection (3)).

124 Subsection (4) allows for the Registrar to be given a discretion with regards to how an application is to be determined, the duration of, and procedures, for revoking the restrictions on disclosure. It also includes the ability for regulations under section 25 to include a question to be referred to a person other than the Registrar to determine the application or revoke restrictions.

125 Regulations under this section may also impose a duty on the Registrar to publish details of how many applications have been made under the regulations and how many of them have been allowed (subsection (5)).

126 Subsection (7) clarifies that this section does not affect the disclosure of a person's details in any other capacity, for example, as a director or member of a UK company.

Section 26: Data protection

127 This section confirms nothing in section 21 (inspection and copies of register), section 23 (disclosure of information about trusts) or section 24 (disclosure of protected information) authorises or requires a disclosure of information which would contravene data protection legislation, a set of legislative acts given by section 3 of the Data Protection Act 2018.

Correction or removal of material on the register

Section 27: Resolving inconsistencies in the register

128 Where it appears to the Registrar that there is an inconsistency between information contained in a document delivered to the Registrar and other information on the register, the Registrar may, in a notice to the overseas entity, require an overseas entity to take steps to resolve the inconsistency. In the notice to the overseas entity, the Registrar must state in what respects the information appears to be inconsistent and the issue date of the notice.

129 The notice must state the date on which it was made and require the overseas entity to respond to the notice within 14 days from that date. If the overseas entity does not deliver the required documents within this period, it and every officer of the entity who is in default commit an offence (subsections (1) to (3)).

130 The penalty for an offence committed under this section is set out in subsection (4) and includes a fine for the initial contravention, followed by a daily default fine for continued contravention.

Section 28: Administrative removal of material from register

131 This section sets out the type of material which the Registrar may remove from the register. The Registrar can remove material that there was power, but no duty, to include; in particular, material which is unnecessary (within the meaning of section 1074 of the Companies Act 2006); material obtained from a document that has been replaced because it did not meet requirements for proper delivery under section 1076 of the 2006 Act; and material that has been derived from a document that has been replaced under section 26. The Registrar must give notice of the removal of such material or the intention to remove such material to both the person by whom the material was delivered (if known) and the overseas entity to which the material relates. The notice must set out what material has been removed or is to be removed and the grounds for removal.

Section 29: Application to rectify register

132 Under this section, regulations by the Secretary of State (subject to the affirmative resolution procedure) may be made which make provision for the Registrar, on application, to remove material from the register, for example if it is factually inaccurate (subsection (1)). The regulations may set out who can apply for rectification of the register, what information is to be included in and what documents are to accompany an application, any notice period for both an application and the outcome of an application, any objection period that may apply to an application and how an application is to be determined (subsection (2)). Regulations under this section might, for example, allow an overseas entity to make an application to the Registrar for it to remove material on the register about the entity where the entity considers that material to be factually inaccurate.

133 Applications must specify what is to be removed from the register, where on the register it is, and must include a statement that the material specified complies with subsection (1) and regulations made under it.

134 If there are no objections to the application the Registrar may accept the statement as sufficient evidence that the material should be removed from the register (subsection (4)).

Section 30: Court order to rectify register

135 Section 29 requires the Registrar to remove from the register any information that a court directs should be removed. A court may make this direction in relation to any material that derives from anything the court has declared to be invalid, ineffective or done without the authority of the overseas entity, or if it derives from something that is factually inaccurate or forged. The court order must specify what is to be removed from the register and indicate where on the register the material is. A copy of the court order itself must be sent to the Registrar for registration.

Section 31: Court powers on ordering removal of material from the register

136 Where the Registrar removes material from the register, it is usually required by section 20 to place a note on the register recording that material was removed, under what power and the date of the removal. However, subsection (2) of this section provides that a court may direct that any note placed on the register that is related to the material that is removed pursuant to a court order given under section 29 must also be removed from the register. Similarly, the court may also direct that no note is made on the register as a result of the order under this section. Before making any such direction, the court must be satisfied that the presence on the register of the note or the availability for public inspection of the court's order might damage the overseas entity and that the overseas entity's interest in non-disclosure outweighs the interest of other persons in disclosure (subsection (5)).

False statements

Section 32: General false statement offence

137 Subsection (1) sets out it is an offence for a person, without reasonable excuse, to deliver or cause to be delivered to the Registrar for the purposes of Part 1 any document, or statement, that is misleading, false or deceptive in a material particular; or to make a statement that is misleading, false or deceptive in a material particular. The reasonable excuse defence ensures that the offence is not imposed unfairly (for example to cater for cases where an overseas entity reasonably relies on information provided by others which turns out to be untrue, or to prevent UK professionals assisting overseas entities with UK property transactions being prosecuted from having made an honest mistake).

138 Subsection (2) sets out 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.

139 Subsection (3) sets out the penalty for the offence in subsection (1) in relation to convictions in England and Wales is a fine, and a fine not exceeding level 5 on the standard scale in Scotland and Northern Ireland.

140 Subsection (4) sets out the penalty for an aggravated offence (see subsection (2)) in England and Wales, Scotland and Northern Ireland which includes imprisonment and/or a fine.

Land ownership and transactions

Section 33: Land ownership and transactions

- 141 Schedules 3, 4 and 5 of the Act contain amendments to land registration legislation in England and Wales, Scotland and Northern Ireland respectively. In summary, the amendments provide that an overseas entity must have registered in the overseas entity register (and be in compliance with the update duty in section 7) in order to register title to land and/or to make certain dispositions in respect of land.
- 142 Subsection (2)(b) refers to a power in Schedule 4 for the Secretary of State to make affirmative regulations which make further or alternative provision for the purpose of requiring or encouraging an overseas entity that owns or holds a right or interest in or over land in Scotland, or enters into land transactions in Scotland, to register as an overseas entity. No regulations may be made after the end of the period of six months beginning with the day on which the Act is passed. Such regulations may amend, repeal or revoke provision made by Schedule 4, or any provision made by or under any other Act, or an Act of the Scottish Parliament, made (a) before the Act, or (b) later in the same session of Parliament as the Act. This power provides a secondary legislation mechanism to make changes that might transpire to be necessary after the Act is enacted.
- 143 Subsection (4) provides a power by which the Secretary of State can amend, by regulations, Schedule 8A to the Land Registration (Northern Ireland) Act 1970 (inserted by Schedule 5 to this Act) in order to ensure that provisions correspond to those contained within paragraphs 3(2)(e), 4(2)(e) and 5 of Schedule 4A to the Land Registration Act 2002 (inserted by Schedule 3 to this Act), including the provision to make subordinate legislation. Regulations made under subsection (4) are subject to the affirmative resolution procedure (subsection (7)).
- 144 Subsection (5) states that the provision which may be made by regulations under subsection (4) by virtue of section 67(3) includes provision amending other provisions of the Land Registration (Northern Ireland) Act 1970.
- 145 Subsection (6) states that the Secretary of State must consult the Department of Finance in Northern Ireland before making regulations under subsection (4).

Section 34: Power to require overseas entity to register if it owns certain land

- 146 Section 33 allows the Secretary of State, by way of notice, to require an overseas entity to apply for registration in the register of overseas entities if the entity is registered as the proprietor of a relevant interest in land and at the time the notice is given the entity is not registered in the overseas entity register, has not made an application for registration that is pending and is not an exempt overseas entity.
- 147 This power exists in parallel to the general amendments to land registration legislation made by Schedules 3, 4 and 5 to the Act which set out the circumstances in which a non-exempt overseas entity must be registered in the overseas entity register for land ownership purposes.
- 148 This section adopts the definition of what “the proprietor of a relevant interest in land”, given by section 9(8). In summary, an overseas entity is a proprietor of a relevant interest in land if it is a registered proprietor of a qualifying estate in England and Wales, Scotland or Northern Ireland and became so on or after 1 January 1999 in the case of England and Wales, on or after 8 December 2014 in the case of Scotland or on or after the day on which Schedule 8A to the Land Registration (Northern Ireland) 1970 Act comes into force in the case of Northern Ireland.

149 Where a notice is sent under this section, an overseas entity must comply with the notice within the period of six months, unless it is a type of overseas entity that has been exempted from the requirement to register under regulations made under subsection (6).

150 An overseas entity that is not exempt and fails to comply with the notice will commit an offence, as will every officer of the entity who is in default. The offence is an either way offence, punishable by way of imprisonment and/or a fine.

Supplementary provision about offences

Section 35: Liability of officers in default

151 Sections 1121 to 1123 of the Companies Act 2006 (liability of officers in default; interpretation etc.) apply for the purposes of Part 1 as they apply for the purposes of provisions of the Companies Acts. Therefore, an officer of an overseas entity includes any director, manager or secretary and that officer will be “in default” if they authorised, permitted, participated in or failed to take all reasonable steps to prevent the contravention.

152 A reference to an “officer” also includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of a legal entity are accustomed to act, e.g. a shadow director (subsection (2)). Subsection (3) provides that persons giving advice in a professional capacity to a board of directors or equivalent management body are not caught by subsection (2), if the only reason why they would be caught is because their advice is acted upon.

Section 36: Meaning of “daily default fine”

153 Section 1125 of the Companies Act 2006 (meaning of “daily default fine”) applies for purposes of any provision made by or under Part 1 as it applies for the purposes of provisions of the Companies Act.

Section 37: Consent required for prosecutions

154 Proceedings for an offence under Part 1 may not be brought in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions. In Northern Ireland proceedings for an offence under Part 1 may not be brought except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

Section 38: Further provision about proceedings

155 This section provides for the following provisions of the Companies Act 2006 to apply in relation to offences under Part 1 as they apply in relation to offences under the Companies Acts: (a) section 1128 (summary proceedings; time limit); and (b) section 1130 (proceedings against unincorporated bodies).

Financial penalties

Section 39: Financial penalties

156 This section confers a power on the Secretary of State to make regulations which provide that the Registrar has the power to impose financial penalties on a person if satisfied, beyond reasonable doubt, that the person has engaged in conduct amounting to an offence under Part 1.

157 Subsection (1) enables the Secretary of State to make provision by regulations to confer the power on the Registrar to impose financial penalties. Regulations made under this section are subject to the affirmative resolution procedure (subsection (7)).

- 158 Subsection (2) states that regulations concerning enforcement of financial penalties may, in cases where the penalty is unpaid, place some form of charge over the on the interest in land (with appropriate wording according to the jurisdiction of the UK the provision applies to).
- 159 Subsection (3) states that unpaid amounts may be secured by a charge on an interest in land.
- 160 Subsection (4) states that regulations must provide that no financial penalty may be imposed in respect of conduct amounting to an offence under Part 1 if the person has been convicted of that offence in respect of that conduct. Subsection (4) also provides that regulations must provide that no proceedings may be brought or continued against a person in respect of conduct amounting to an offence if the person has been given a financial penalty under the regulations in respect of that conduct.
- 161 Amounts recovered by the Registrar are paid into the Consolidated Fund (subsection (5))
- 162 Subsection (6) explains that regulations made under this section, by virtue of subsection 62(3) (regulations may make: supplementary, incidental, consequential, transitional and saving provisions) may amend primary legislation, an Act of the Scottish Parliament, and Northern Ireland legislation.
- 163 Subsection (8) states in this section conduct means an act or omission.

