



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Thursday 9 February 2017

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: NC9

CONSIDERATION OF BILL (REPORT STAGE)

CRIMINAL FINANCES BILL, AS AMENDED

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

NEW CLAUSES

Secretary Amber Rudd

NC7