Sharing of information by HMRC

Section 40: Sharing of information by HMRC

- 164 This section permits HMRC to disclose information under certain conditions to allow the registrar and Secretary of State to take action in connection with offences under Part 1. This includes when investigating whether an offence has been committed, when prosecuting an offence, or when imposing financial penalties (subsection 2).
- 165 Subsection (3) states a person who receives such information may only (a) use or (b) disclose the information for the purposes of taking action in connection with an offence under Part 1.275 Subsection (4) makes it an offence to disclose information in contravention to subsection (3)(b) about a person whose identity is specified or can be deduced from the disclosure. Subsection (5) provides a defence if the person reasonably believed disclosure was lawful or the information had already been lawfully made available to the public.

Transitional provision

Section 41: Applications in the transitional period: information about land transactions

- 166 Subsection (3) states a person who receives such information may only (a) use or (b) disclose the information for the purposes of taking action in connection with an offence under Part 1.275 Subsection (4) makes it an offence to disclose information in contravention to subsection (3)(b) about a person whose identity is specified or can be deduced from the disclosure. Subsection (5) provides a defence if the person reasonably believed disclosure was lawful or the information had already been lawfully made available to the public.
- 167 This section requires all those who register as overseas entities, and have made a relevant disposition in land, in England, Wales and Scotland between 28th February 2022 (the date the Bill was published) and the date of their application to register, to submit with their application the required information about each relevant disposition made in that period.

168 This section applies where an overseas entity makes an application under section 4 for registration during the transitional period. An overseas entity either must:

- a. Include a statement in its application that it has not made any relevant dispositions of land beginning with 28 February 2022 and ending with the making of the application (subsection 2), or;
- b. Include in its application: (a) the required information about each relevant disposition (as per subsection (5)), (b) the statements and information in section 4(1)(a),(b) and (c) expressed as the state of affairs immediately before the making of each disposition and (c) a statement that all of the information required by (a) and (b) has been included in the application (subsection (3)).

169 Subsection (4) defines a “relevant disposition in land” in relation to an overseas entity for this section.

170 Subsection (5) defines the required information:

- a. Where the relevant disposition of land is within subsection(4)(a), this is (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) this is (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.

171 Subsection (6) defines “qualifying estate”, subsection (7) defines “registered proprietor”, subsection (8) defines “qualifying registrable deed” and subsection (9) states 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.

172 Subsection (10) defines “the transitional period” as the period of 6 months beginning with the day on which section 3(1) comes fully into force.

Section 42: Requirement for certain unregistered overseas entities to provide information

173 This section makes it an offence for certain unregistered overseas entities, and every officer of the entity who is in default, who has not registered as an overseas entity, or has not applied to register in the transitional period, and is not exempt, to fail to provide the same information as required by section 41 about any relevant dispositions in land made on or after 28 February 2022.

174 An overseas entity, and every officer in default, commits an offence if:

- a. At any time during the period beginning 28 February 2022 and 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 in section 4(1)(a), (b), (c) and (d), expressed as 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 41 (5).

175 Subsections (2-5) detail the offences under this section.

176 Subsection (6) defines the terms “exempt overseas entity”, “relevant disposition of land” and “transitional period”.

Section 43: Section 42: supplementary

177 Subsection (1) states that section 12 identifying registrable beneficial owners has effect as if:

- a. Section 12(1) included a reference to an overseas entity being under a duty to comply with the requirements of section 12 before delivering statements and information under section 42(1)(c)(i).
- b. Subsection (2) of section 12 included a reference to obtaining information for the purposes of section 42(1)(c)(i). This means an overseas entity must follow the steps set out in section 12 – it must take reasonable steps to identify registrable beneficial owners, to obtain the required information about them and to give information notices as needed.

178 Subsection (2) allows the Secretary of State to make further provisions by regulations in connection with: (a) the provision of information under section 42(1)(c), (b) the verification of that information, or (c) the processing of that information by the registrar. The regulations may make provision modifying any provision made by or under Part 1 or applying any provision made by or under Part 1 with modifications. Regulations made under this section are subject to the negative procedure (subsection (3)).

Interpretation

Section 44: Interpretation

179 Subsection (1) provides definitions of key terms, including what is meant by a “beneficial owner” of an overseas entity, “the registrar” etc.

180 Subsection (2) states a reference in section 12 (identifying registrable beneficial owners) or section 13 (additional powers to obtain information) 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), 41(3)(b) or 42(1)(c)(i), a reference to a person who has ceased to be a registrable beneficial owner.

181 Subsection (3) states a reference in Part 1 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. Subsection (4) provides that the Secretary of State may 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). Regulations made under this section are subject to the negative resolution procedure (subsection (5)).

Schedule 1: Applications: Required information

Part 1: Introduction

182 This Schedule sets out the required information for the purposes of section 4, section 7 and section 9.

Part 2: Overseas entities

183 This sets out the required information about an overseas entity, which includes its name, the country in which it was incorporated or formed, its registered or principal office, a service address, an email address, the legal form of the entity and the law by which it is governed, and any public register in which it is entered and, if applicable, its registration number in that register. “Public register” means a register kept by a government or public authority in the country in which the overseas entity was incorporated or formed.

Part 3: Registrable beneficial owners

184 This part sets out the information that must be provided if the registrable beneficial owner is an individual; name, date of birth and nationality; usual residential address; a service address; the date on which the individual became a registrable beneficial owner in relation to the overseas entity; which condition the individual meets and a statement as to why; whether the individual meets the condition by being a trustee and 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. .

185 With regard to the name of an individual, “name” means a person’s first name (or other forename) and surname, except if the person is a peer or an individual usually known by a title. In this case the title may be stated instead of the person’s first name (or other forename) and surname or in addition to either or both of them.

186 If the registrable beneficial owner is a government public authority, the required information is the name of the government or authority, principal office, a service address, the legal form of the entity and the law by which it is governed; the date on which the entity became a registrable beneficial owner in relation to the overseas entity; which of the conditions in paragraph 6 of Schedule 2 is met in relation to the registrable beneficial owner; and whether it 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.

187 Where the registrable beneficial owner is a legal entity that is not a government or public authority the required information is the same as that required in paragraph 4 for governments and public authorities, except that it must give its registered or principal office; and must give details of any public register in which it is entered and, if applicable, its registration number in that register.

Part 4: Managing officers

188 Paragraph 6 sets out the information that must be provided by an individual who is a managing officer. The requirements are different from those imposed on beneficial owners. A managing officer must provide their name, date of birth and nationality; any former name (unless sub-paragraph (2) applies); usual residential address; a service address (which may be stated as the entity’s registered or principal office); business occupation (if any); and a description of the officer’s roles and responsibilities in relation to the entity.

189 The circumstances in which a former name does not have to be supplied are (i) in the case of a peer or an individual normally known by a British title, where the name is one by which the person was known prior to the adoption of or succession to the title; and (ii) in the case of any person whose former name was dropped or disused before the person turned 16 years old, or has been changed or disused for 20 years or more.

190 “Former name” means a name by which the individual was formerly known for business purposes. If a person was formerly known by more than one qualifying name, each of them must be stated.

191 When a managing officer is not an individual, slightly different information is required: name; registered or principal office; a service address; the legal form of the entity and the law by which it is governed; any public register in which it is entered and, if applicable, its registration number in that register; and a description of the officer's roles and responsibilities in relation to the entity. It is also a requirement to provide the name and contact details of an individual who may be contacted about the managing officer.

192 In Part 1, "managing officer", in relation to an overseas entity, includes a director, manager or secretary.

Part 5: Trusts

193 Paragraph 8 sets out the required information that must be provided about a trust:

- 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 individual beneficiary, settlor or granter, under the trust:
 - i. Their name, date of birth, nationality,
 - ii. Usual residential address
 - iii. Service address.
- e. In relation to each legal entity beneficiary under the trust:
 - i. The name
 - ii. Registered or principal office
 - iii. A service address
 - iv. The legal form of the entity and the law by which it is governed
 - v. Any public register in which it is entered and, if applicable, its registration number in that register.

194 In relation to any interested person (anyone who under the terms of the trust has rights in respect of the appointment or removal of trustees, or the exercise by the trustees of their functions), the same information as provided for a beneficiary, settlor or granter under the trust, as well as the date on which the person became an interested person. As set out in section 44 of the Act, any reference 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.

Part 6: Powers to make further provision under this Schedule

195 Regulations under the negative resolution procedure may make further provision about the information requirements laid out above.

196 Schedule 1 may be amended by regulations to add or remove from any list of information in the Schedule. Any such regulations will be made under the affirmative resolution procedure.

Schedule 2: Registrable beneficial owners

Part 1: Meaning of “registrable beneficial owner”

197 Part 1 of Schedule 2 defines what is meant by the term “registrable beneficial owner” for the purposes of Part 1 of the Act. A registrable beneficial owner may be an individual, a legal entity, or a government or public authority. Registrable beneficial owners for the purposes of this Act are beneficial owners who, unless exempt, must be registered with Companies House.

198 An individual is a registrable beneficial owner in relation to an overseas entity if the individual is a beneficial owner of the overseas entity (see Part 2 of Schedule 2) and is not exempt from being registered (see Part 4).

199 A legal entity other than a government or public authority is a registrable beneficial owner in relation to an overseas entity if it is a beneficial owner of the entity (see Part 2); is subject to its own disclosure requirements (see Part 3) and is not exempt from being registered (see Part 4).

200 A government or public authority is a registrable beneficial owner in relation to an overseas entity in all cases where it is a beneficial owner of the entity (see Part 2).

Part 2: Meaning of “beneficial owner”

201 Part 2 of Schedule 2 sets out what is meant by the term “beneficial owner” for the purposes of Part 1 of the Act. Consistent with existing definitions in company law, a person (X) is a beneficial owner of an overseas entity or other legal entity (Y) if they meet one or more of the following conditions.

- a. Ownership of shares: The first condition is that X holds, directly or indirectly, more than 25% of the shares in Y.
- b. Voting rights: The second condition is that X holds, directly or indirectly, more than 25% of the voting rights in Y.
- c. Right to appoint or remove directors: The third condition is that X holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of Y.
- d. Significant influence or control: The fourth condition is that X has the right to exercise, or actually exercises, significant influence or control over Y. This provision is intended to capture individuals who exercise control other than through the first, second or third conditions, and is intended to mean individuals with a level of control that is broadly equivalent to those with an interest in more than 25% of Y’s shares or voting rights.
- e. Trusts, partnerships, etc: The fifth condition is that, in relation to Y, the trustees of a trust or the members of a partnership, unincorporated association or other entity, that is not a legal person under the law by which it is governed meet any of the conditions specified above (in their capacity as such) and X has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or entity.

Part 3: Meaning of “subject to its own disclosure requirements”

202 A legal entity is “subject to its own disclosure requirements” for the purposes of Schedule 2 if certain provisions of the Companies Act 2006 apply to it; or it is an eligible Scottish partnership within the meaning of the Scottish Partnerships (Register of People with Significant Control) Regulations 2017; or it is registered in the register of overseas entities under Part 1 of the Act; or it is of a description specified by the Secretary of State in regulations (by the affirmative resolution procedure).

Part 4: Beneficial owners exempt from registration

“Exempt from being registered”

203 Part 4 of Schedule 2 sets out the circumstances in which a beneficial owner is exempt from registration. A beneficial owner is exempt if:

- a. such person does not hold any interest in the overseas entity other than through one or more legal entities;
- b. such person is a beneficial owner of every legal entity through which the person holds such an interest;
- c. the person has any shares or rights which are held indirectly (as described in paragraph 9(3)(b)(i) of the Schedule), and the legal entity through which the shares or rights are held is a beneficial owner of the overseas entity and is subject to its own disclosure requirements; and
- d. the person holds shares or rights indirectly as described in paragraph 9(3)(b)(ii) and at least one of the legal entities in the chain is a beneficial owner of the overseas entity and is subject to its own disclosure requirements.

Holding an interest in an overseas entity etc.

204 Paragraph 9 specifies the circumstances in which a person (“V”) is to be regarded as holding an interest in an overseas entity (“W”) and when that interest is regarded as being held through a legal entity.

Part 5: Supplementary provision about interpretation of Schedule

Introduction

205 Part 5 of Schedule 2 sets out further rules for interpretation of the Schedule.

Joint interests

206 Shares or rights in an entity may be held jointly. For example, in the case of a partnership, the partners may hold the shares jointly and indivisibly as might, in the case of a trust, the trustees of the trust. In such cases each person is treated for the purposes of Schedule 2 as holding the shares or rights in their own right (paragraph 11).

207 For example, if A and B have a joint interest in 26% of the shares in entity Y, each of them will be a registrable person in respect of Y by virtue of each holding 26% of Y’s shares.

Joint arrangements

208 Shares or rights in a company may also be subject to joint arrangements between persons, where those persons agree to act jointly in respect of the shares or rights in question. Paragraph 12 provides that in such cases, each person is treated for the purpose of Schedule 2 as holding the combined shares or rights of both of them.

209 For example, if A and B each hold 20% of the shares in entity Y and have made a joint arrangement, each of them will be a registrable person in respect of Y by virtue of holding 40% of Y's shares.

210 Paragraph 12(2) provides that a "joint arrangement" is an arrangement between the holders of shares or rights that they will exercise all or substantially all their respective rights together, as pre-determined by the arrangement in question.

211 An "arrangement" includes:

- a. Any scheme, agreement or understanding, whether or not legally enforceable, an
- b. Any convention, custom or practice of any kind.

212 Paragraph 12(4) provides that something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, or the time it has been in existence, or otherwise).

Calculating shareholdings

213 Paragraph 13 sets out the way shareholdings are to be calculated, including in relation to where a legal entity does not have a share capital. All shares issued by the company, as set out in the company's statement of capital, are to be factored into the calculation.

Voting rights

214 Paragraph 14 sets out the way in which voting rights are to be interpreted, including in legal entities which do not have, or are not required to have, general meetings where matters are decided by the exercise of voting rights.

215 When calculating the percentage of voting rights held for the purpose of Schedule 2, any voting rights held by the entity itself should not be included when calculating the total voting rights in the entity (paragraph 15).

Rights to appoint or remove members of the board

216 Paragraph 16 clarifies that the third condition (in determining beneficial ownership as laid out in Part 2 of Schedule 2) relates to the right to appoint or remove directors holding a majority of the voting rights at board meetings on all or substantially all matters.

217 This provision is intended to capture scenarios which would give the holder of the right a level of control over the company broadly equivalent to holding more than 25% of the shares or voting rights.

218 If an entity does not have a board of directors, references to a board of directors are to be read as references to the equivalent managing body of the entity.

Shares or rights held "indirectly"

219 Paragraph 18 sets out what is meant by shares or rights held indirectly.

220 A person holds shares in Y indirectly if they have a majority stake in a legal entity and that entity holds the shares in Y (paragraph 18(1)(a)).

221 If that legal entity is part of a chain of legal entities, a person will hold the shares indirectly if each entity in the chain has a majority stake in the entity immediately below in the chain, and the last entity in the chain holds the shares in Y (paragraph 18(1)(b)).

222 A person has a right "indirectly" if they have a majority stake in a legal entity and that entity has the right in question (paragraph 18(2)(a)).

223 If the legal entity is part of a chain of legal entities, a person will exercise the right indirectly if each entity in the chain has a majority stake in the immediately below it in the chain, and the last entity in the chain has the right in question (paragraph 18(2)(b)).

224 “Majority stake” is defined in paragraph 18(3) by reference to having a majority of or controlling a majority of (either alone or pursuant to a shareholder’s or member’s agreement) the voting rights, dominant influence or control, and the right to appoint or remove directors on a board.

225 The majority stake allows the person to control the legal entity in question. The person can then, by extension, control – for example – the way in which the legal entity exercises its voting rights in entity Y. Without a majority stake in the legal entity, the person will not normally have sufficient control to do this in respect of entity Y. In a chain of entities, this level of control needs to be reflected at each point in the chain in order that the person can be said to indirectly hold the shares or rights in entity Y.

226 In applying this paragraph to the right to appoint or remove a director, paragraph 18(4) provides that a legal entity is treated as having the right to appoint a director if a person is appointed as a director of entity Y as a result of being appointed director of the legal entity; or if the legal entity is the director of entity Y.

Shares held by nominees

227 Where a share is held by a nominee on behalf of a person, the share is treated as held by that person for the purpose of Schedule 2. This means that the person – and not the nominee – could be registrable.

Rights treated as held by a person who controls their exercise

228 Similar to paragraph 19, paragraph 20 provides that where a person controls a right, the right is treated as held by that person for the purpose of Schedule 2. This means that the controller of the right – and not the holder, unless they are also a controller – is registrable where the relevant conditions are met.

229 Paragraph 20(2) sets out when a person has control of a right. This is by reference to an arrangement between a person and others such that the right is only exercisable by that person; in accordance with that person’s directions or instructions; or with that person’s consent or concurrence. The definition of “arrangement” in this paragraph is broad, but as with the meaning given in paragraph 12(3) and (4) provides that there must be a degree of stability about the arrangement. The intention is to exclude one-off actions or decisions which would not equate to “significant control”.

Rights exercisable only in certain circumstances etc

230 Some rights in a company are only exercisable in certain circumstances. Paragraph 21 provides that for the purpose of determining whether a person has significant control, such rights should only be taken into account when the circumstances have arisen and for as long as they continue to exist; or when the circumstances are within the person’s control.

231 Paragraph 21(2) specifies that the rights of administrators or creditors during relevant insolvency proceedings should not be taken into account for the purposes of the register. The control exercised in such circumstances is not considered relevant because of the exceptional nature of the circumstance and its limited duration. “Relevant insolvency proceedings” are defined in paragraph 21(3).

232 Rights temporarily incapable of exercise - for example, because they have been suspended – should continue to be taken into account (paragraph 21(4)).

Rights attached to shares held by way of security

233 Where shares are provided by a person as security, the rights attached to those shares are to be treated in Schedule 2 as belonging to that person (paragraph 22). This is provided that the rights are only exercisable in accordance with that person's instructions and in that person's interests (with the exception of the right to preserve or realise the value of the security).

Limited partnerships

234 Where a limited partnership is deemed to hold shares or rights in an entity, the limited partners will hold those shares or rights jointly and will meet the specified conditions accordingly (see paragraph 12). Limited partners will not, however, normally be involved in the management of the partnership business. They do not therefore have control over the entity in the same way as other holders of shares or rights. Paragraph 23 accordingly provides that an individual does not meet the first, second or third specified conditions of paragraph 6 by virtue only of being a limited partner.

235 Similarly, paragraph 23(2) provides that individuals who directly or indirectly hold shares or rights in relation to a limited partner are not considered to meet the first, second or third specified condition by virtue only of that interest.

236 Paragraphs 23(1) and (2) do not apply in relation to identifying whether an entity meets the requirement set out in condition 5(a) of paragraph 6.

237 For the purposes of this paragraph, "limited partner" means a limited partner in a limited partnership registered under the Limited Partnerships Act 1907 (other than one who takes part in the management of the partnership business); or a foreign limited partner.

238 In this paragraph "foreign limited partner" means an individual who (i) participates in arrangements established under the law of a country or territory outside the United Kingdom, or (ii) has the characteristics prescribed by regulations made by the Secretary of State. Any such regulations will be made under the affirmative resolution procedure.

Meaning of "director"

239 In Schedule 2, "director" includes any person occupying the position of director, by whatever name called.

Part 6: Power to amend thresholds etc

240 Paragraph 25 gives the Secretary of State the power to amend Schedule 2 for a permitted purpose. This power is exercisable by regulations made under the affirmative resolution procedure.

241 The permitted purposes are to increase or decrease the percentage figures laid out in Schedule 2 and to change or add to the specified conditions. The latter may be used to include circumstances that give individuals a level of control over overseas entity Y broadly similar to the other specified conditions. These amendments may be required in future to react to changing circumstances and on-going monitoring and review. Changes to conditions made be needed to ensure that Schedule 2 adequately covers scenarios involving, for example, more complex corporate structures – particularly as new corporate structures develop or individuals seek new ways to evade the disclosure requirements.

Schedule 3: Land ownership and transactions: England and Wales

Part 1: Amendments to Land Registration Act 2002

242 This part amends the Land Registration Act 2002 (the “LRA 2002”). Paragraph 2 of Schedule 3 inserts (after section 85) new section 85A into Part 7 of the LRA 2002. Section 85A directs the reader to Schedule 4A, and specifies that the schedule provides for ownership of land by overseas entities and the registrable dispositions they make.

243 Paragraph 3 inserts new Schedule 4A into the LRA 2002.

Meaning of “qualifying estate”

244 Paragraph 1 of the new Schedule 4A defines the two types of estate in land that are “qualifying estates” and so come within the scope of the overseas entity registration requirement in England and Wales. These are a freehold estate in land and a leasehold estate in land where the lease is granted for a term of more than seven years from the date of the grant.

Registration

245 Paragraph 2 of the new Schedule 4A prohibits the making of an application to register an overseas entity as the proprietor of a qualifying estate unless the entity is a “registered overseas entity” (i.e. is registered in the overseas entities register and has complied with update requirements under section 7 of the Act), or is an exempt overseas entity, at the time that the application is made to the HMLR.

246 The effect of the provisions in paragraph 2 is that in England and Wales, an overseas entity will not be able to acquire legal title to qualifying estate without having complied with the registration and updating requirements under the Act at the time the application is made to HMLR.

Restrictions on disposal

247 Paragraph 3(1) of the new Schedule 4A sets out that HMLR is required to enter a restriction in the register in relation to a qualifying estate if it is satisfied that (i) an overseas entity is the registered proprietor and (ii) that entity became the registered proprietor in pursuance of an application made on or after 1 January 1999. This is the date from which HMLR began recording the jurisdiction in which overseas entities were based, when registering as proprietors of estate in England and Wales. Paragraph 3(1) therefore applies to overseas entities that become registered proprietors of a qualifying estate in pursuance of an application made on or after the commencement date, as well as those overseas entities that are proprietors of a qualifying estate before the commencement date and have acquired title to the qualifying estate in pursuance of an application made on or after 1 January 1999 (but before the commencement date). Part 2 of Schedule 3 sets out the transitional regime in respect of those overseas entities that are existing proprietors at the commencement date.

248 The effect of the restriction under paragraph 3(1) is set out in paragraph 3(2): the restriction must prohibit the registration of certain dispositions in relation to a qualifying estate. These dispositions are found in section 27(2)(a) LRA 2002 (transfer of freehold), (b)(i) (lease lasting longer than 7 years) and (f) (grant of a charge over the property, e.g. a mortgage).

249 Should the overseas entity not be a registered overseas entity (or exempt) at the time of the disposition, it will not be possible to register that disposition subsequently. Paragraph 3(2) sets out six exceptions to the prohibition on registration of certain dispositions (listed in the paragraph above). These are

- a. where the entity is a registered overseas entity or exempt overseas entity at the time of disposition;

- b. where the disposition is made in pursuance of a statutory obligation, court order, or by the operation of law;
- c. where the disposition is in pursuance of a contract made before the restriction was entered in the register;
- d. where the disposition occurs in the exercise of a power of sale or leasing conferred on the proprietor of a registered charge over the estate, or a receiver appointed by the chargeholder,
- e. where the Secretary of State gives consent to registration of the disposition (see paragraph 5); or
- f. where the disposition is made by a specified insolvency practitioner in specified circumstances. (It is for the Secretary of State to specify both the insolvency practitioners and the circumstances in regulations.)

250 The duty under paragraph 3(1) to enter a restriction in the register applies regardless of whether the overseas entity is exempt or not. The restriction will however not “bite” if an overseas entity makes a disposition at the time it is an exempt overseas entity.

Registrable dispositions by overseas entities entitled to be registered (but not registered)

251 Paragraph 4 of inserted Schedule 4A applies where an overseas entity, entitled to be registered as a proprietor of a qualifying estate (freehold or leasehold of more than 7 years) and became entitled after paragraph 4 came into force, and makes a registrable disposition as given by section 27(2)(a) LRA 2002 (transfer of freehold), (b)(i) (lease lasting longer than 7 years) and (f) (grant of a charge over the property, e.g. a mortgage).

252 When paragraph 4(1) applies, paragraph 4(2) prevents the registering of the disposition unless any of the following apply:

- a. The entity is a registered overseas entity or exempt overseas entity at the time of disposition
- b. The disposition is made in pursuance of a statutory obligation, court order, or by the operation of law;
- c. The disposition is in pursuance of a contract made before the restriction became entitled to be registered;
- d. the disposition occurs in the exercise of a power of sale or leasing conferred on the proprietor of a registered charge over the estate, or a receiver appointed by the chargeholder,
- e. where the Secretary of State gives consent to registration of the disposition (see paragraph 5); or
- f. where the disposition is made by a specified insolvency practitioner in specified circumstances. (It is for the Secretary of State to specify both the insolvency practitioners and the circumstances in regulations.)

Consent to registration of dispositions that cannot otherwise be registered

253 Under paragraph 5(1) of the new Schedule 4A, the Secretary of State may consent to the registration of a disposition that would otherwise be incapable of registration because it would be prohibited by a restriction entered under paragraph 3, or 4. The Secretary of State must be satisfied that, at the time of the disposition, the person to whom it was made could

not have known, and could not reasonably have been expected to have known, that the disposition could not be registered. The Secretary of State must also be satisfied that in all the circumstances it would be unjust for the disposition not to be registered.

254 Paragraph 5(2) sets out that the Secretary of State may make regulations in connection with applications for consent under paragraph 5(1) and these regulations may, for example, set out who may apply, the evidence required to be produced, and time limits (paragraph 5(3)).

Making dispositions that cannot be registered

255 Paragraph 6(1) of the new Schedule 4A prohibits an overseas entity from making a registrable disposition of a qualifying estate which cannot be registered under paragraphs 3 and 4. Where an overseas entity acts in breach of this prohibition, an offence will be committed by the entity and every officer of the entity who is in default (paragraph 6(2)).

256 Paragraph 6(3) provides that nothing in paragraph 6 affects the validity of a disposition made in breach of 6(1). In other words, if an overseas entity that is not exempt makes a disposition at a time when it is not a registered overseas entity, while the disposition will not be capable of registration and the entity will have committed an offence, the validity of the disposition itself will not be affected. This is intended to avoid situations where a potentially void, voidable or unenforceable transfer causes significant disruption to a chain of conveyances.

257 Paragraph 6(4) provides that sections 1121 to 1123 of the Companies Act 2006 apply for the purposes of defining the term “any officer in default” in paragraph 6. Paragraph 6(5) provides that a reference to an officer in those sections as applied includes a person in accordance with whose directions or instructions the board of directors or equivalent body of an overseas entity are accustomed to act. A person who gives advice in a professional capacity that is acted upon by the board of directors or equivalent management body of the overseas entity is not to be regarded as falling within paragraph 6(5) by the reason only that their advice is acted upon (paragraph 6(6)).

258 Paragraph 6(7) sets out the penalties where a person is found guilty of an offence under paragraph 6. Paragraph 6(8) augments the maximum summary term for either-way offences to 12 months once paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force.

259 Paragraph 6(9) provides that proceedings for an offence under paragraph 6 may only be brought by or with the consent of the Secretary of State or the Director of Public Prosecutions.

Interpretation etc

260 Paragraph 7 of the new Schedule 4A defines key terms used in Schedule 4A, including the meaning of “exempt overseas entity”, “overseas entity”, “qualifying estate”, “register of overseas entities” and “registered overseas entity”,

261 For the purposes of Schedule 4A, paragraph 8 provides that an overseas entity that is registered in the overseas entities register but fails to comply with the updating duty in section 7 of the Act is not to be treated as a registered overseas entity until it remedies the failure (paragraph 8(1)). An overseas entity “remedies” the failure when it delivers the required statements and information under section 7(1)(a), (b) and (c) of the Act (paragraph 8(2)).

Regulations

262 Paragraph 4 of Schedule 3 makes a consequential amendment to section 128 of the LRA 2002 to insert a reference to the new regulation making powers created by new Schedule 4A inserted by this Act.

Part 2: Transition: qualifying estates registered pre-commencement

263 Part 2 of Schedule 3 makes provision about the transitional regime for those overseas entities that are registered proprietors of qualifying estate in England and Wales on the commencement date and became such proprietors in pursuance of an application made on or after 1 January 1999. This Part provides for a transitional period of six months in duration for overseas entities to either dispose of their qualifying estate or to register as a “registered overseas entity” under the provisions of the Act.

Duty of proprietor to register as an overseas entity within transitional period

264 Paragraph 5 of Schedule 3 creates a duty to register as an overseas entity for an overseas entity that is registered as a proprietor of a qualifying estate and became so registered on or after 1 January 1999 but before the commencement date. Under paragraph 5(1) if, at the end of the period of six months beginning with the commencement date, the entity is neither a registered overseas entity nor an exempt overseas entity, it commits an offence and every officer of the entity who is in default also commits an offence. Paragraphs 5(2) and 5(3) set out the penalties for a person found guilty of an offence under this paragraph.

Registrar’s duty to enter restriction in relation to qualifying estate

265 Paragraph 6 of Schedule 3 applies where the Chief Land Registrar is satisfied that an overseas entity is registered as the proprietor of a qualifying estate and became so registered in pursuance of an application made before the commencement date. Under paragraph 6(2), the Chief Land Registrar must comply with the duty to enter a restriction under paragraph 3 of Schedule 4A to the LRA 2002 (which is inserted by this Act) in relation to the estate as soon as reasonably practicable, and the restriction must be entered before the end of the transitional period. The restriction will not take effect until the end of the period of 6 months beginning with the commencement date.

266 The effect of paragraph 6(3) of Schedule 3 is that overseas entities that are existing registered proprietors of qualifying estate (and became so on or after 1 January 1999 but before the commencement date) will have a period of 6 months from the commencement date to either register in the overseas entities register or dispose of the qualifying estate. As soon as reasonably practicable HMLR will insert a restriction into the relevant title registers. But the restriction will not take effect until the expiry of 6 months beginning with the commencement date. These transitional provisions will also ensure that any third party who inspects the title register for a qualifying estate whose proprietor is an overseas entity will see a restriction on the title register and be able to take the restriction into account when considering whether to enter into a contract (for a disposal of or charge over the qualifying estate) with the overseas entity.

Interpretation

267 Paragraph 7 defines the terms “the commencement date”, “registered proprietor” and “qualifying estate” for the purposes of Part 2 of Schedule 3.

Schedule 4: Land ownership and transactions: Scotland

Part 1: Amendments

268 Part 1 of Schedule 4 amends the Conveyancing (Scotland) Act 1924 (the “1924 Act”) and the Land Registration etc. (Scotland) Act 2012 (the “LRSA 2012”).

Conveyancing (Scotland) Act 1924

- 269 Paragraph 1 of Schedule 4 amends section 4A of the 1924 Act by the insertion of a new subsection into section 4A. The existing text of section 4A becomes subsection (1) and after that subsection, a new subsection (2) is inserted that provides that subsection (1) is subject to paragraphs 3 and 4 of the new schedule 1A to the LRSA 2012.
- 270 Subsection 4A(1) provides that any person who has the right either to land or to a heritable security may complete title by registration in the Land Register of a notice of title in or as nearly as may be in the terms of the form in schedule BA to the 1924 Act. The new subsection (2) makes subsection (1) subject to paragraphs 3 and 4 of the new schedule 1A to the LRSA 2012, which is inserted by Schedule 4 to the Act.
- 271 Paragraph 3 of the new schedule 1A to the LRSA 2012 provides that where an overseas entity makes an application under section 21 of the LRSA 2012 by virtue of section 4A(1) of the 1924 Act, the Keeper must reject the application unless the overseas entity is a registered overseas entity or an exempt overseas entity. Section 4A(2) therefore prevents an overseas entity from completing title by registration in the Land Register of a notice of title unless it is a registered overseas entity or an exempt overseas entity.
- 272 Paragraph 4 of the new schedule 1A to the LRSA 2012 provides that where a person makes an application under section 21 of the LRSA 2012 by virtue of section 4A(1) of the 1924 Act with respect to a qualifying registrable deed or a registrable deed which is a standard security, and the granter of that deed is an overseas entity whose interest was registered on or after 8 December 2014, and was not a registered nor exempt overseas entity as at the date that the application is made, the Keeper must reject that application unless certain conditions are met.

Land Registration etc. (Scotland) Act 2012 (asp 5)

- 273 Paragraph 2 of Schedule 4 to the Act provides that the LRSA 2012 is amended; the amendments are set out in paragraphs 3 to 8 of Schedule 4.
- 274 Paragraph 3(a) of Schedule 4 provides for the amendment of section 21 (application for registration of deed) of the LRSA 2012 by inserting, in section 21(4), references to paragraphs 1 to 5 of the new schedule 1A to the LRA 2012. Section 21(1) provides that a person may apply to the Keeper for registration of a registrable deed. Section 21(2) provides that the Keeper must accept such an application if, at the date of the application, the applicant satisfies the Keeper that the general application conditions are met, subject to certain other conditions set out in paragraphs (a) – (c) of subsection (2). Section 21(3) provides that to the extent that the application does not satisfy the Keeper, the Keeper must reject the application. Section 21(4) as amended by paragraph 3(a) of Schedule 4 to the Act provides that section 21(2) is subject to section 45(5) and paragraphs 1 to 5 of the new Schedule 1A to the LRSA 2012. Paragraphs 1 to 5 of schedule 1A to the LRSA 2012 set out the circumstances where the Keeper must reject applications under section 21 of the LRSA 2012, applications to register notice of title, and cases where the Keeper must reject prescriptive applications.
- 275 Paragraph 3(b) of Schedule 4 provides for the amendment of section 21 (application for registration of deed) of the LRSA 2012 by inserting, after section 21(4), a new subsection (5), which provides that schedule 1A makes provision about certain land transactions involving overseas entities.
- 276 Paragraph 4 of Schedule 4 amends section 27 of the LRSA 2012 by inserting, after section 27(4), a new section 27(4A), which provides that section 27(3) is subject to paragraph 6 of schedule 1A to the LRSA 2012. Section 27 of the LRSA 2012 makes provisions for application for voluntary registration of unregistered land by the owner. Section 27(3) provides that the

Keeper must accept an application under subsection (1) to the extent the applicant satisfies the Keeper that, as at the date of the application, the general application conditions and the conditions of registration in relation to voluntary registration are met. Section 27(3) is, by virtue of new subsection 27(4A), subject to paragraph 6 of schedule 1A, which provides that the Keeper must reject an application under section 27 of the LRSA 2012 made by an overseas entity unless the entity is a registered overseas entity or an exempt overseas entity.

277 Paragraph 5 of Schedule 4 amends section 46 of the LRSA 2012 by changing the title of the provision so that it refers to the meaning of “dispositions” in certain provisions. Paragraph 5 also inserts a reference to the new schedule 1A of the LRSA 2012 to clarify the meaning of “dispositions” in that schedule with respect to transfers of ownership by virtue of compulsory acquisitions.

278 Paragraph 6 of Schedule 4 amends the heading that precedes section 112 to “Offences”.

279 Paragraph 7 of Schedule 4 inserts, after section 112, a new section 112A into the LRSA 2012. Subsection (1) of the new section 112A provides that it is an offence for an overseas entity to grant a qualifying registrable deed and deliver it to a person if, by virtue of paragraph 2 of the new schedule 1A to the LRSA 2012, the Keeper would be required to reject an application under section 21 of the LRSA 2012 for registration of the deed. Where an overseas entity acts in breach of subsection (1), an offence is committed by the entity and every officer of the entity who is in default (subsection (3)).

280 Subsection (2) of the new section 112A provides that a qualifying registrable deed is to be treated as having been granted for the purposes of subsection (1) even if at the time that it is delivered it has been executed by the overseas entity only.

281 Subsection (4) of the new section 112A provides that nothing in section 112A affects the validity of a disposition made in breach of subsection (1). In other words, if an overseas entity that is not exempt grants and delivers to a person a qualifying registrable deed at a time when it is not a registered overseas entity, while the deed will not be capable of registration and the entity will have committed an offence, the validity of the deed itself will not be affected. This is intended to avoid situations where a potentially void, voidable or unenforceable transfer causes significant disruption to a chain of conveyances. Penalties for any person guilty of an offence under subsection (3) are set out in subsection (5).

282 Subsection (6) of the new section 112A provides that sections 1121 to 1123 of the Companies Act 2006 apply for the purposes of defining the term “any officer in default” in section 112A. Subsection (7) provides that a reference to “an officer” includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of an overseas entity are accustomed to act. A person who gives advice in a professional capacity that is acted upon by the board of directors or equivalent management body of the overseas entity is not to be regarded as falling within subsection (7) by the reason only that their advice is acted upon (subsection (8)).

283 Subsection (9) of the new section 112A defines the terms “overseas entity” and “qualifying registrable deed” for the purposes of section 112A. Overseas entity has the meaning given by section 2 of the Act and “qualifying registrable deed” means a registrable deed which is (i) a disposition; (ii) a standard security; (iii) a lease; and (iv) an assignation of a lease.

284 Paragraph 8 of Schedule 4 amends section 116(2) of the LRSA 2012 by substituting the reference to “sections” for “provisions” and inserting a reference to paragraphs 2(5) and 7(5) of the new schedule 1A, where regulations made under those provisions will be subject to the negative resolution procedure.

285 Paragraph 9 of Schedule 4 inserts the new schedule 1A into the LRSA 2012. Schedule 1A is explained below.

Cases where Keeper must reject application under section 21 LRSA 2012

286 Paragraph 1 of the new schedule 1A provides that where a person applies under section 21 of the LRSA 2012 to register a qualifying registrable deed, the Keeper must reject the application unless the overseas entity is a registered overseas entity, an exempt overseas entity or certain conditions are met. "Qualifying registrable deed" is for purposes of schedule 1A defined as a registrable deed which is a disposition, a long lease or an assignation of a lease. The registrable deeds in relation to land that are in scope of the registration requirements in Scotland therefore are: a transfer of ownership (i.e. by a disposition), a lease where its duration is at least 20 years and a day, an assignation of any such lease, an extract of a decree of foreclosure, a discharge of an ex facie absolute conveyance and an order for rectification of defectively expressed document.

287 The effect of the provisions in paragraph 1 is that in Scotland, an overseas entity will not be able to acquire a real right to land that is registrable in the land register by virtue of application under section 21 of the LRSA 2012 without having complied with the registration and updating requirements under the Act at the time the application is made under section 21.

288 Paragraph 2 of the new schedule 1A applies where an overseas entity whose interest in land was registered on or after 8 December 2014 grants a qualifying registrable deed or a registrable deed which is a standard security and an application is made to register such deed under section 21 of the LRSA 2012. The overseas entity who grants the aforementioned deed must be, at the date of delivery of the deed, a registered overseas entity or an exempt entity to ensure that the Keeper does not reject the application (or one of the conditions set out in paragraph 2(2) of the new Schedule. 1A must be met).

289 The conditions set out in paragraph 2(2) are: (i) the application is made in pursuance of a statutory obligation, court order, or occurs by the operation of law; (ii) the application is made in pursuance of a contract entered into before the later of the dates mentioned in subparagraph (3);(iii) the application is made in pursuance of the exercise of a power of sale or lease by the creditor in a standard security that was registered on or after 8 December 2014; or (iv) the application is made in pursuance of the exercise of a right conferred on a body by relevant legislation to buy land or the interest of a tenant under a lease; or (v) the Scottish Ministers give consent under paragraph 7(2) of schedule 1A to the registration of the deed; or (f) the disposition is made by a specified insolvency practitioner in specified circumstances

290 The dates mentioned in paragraph 2(2) are: (i) the date on which the grantor's interest was registered in the Land Register; (ii) the commencement date (paragraph 2(3)). For a grantee to be able to rely on the condition set out in paragraph 2(2)(b), the contract in pursuance of which the application is made to register the grantee's interest must have been entered into before the overseas entity's interest was registered in the Land Register, or the commencement date, whichever date is later.

Case where Keeper must reject application to register notice of title

291 Paragraph 3 of the new schedule 1A applies where an overseas entity that has a right to land makes an application under section 21 of the LRSA 2012 by virtue of section 4A(1) of the 1924 Act, for registration of a notice of completing title in respect of a qualifying registrable deed. The Keeper is required to reject such application unless the entity is a registered overseas entity or an exempt overseas entity.

292 Paragraph 4 applies where, by virtue of section 4A of the Conveyancing (Scotland) Act 1924, a person makes an application under section 21 for registration of a notice of title completing title in respect of a qualifying registrable deed, or a registrable deed which is a standard security, and the granter of the deed is an overseas entity whose interest was registered on or after 8 December 2014, and was not a registered or exempt overseas entity on the date on which the application was made.

293 Sub-paragraph (2) sets out that the Keeper must reject such an application unless one of the conditions set out in paragraph 2(2) is met. These are: (i) the application is made in pursuance of a statutory obligation, court order, or occurs by the operation of law, (ii) the application is made in pursuance of a contract entered into before the later of the dates mentioned in sub-paragraph (3), (iii) the application is made in pursuance of the exercise of a power of sale or lease by the creditor in a standard security that was registered on or after 8 December 2014, or (iv) the application is made in pursuance of the exercise of a right conferred on a body by relevant legislation to buy land or the interest of a tenant under a lease, or (v) the Scottish Ministers give consent under paragraph 7(2) of schedule 1A to the registration of the deed, or (vi) the disposition is made by a specified insolvency practitioner in specified circumstances.

294 The relevant dates for sub-paragraph (2) are the date on which the granter's interest was registered, and the commencement date.

295 Sub-paragraph (4) sets out the relevant legislation for the purpose of sub-paragraph 2(d) and sub-paragraph (5) provides that "specified circumstances" and "specified insolvency practitioner" have the meaning given by paragraph 2(5).

Cases where Keeper must reject prescriptive application

296 Paragraph 5 of the new schedule 1A sets out the circumstances in which the Keeper must reject a prescriptive application.

297 Paragraph 5 applies where a prescriptive claimant application by virtue of section 43(1) of the LRSA 2012 is made by an overseas entity and the entity is neither a registered overseas entity nor an exempt overseas entity, at the time of the application. In these circumstances, the Keeper must reject the application.

Case where Keeper must reject voluntary application

298 Paragraph 6 of the new schedule 1A applies where an application for voluntary registration under section 27 of the LRSA 2012 is made by an overseas entity. The application must be rejected by the Keeper unless the entity is either a registered overseas entity, or an exempt overseas entity (paragraph 4(2)).

Consent to registration of certain deeds that cannot otherwise be registered

299 Paragraph 7 of the new schedule 1A provides that where the Keeper would otherwise be required to reject an application for registration of a qualifying registrable deed or a registrable deed which is a standard security, or an application for registration of a notice of title in respect of a qualifying registrable deed or registrable deed which is a standard security' the Scottish Ministers may consent to registration of the relevant deed. The Scottish Ministers must be satisfied that at the time of delivery of the relevant deed that the person in whose favour it was granted did not know, and could not reasonably have been expected to know, of the duty imposed on the Keeper by paragraph 2(2), and that in all the circumstances it would be unjust for the deed not to be registered.

300 Sub-paragraph 5 sets out that the Scottish Ministers may by regulations make provision in connection with applications for such consent, and the giving of consent. Sub-Paragraph 6 provides that the regulations may, for example, make provision about who may apply, the evidence required to be presented, and time limits.

Partially executed deeds

301 For the purposes of paragraphs 2(1)(c) and 7(2)(a) and (4)(a) of the new schedule 1A as referred to above, a qualifying registrable deed or registrable deed which is a standard security is to be treated, as at the date of delivery of the deed, as having been granted even if at that time it has been executed by the overseas entity only.

Interpretation

302 Paragraph 9 of the new schedule 1A defines key terms used in schedule 1A: “the commencement date”; “exempt overseas entity”, “overseas entity”; “qualifying registrable deed”; “register of overseas entities” and “registered overseas entity”. Paragraph 9(2) provides that for the purposes of schedule 1A, an overseas entity that fails to comply with the “updating duty” in section 7 of the Act is not to be treated as a “registered overseas entity” until it remedies the failure. Paragraph 9(3) provides that, for the purpose of paragraph 9(2), an overseas entity “remedies” the failure when it delivers the required statements and information mentioned in section 7(1)(a), (b) and (c) of the Act.

Part 2: Transition: deeds registered pre-commencement

303 Part 2 of Schedule 4 provides for a transitional period for overseas entities that are registered proprietors in relation to registered land in Scotland and became such proprietors on or after 8 December 2014 but before the commencement date. This part provides for a transitional period of six months in duration for overseas entities to either dispose of their qualifying estate or to register as a “registered overseas entity” under the Act provisions.

Duty to register as an overseas entity within transitional period

304 Paragraph 10(1) of Schedule 4 provides that an overseas entity that is registered in the Land Register of Scotland as proprietor of an interest in land and became so registered on or after 8 December 2014 but before the commencement date, and, at the end of the period of six months beginning with the commencement date the entity is neither a registered overseas entity nor an exempt overseas entity, commits an offence and every officer of the entity who is in default also commits an offence. Paragraph 10(2) sets out the penalties for a person found guilty of an offence under paragraph 10.

Disapplication of certain provisions during transitional period

305 Paragraph 11 of Schedule 4 sets out the circumstances in which an overseas entity is not required to become a registered overseas entity within the transitional period.

306 The provisions in paragraph 11(3) and (4) do not apply during the period of six months from the commencement date. These provisions are (i) section 112A of the LSRA 2012, as inserted by this Act; (ii) paragraphs 2 and 4 of schedule 1A to the LSRA 2012, as inserted by this Act, as regards the plot of land or, as the case may be, lease.

307 The effect of paragraph 11 is that:

- a. an overseas entity that is a proprietor of registered land and became so registered in the Land Register on or after 8 December 2014 may, within six months of the commencement date, grant a qualifying registrable deed or a registrable deed which is a standard security without the overseas entity having to comply with the registration requirements under the Act;
- b. a person may, within six months of the commencement date, make a prescriptive claimant application in respect of land registered in favour of the overseas entity described in a. without the overseas entity having to comply with the registration requirements under the Act;

- c. an overseas entity described in a. above will not commit an offence under section 112A if it grants a deed described in a. above within six months of the commencement date.

Interpretation

308 Paragraph 12 of Schedule 4 provides definitions of terms used in Part 2 of Schedule 4.

Part 3: Power to make further provision

309 Paragraph 13 contains a power for the Secretary of State to make affirmative regulations which make further or alternative provision for the purpose of requiring or encouraging an overseas entity that owns or holds a right or interest in or over land in Scotland, or enters into land transactions in Scotland, to register as an overseas entity.

310 No regulations may be made after the end of the period of six months beginning with the day on which the Act is passed. 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.

311 Such regulations may amend, repeal or revoke provision made by Schedule 4, or any provision made by or under any other Act, or an Act of the Scottish Parliament, made (a) before the Act, or (b) later in the same session of Parliament as the Act.

312 This power provides a secondary legislation mechanism to make changes that might transpire to be necessary after the Act is enacted.

Schedule 5: Land ownership and transactions: Northern Ireland

313 This Schedule amends the Land Registration Act (Northern Ireland) 1970 (the “1970 Act”), according to paragraph 1.

314 Paragraph 2 of Schedule 5 inserts (after section 61) of a new section 61A into the 1970 Act. Paragraph 3 inserts a new Schedule 8A into the 1970 Act.

315 New section 61A sets out that new Schedule 8A is about the ownership of registered land by overseas entities and about registrable dispositions made by them. Schedule 8A makes provisions equivalent to Schedule 4A, described above, in respect of Northern Ireland, subject to existing differences in land registration on Northern Ireland.

Meaning of “qualifying estate”

316 Paragraph 1 of the new Schedule 8A sets out the two estates in land that are in scope of the registration requirements in Northern Ireland: a freehold estate in land and a leasehold estate in land where the lease is granted for a term of more than 21 years from the date of the grant.

Registration

317 Paragraph 2 of the new Schedule 8A prohibits the making of an application to register an overseas entity as the owner of a qualifying estate unless, at the time of the application, the entity is either (a) a “registered overseas entity” (i.e. an entity registered in the overseas entities register which has complied with the update requirements under section 7 of the Act), or (b) is an exempt overseas entity.

Restrictions on disposal

318 Paragraph 3(1) of the new Schedule 8A sets out that an inhibition (“an overseas entity inhibition”) must be entered against the title of the registered owner of a qualifying estate if the Registrar is satisfied that (a) the registered owner is an overseas entity and (b) the

application for the entity to be registered as the owner was made on or after the date on which paragraph 2 came into operation. Paragraph 3(1) therefore applies to overseas entities that become registered owners of a qualifying estate if the application to register was made on or after the commencement date. Unlike in England and Wales and in Scotland, no restrictions on disposals will apply to overseas entities that are registered owners of a qualifying estate and became so before paragraph 3 came into operation.

319 Paragraph 3(2) of the new Schedule 8A provides that no fee will be charged for the entry of an overseas entity inhibition.

320 Paragraph 3(3) of the new Schedule 8A sets out the effect of the overseas entity inhibition: from and after the entry of an overseas entity inhibition, none of the dispositions mentioned in paragraph 3(4) affecting the land in question are to be entered on the title register, unless one of the conditions in paragraph 3(5) is met. The relevant dispositions which entry on the title register is prohibited are:

- a. A transfer of the owner's estate (i.e. transfer of a freehold estate or assignment of a leasehold estate where the term granted exceeds 21 years),
- b. A grant of a leasehold estate where the term exceeds 21, and
- c. The creation of a charge on the land. (paragraph 3(4))

321 The conditions mentioned in paragraph 3(3) are set out in paragraph 3(5):

- a. The entity is a registered overseas entity, or is an exempt overseas entity, at the time of the disposition;
- b. The disposition is made in pursuance of a statutory obligation, a court order, or by the operation of law;
- c. In pursuance of a contract made before the inhibition is entered in the register;
- d. In exercise of a power of sale or leasing conferred on the owner of a registered charge or a receiver appointed by such an owner (i.e. owner of the registered charge); or
- e. The disposition is made by a specified insolvency practitioner in specified circumstances.

322 The duty to enter an overseas entity inhibition against each relevant title applies regardless of whether the overseas entity is exempt or not. The inhibition will however not "bite" if an overseas entity makes a disposition at the time it is an exempt overseas entity.

323 Sub-paragraph (6) explains that, in sub-paragraph (5), "specified circumstances" means circumstances set out in regulations made by the Department of Finance for the purposes of this paragraph, and "specified insolvency practitioner" means an insolvency practitioner of a description specified in regulations made by the Department of Finance for the purposes of that paragraph. Such regulations are subject to negative resolution (sub-paragraph (7)).

Registrable dispositions by overseas entity entitled to be registered (but not registered)

324 Where an overseas entity is entitled to be registered as the owner of a qualifying estate, or became so entitled on or after the day on which paragraph 4 of the new Schedule 8A comes into operation; and makes any of the dispositions set out in paragraph 4(2), the disposition must not be registered unless:

- a. The entity is a registered overseas entity, or exempt, at the time of the disposition, or unless the disposition is made

- b. In pursuance of a statutory obligation, court order, or by the operation of law,
- c. In pursuance of a contract made before the entity became entitled to be registered,
- d. In the exercise of a power of sale or leasing conferred on the owner of a registered charge or a receiver appointed by such an owner, or
- e. The disposition is made by a specified insolvency practitioner in specified circumstances.

325 The effect of paragraph 4 is that a third party to whom a qualifying estate is transferred, assigned or charged (as the case may be) by an overseas entity will not be able to register that disposition unless the overseas entity was, at the time of the disposition, “a registered overseas entity”, an exempt overseas entity, or one of the exceptions listed in paragraph 4(3) of the new Schedule 8A applies.

326 Sub-paragraph (4) sets out that, in sub-paragraph 3(e), “specified circumstances” and “specified insolvency practitioner” have the meaning given by paragraph 3(6).

Making dispositions that cannot be registered

327 Paragraph 5 of the new Schedule 8A provides that an overseas entity must not make a registrable disposition of a qualifying estate if the registration of the disposition is (i) prohibited by an inhibition entered under paragraph 3, or (ii) prevented by paragraph 4. Should an overseas entity make such a disposition (i.e. one that cannot be registered) it commits an offence, and an offence is also committed by every officer of the entity who is in default.

328 Nothing in paragraph 5 of the new Schedule 8A affects the validity of a disposition made in breach of paragraph 5(1). In other words, if an overseas entity that is not exempt makes a disposition at a time when it is not a registered overseas entity, while the disposition will not be capable of registration and the entity will have committed an offence, the validity of the disposition itself will not be affected. This is intended to avoid situations where a potentially void, voidable or unenforceable transfer causes significant disruption to a chain of conveyances.

329 Paragraph 5(7) of the new Schedule 8A sets out the penalties for offences committed under paragraph 5. Those guilty of an offence on summary conviction face a term of imprisonment of up to six months or a fine not exceeding the statutory maximum, or both. Where convicted on indictment, liability is up to a term of imprisonment of five years, or fine, or both.

330 Paragraph 5(8) of the new Schedule 8A provides that proceedings for an offence under paragraph 5 may only be brought by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

Interpretation etc

331 Paragraph 6 of the new Schedule 8A defines key terms used in Schedule 8A, including the meaning of “registered overseas entity”, “register of overseas entities”, “overseas entity” and “exempt overseas entity”. They share the same meaning as defined elsewhere in this Part.

332 For the purposes of Schedule 8A, an overseas entity that is registered in the overseas entities register but fails to comply with the updating duty in section 7 of the Act is not to be treated as a registered overseas entity until it remedies the failure (paragraph 7(1) of the new Schedule 8A). An overseas entity “remedies” the failure when it delivers the required statements and information under section 7(1)(a), (b) and (c) of the Act (paragraph 7(2)).

Part 2 — Unexplained Wealth Orders

The Responsible Officers

Section 45: Imposition of unexplained wealth orders on officers etc of property holder: England and Wales and Northern Ireland

- 333 This section inserts a new category of persons who may be specified in a UWO, referred to as “responsible officers”.
- 334 The definition of specified responsible officer is given in new section 362A(8), and means that, in a case where the respondent is not an individual, the application may also specify a person who is a responsible officer of the respondent (a “specified responsible officer”); and a person specified may include a person outside the United Kingdom.
- 335 In practice, this means increasing the scope of existing powers to enable UWOs to seek information more easily from persons who are officers of legal entities thought to have control over the asset, and therefore subject to the obligation to provide the information sought by it, even though the responsible officer is not the property holder. This is to ensure that individuals cannot hide behind complex ownership structures.

Section 46: Imposition of unexplained wealth orders on officers etc of property holder: Scotland

- 336 This section amends section 396A of POCA to provide equivalent provisions for the new category of specified responsible officers in Scotland.

The Income Requirement

Section 47: Alternative test to the income requirement: England and Wales and Northern Ireland

- 337 This section amends the existing income requirement to include a new test, which focuses upon there being reasonable grounds to suspect that property that is the subject of the UWO application has been obtained through unlawful conduct.
- 338 When seeking a UWO against a respondent, an enforcement authority will have the flexibility to satisfy the court that either the existing income requirement in section 362B (3) of POCA or the new alternative income requirement (to which this note corresponds) can be met.

Section 48: Alternative test to the income requirement: Scotland

- 339 This section amends section 396B (3) of POCA to provide equivalent provisions for the alternative test to the income requirement in Scotland.

The Interim Freezing Order time limit

Section 49: Power to extend period for which interim freezing order has effect: England and Wales and Northern Ireland

- 340 This section amends sections 362D and 362K of POCA, and inserts sections 362DA and 362DB into POCA to allow the High Court to grant an additional 126 days to enforcement authorities who receive material provided in response to a UWO on application. Subsection (1) of new section 362DA outlines the safeguards which must be met before an extension can be made.

341 In practice this increases the maximum statutory time period afforded to enforcement authorities to review material provided to them in response to a UWO before a corresponding freezing order expires. This strikes an appropriate balance between the rights of the individual and the time needed for law enforcement to have sufficient time to investigate a case.

342 This allows for the initial 60-day time period to be extended in intervals of up to 63 days, totaling a review period of no more than 186 days.

Section 50: Power to extend period for which interim freezing order has effect:

Scotland

343 This section amends section 396D of POCA and inserts sections 396DA and 396DB into POCA to provide equivalent provisions enabling the Court of Session to extend the period for which the interim freezing order has effect in Scotland.

Annual Reports

Section 51: Annual report on unexplained wealth orders

344 This section inserts a new requirement into section 362IA of POCA which imposes a statutory obligation on the Secretary of State to lay an annual report on UWOs during the relevant period of 12 months. This report will specify the number of UWOs made by the High Court and the number of applications across all enforcement authorities.

Costs of Proceedings

Section 52: Limits on costs orders in relation to unexplained wealth orders: England and Wales and Northern Ireland

345 This section inserts a new section 362U into POCA to provide for the High Court to limit an enforcement authority's liability by protecting them from any costs which could be awarded against them in UWO proceedings, unless the applicant enforcement authority seeking the UWO has acted dishonestly, unreasonably, or improperly. The relevant proceedings are listed in subsection (1).

Section 53: Limits on costs orders in relation to unexplained wealth orders: Scotland

346 This section inserts a new section 396V into POCA to provide equivalent provisions for limits on costs orders in relation to UWOs in Scotland.

Part 3 — Sanctions

Chapter 1 – Monetary Penalties

Section 54 Imposition of monetary penalties

347 This section amends section 146 of the Policing and Crime Act 2017 so that civil monetary penalties can be applied to persons for breaches of financial sanctions with no requirement for OFSI to prove that the person had knowledge or reasonable cause to suspect their activity breached sanctions. The burden on OFSI to prove that there was a breach of a prohibited act or failure to comply with an obligation remains.

348 Subsection (1A) refers to financial sanctions legislation as defined in section 143 of the Act and makes clear that in determining for the purposes of section 146(1) whether a person has breached a prohibition, or failed to comply with an obligation, any requirement imposed by financial sanctions legislation for the person to have known, suspected or believed any matter must be ignored.

Section 55: Procedural rights

349 The existing legislation requires a minister (in practice the Economic Secretary to the Treasury) to conduct administrative reviews of financial sanctions monetary penalties personally.

350 This section amends section 147 of the Policing and Crime Act 2017 to take away the obligation on the Minister to carry out the review personally. The Minister retains the discretion to do so but in accordance with the *Carltona* doctrine this change means that other officials within the department may undertake the review instead where appropriate.

Section 56: Reporting on breach of financial sanctions

351 This section amends section 149 of the Policing and Crime Act 2017 to allow OFSI to publish notices detailing violations by persons of financial sanctions in cases where it has decided not to impose a penalty.

Chapter 2 – Imposition of Sanctions

Section 57: Streamlining process of making sanctions regulations

352 This section, and 58 to 66, amend the Sanctions Act. These amendments relate to the powers of “an appropriate Minister”. An “appropriate Minister” is defined in the Sanctions Act as the Secretary of State or the Treasury.

353 The amendments made by Section 57 will omit section 2 of the Sanctions Act, which sets out additional requirements in relation to the making of sanctions regulations for purposes other than compliance with a UN obligation or international obligations.

Section 58: Urgent designation of persons by name

354 Section 58 amends section 11 of the Sanctions Act, to make new provision about the restrictions on the power of an appropriate Minister to designate a person by name. These restrictions must be included in any regulations made under section 1 of the Sanctions Act which authorise the Minister to designate persons by name.

355 Under section 11 as amended, such regulations must provide for a new urgent procedure for making designations. They will no longer need to provide that a Minister can designate a person only where the Minister considers that such a designation is appropriate, having regard to the purpose of the relevant sanctions regulations and to the likely significant effects of designation on the person (the “appropriateness test”).

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356 To designate under the standard procedure, the Minister must have reasonable grounds to suspect that the person is involved in, or connected to, an activity set out in the regulations for a particular sanctions regime (“an involved person”).

357 The urgent procedure for making designations may be used where the Minister considers that it is in the public interest to do so. Under the urgent procedure, a Minister may designate a person where he or she does not consider that there are reasonable grounds to suspect that the person is an involved person, but where that person has been designated under corresponding provision of the law of the United States of America, the European Union, Australia or Canada, or any other country specified in regulations made by the Minister.

358 A designation made under the new “urgent” procedure may remain in place for a period of 56 days (subject to extension for a further 56 days where the necessary conditions are met). In order for the designation to remain in place after this, the Minister must certify that he or she has reasonable grounds to suspect that the designated person is an involved person.

359 This section also amends provisions of section 11 in relation to the obligation to provide a designated person with a statement of the reasons in relation to their designation. Statements of reasons must be provided whether the urgent or the standard procedure is used.

Section 59: Urgent designation of persons by description

360 Section 59 amends section 12 of the Sanctions Act, which is similar to section 11 of that Act but provides for circumstances where an appropriate Minister designates a person by description rather than by name.

361 Under section 12 as amended, sanctions regulations which provide for designation by description must provide for a new urgent procedure for making designations. This will be similar to the urgent designation procedure for designations by name.

362 In relation to the standard procedure for designations by description, the amendments will remove the condition that such a power may only be used where it is not practicable for the Minister to identify by name all the persons falling within the description. Sanctions regulations will no longer need to provide that a Minister can designate by description only where the “appropriateness test” is met. That test is that the Minister considers that the designation of persons of that description is appropriate, having regard to the purposes of the relevant sanctions regulations and to the likely significant effects of the designation on persons of the specified description.

363 Amendments are made to the provisions of section 12 which concern statements of reasons, to reflect these changes in the procedure for designation.

Section 60: Specified ships

364 Section 60 will amend section 14 of the Sanctions Act, which allows an appropriate Minister to specify a ship that will be subject to sanctions, when authorised to do so by the regulations.

365 The amendment will remove the requirement for such regulations to provide that the Minister may specify a ship only where he or she considers that it is appropriate for that ship to be specified, having regard to the purposes stated in the regulations.

Section 61: Existing Sanctions Regulations

366 Section 61 provides that from Royal Assent, certain provisions will be read into, and out of, existing sanctions regulations which provide for designations to be made by name or by description. Through this mechanism, existing regulations which provide for designations by name are deemed to include – and always to have included - the urgent procedure. They are

also deemed not to include, and not to have included, the statutory constraint that a designation may be made only where the Minister considers it “appropriate”, as described above.

Section 62: Removal of reviews

367 Section 62 removes the requirements in sections 24 and 28 of the Sanctions Act to review each designation and ship specification every three years.

368 It also removes the obligation for Ministers to review and report to Parliament on each set of sanctions regulations every year

Section 63: Removal of reporting requirements

369 Section 63 removes the requirements for Ministers to report to Parliament on (i) the creation of criminal offences in sanctions regulations; (ii) what sanctions regulations have been made and whether any of them had a human rights purpose; or (iii) certain matters relating to amendments to sanctions regulations.

Section 64: Court reviews: restrictions regarding damages

370 Section 64 limits the circumstances in which damages can be awarded on claims relating to designations and ship specifications.

371 Section 64(1) limits the ability of a court to award damages other than in cases of bad faith. Section 64(2) provides a power to make regulations, by affirmative procedure, limiting the amount of damages that a court can award.

372 Section 64(3) provides that these measures have retrospective effect so far that they apply to all proceedings commenced after 4 March 2022.

Section 65: Sharing of Information

373 This section amends section 16 of the Sanctions Act to make provision about the sharing of information. This will enable amendments to be made to extend relevant information powers in individual Sanctions Act regulations. This will help to ensure that other government departments, agencies and relevant bodies are authorised to share information proactively with the Treasury to facilitate OFSI's functions.

Section 66: Consequential Provision

374 Section 66 creates a power for Ministers to make consequential amendments to Parts 1 and 3 of the Sanctions Act and sanctions regulations made under Part 1 of that Act.

Part 4 - General

Section 67: Regulations

375 This section sets out general provisions for regulations that may be made under the Act. A power to make regulations will be exercisable by statutory instrument. Regulations may make different provisions for different purposes; they may include supplementary, incidental and consequential provisions; and they may make transitional provision and savings. Subsections (4) and (5) give detail on what is meant by affirmative and negative resolution procedures. Subsection (6) provides that provisions made by regulations under the Act that are subject to the negative resolution procedure may also be made by regulations subject to the affirmative resolution procedure.

Section 68: Extent

376 This section sets out that the whole Act extends to England and Wales, Scotland and Northern Ireland except for:

- a. Part 1 –
 - i. Section 33(1) and Schedule 3 extend to England and Wales only
 - ii. Section 33(2) and Parts 1 and 2 of Schedule 4 extend to Scotland only
 - iii. Section 33(3) to (7) and Schedule 5 extend to Northern Ireland only
- b. Part 2, section 51 extends to England and Wales only

377 The amendments made by Part 2 (unexplained wealth orders) and Part 3 (sanctions) have the same extent as the provisions amended by those Parts.

Section 69: Commencement

378 This section provides when provisions of the Act come into force. For Parts 1 and 2, the Secretary of State may appoint the day of coming into force by making regulations. Chapter 1 of Part 3 may be commenced in the same manner by the Treasury. Chapter 2 of Part 3 comes into force on the day the Act is passed.

379 Subsection (4) states that the Secretary of State may make regulations which have transitional or saving provision in connection with Parts 1 and 2 coming into force. Subsection (5) provides the same for the Treasury and Part 3. These regulations may make different provisions for different purposes and are exercisable by statutory instrument.

Section 70: Short title

380 This section provides that, when enacted, the Act may be cited as the Economic Crime (Transparency and Enforcement) Act 2022.

Commencement

381 Parts 1 and 2 come into force on such day as the Secretary of State may appoint in regulations. Chapter 1 of Part 3 comes into force on such day as the Treasury may by regulations appoint. Chapter 2 of Part 3 comes into force on the day on which this Act is passed.

Related documents

382 The following documents are relevant to the Act and can be read at the stated locations:

- Criminal Finances Act 2017:
<https://www.legislation.gov.uk/ukpga/2017/22/contents>
- Corporate Transparency and Register Reform White Paper:
[Corporate transparency and register reform - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/white-papers/corporate-transparency-and-register-reform)
- The Policing and Crime Act 2017:
<https://www.legislation.gov.uk/ukpga/2017/3/contents>
- The Sanctions and Anti-Money Laundering Act 2018:
<https://www.legislation.gov.uk/ukpga/2018/13/contents>
- Register of Overseas Entities Pre-Legislative Scrutiny:
[Government responds to report by pre-legislative scrutiny Joint Committee - UK Parliament](https://www.parliament.uk/business/committees/committees-a-z/commons-select/economic-affairs-committee/inquiries/2018-to-2020/register-of-overseas-entities-pre-legislative-scrutiny/)

Annex A – Territorial extent and application in the United Kingdom

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1	Yes	Yes	Yes	Yes
Section 2	Yes	Yes	Yes	Yes
Section 3	Yes	Yes	Yes	Yes
Section 4	Yes	Yes	Yes	Yes
Section 5	Yes	Yes	Yes	Yes
Section 6	Yes	Yes	Yes	Yes
Section 7	Yes	Yes	Yes	Yes
Section 8	Yes	Yes	Yes	Yes
Section 9	Yes	Yes	Yes	Yes
Section 10	Yes	Yes	Yes	Yes
Section 11	Yes	Yes	Yes	Yes
Section 12	Yes	Yes	Yes	Yes
Section 13	Yes	Yes	Yes	Yes
Section 14	Yes	Yes	Yes	Yes
Section 15	Yes	Yes	Yes	Yes
Section 16	Yes	Yes	Yes	Yes
Section 17	Yes	Yes	Yes	Yes
Section 18	Yes	Yes	Yes	Yes
Section 19	Yes	Yes	Yes	Yes
Section 20	Yes	Yes	Yes	Yes
Section 21	Yes	Yes	Yes	Yes
Section 22	Yes	Yes	Yes	Yes
Section 23	Yes	Yes	Yes	Yes
Section 24	Yes	Yes	Yes	Yes
Section 25	Yes	Yes	Yes	Yes
Section 26	Yes	Yes	Yes	Yes
Section 27	Yes	Yes	Yes	Yes
Section 28	Yes	Yes	Yes	Yes
Section 29	Yes	Yes	Yes	Yes
Section 30	Yes	Yes	Yes	Yes
Section 31	Yes	Yes	Yes	Yes
Section 32	Yes	Yes	Yes	Yes
Section 33	33 (1) and (4)	33 (1) and (4)	33 (2)	33 (3-6)
Section 34	Yes	Yes	Yes	Yes
Section 35	Yes	Yes	Yes	Yes
Section 36	Yes	Yes	Yes	Yes
Section 37	Yes	Yes	Yes	Yes

These Explanatory Notes relate to the Economic Crime (Transparency and Enforcement) Act 2022 which received Royal Assent on 15 March 2022 (c. 10)

Section 38	Yes	Yes	Yes	Yes
Section 39	Yes	Yes	Yes	Yes
Section 40	Yes	Yes	Yes	Yes
Section 41	Yes	Yes	Yes	Yes
Section 42	Yes	Yes	Yes	Yes
Section 43	Yes	Yes	Yes	Yes
Section 44	Yes	Yes	Yes	Yes
Schedule 1	Yes	Yes	No	No
Schedule 2	Yes	Yes	No	No
Schedule 3	Yes	Yes	No	No
Schedule 4	No	No	Yes	No
Schedule 5	No	No	No	Yes
Section 45	Yes	Yes	No	Yes
Section 46	No	No	Yes	No
Section 47	Yes	Yes	No	Yes
Section 48	No	No	Yes	No
Section 49	Yes	Yes	No	Yes
Section 50	No	No	Yes	No
Section 51	Yes	Yes	No	No
Section 52	Yes	Yes	No	Yes
Section 53	No	No	Yes	No
Section 54	Yes	Yes	Yes	Yes
Section 55	Yes	Yes	Yes	Yes
Section 56	Yes	Yes	Yes	Yes
Section 57	Yes	Yes	Yes	Yes
Section 58	Yes	Yes	Yes	Yes
Section 59	Yes	Yes	Yes	Yes
Section 60	Yes	Yes	Yes	Yes
Section 61	Yes	Yes	Yes	Yes
Section 62	Yes	Yes	Yes	Yes
Section 63	Yes	Yes	Yes	Yes
Section 64	Yes	Yes	Yes	Yes
Section 65	Yes	Yes	Yes	Yes
Section 66	Yes	Yes	Yes	Yes

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Annex B – Hansard References

383 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	01 March 2022	Vol. 709
Second Reading	07 March 2022	Vol. 710 Col. 26
Committee Stage	07 March 2022	Vol. 710 Col. 81
Report and Third Reading	07 March 2022	No publications for this sitting.
<i>House of Lords</i>		
First Reading	08 March 2022	Vol. 819
Second Reading	09 March 2022	Vol. 819 Col. 1484
Committee Stage	14 March 2022	Vol. 820 Col. 35
Report	14 March 2022	Vol. 820 Col. 134
Third Reading	14 March 2022	Vol. 820 Col. 153
Commons Consideration of Lords Amendments	14 March 2022	Vol. 710 Col. 733
<i>Royal Assent</i>	14 March 2022	Vol. 820

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Annex C – Progress of Bill Table

384 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Commons	Bill as amended in Committee in the Commons	Bill as introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 4	Clause 4	Clause 4	Clause 4	Clause 4	Clause 4
Section 5	Clause 5	Clause 5	Clause 5	Clause 5	Clause 5
Section 6	Clause 6	Clause 6	Clause 6	Clause 6	Clause 6
Section 7	Clause 7	Clause 7	Clause 7	Clause 7	Clause 7
Section 8	Clause 8	Clause 8	Clause 8	Clause 8	Clause 8
Section 9	Clause 9	Clause 9	Clause 9	Clause 9	Clause 9
Section 10	Clause 10	Clause 10	Clause 10	Clause 10	Clause 10
Section 11	Clause 11	Clause 11	Clause 11	Clause 11	Clause 11
Section 12	Clause 12	Clause 12	Clause 12	Clause 12	Clause 12
Section 13	Clause 13	Clause 13	Clause 13	Clause 13	Clause 13
Section 14	Clause 14	Clause 14	Clause 14	Clause 14	Clause 14
Section 15	Clause 15	Clause 15	Clause 15	Clause 15	Clause 15
Section 16	Clause 16	Clause 16	Clause 16	Clause 16	Clause 16
Section 17	Clause 17	Clause 17	Clause 17	Clause 17	Clause 17
Section 18	Clause 18	Clause 18	Clause 18	Clause 18	Clause 18
Section 19	Clause 19	Clause 19	Clause 19	Clause 19	Clause 19
Section 20	Clause 20	Clause 20	Clause 20	Clause 20	Clause 20
Section 21	Clause 21	Clause 21	Clause 21	Clause 21	Clause 21
Section 22	Clause 22	Clause 22	Clause 22	Clause 22	Clause 22
Section 23				Clause 23	Clause 23
Section 24	Clause 23	Clause 23	Clause 23	Clause 24	Clause 24
Section 25	Clause 24	Clause 24	Clause 24	Clause 25	Clause 25
Section 26	Clause 25	Clause 25	Clause 25	Clause 26	Clause 26
Section 27	Clause 26	Clause 26	Clause 26	Clause 27	Clause 27
Section 28	Clause 27	Clause 27	Clause 27	Clause 28	Clause 28
Section 29	Clause 28	Clause 28	Clause 28	Clause 29	Clause 29
Section 30	Clause 29	Clause 29	Clause 29	Clause 30	Clause 30
Section 31	Clause 30	Clause 30	Clause 30	Clause 31	Clause 31
Section 32	Clause 31	Clause 31	Clause 31	Clause 32	Clause 32
Section 33	Clause 32	Clause 32	Clause 32	Clause 33	Clause 33
Section 34	Clause 33	Clause 33	Clause 33	Clause 34	Clause 34

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Section 35	Clause 34	Clause 34	Clause 34	Clause 35	Clause 35
Section 36	Clause 35	Clause 35	Clause 35	Clause 36	Clause 36
Section 37	Clause 36	Clause 36	Clause 36	Clause 37	Clause 37
Section 38	Clause 37	Clause 37	Clause 37	Clause 38	Clause 38
Section 39	Clause 38	Clause 38	Clause 38	Clause 39	Clause 39
Section 40				Clause 40	Clause 40
Section 41				Clause 41	Clause 41
Section 42				Clause 42	Clause 42
Section 43				Clause 43	Clause 43
Section 44	Clause 39	Clause 39	Clause 39	Clause 44	Clause 44
Section 45	Clause 40	Clause 40	Clause 40	Clause 45	Clause 45
Section 46	Clause 41	Clause 41	Clause 41	Clause 46	Clause 46
Section 47	Clause 42	Clause 42	Clause 42	Clause 47	Clause 47
Section 48	Clause 43	Clause 43	Clause 43	Clause 48	Clause 48
Section 49	Clause 44	Clause 44	Clause 44	Clause 49	Clause 49
Section 50	Clause 45	Clause 45	Clause 45	Clause 50	Clause 50
Section 51		Clause 46	Clause 46	Clause 51	Clause 51
Section 52	Clause 46	Clause 47	Clause 47	Clause 52	Clause 52
Section 53	Clause 47	Clause 48	Clause 48	Clause 53	Clause 53
Section 54	Clause 48	Clause 49	Clause 49	Clause 54	Clause 54
Section 55	Clause 49	Clause 50	Clause 50	Clause 55	Clause 55
Section 56	Clause 50	Clause 51	Clause 51	Clause 56	Clause 56
Section 57		Clause 52	Clause 52	Clause 57	Clause 57
Section 58		Clause 53	Clause 53	Clause 58	Clause 58
Section 59		Clause 54	Clause 54	Clause 59	Clause 59
Section 60		Clause 55	Clause 55	Clause 60	Clause 60
Section 61		Clause 56	Clause 56	Clause 61	Clause 61
Section 62		Clause 57	Clause 57	Clause 62	Clause 62
Section 63		Clause 58	Clause 58	Clause 63	Clause 63
Section 64		Clause 59	Clause 59	Clause 64	Clause 64
Section 65	Clause 51	Clause 60	Clause 60	Clause 65	Clause 65
Section 66		Clause 61	Clause 61	Clause 66	Clause 66
Section 67	Clause 52	Clause 62	Clause 62	Clause 67	Clause 67
Section 68	Clause 53	Clause 63	Clause 63	Clause 68	Clause 68
Section 69	Clause 54	Clause 64	Clause 64	Clause 69	Clause 69
Section 70	Clause 55	Clause 65	Clause 65	Clause 70	Clause 70
Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1
Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2
Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3

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Schedule 4	Schedule 4	Schedule 4	Schedule 4	Schedule 4	Schedule 4
Schedule 5	Schedule 5	Schedule 5	Schedule 5	Schedule 5	Schedule 5

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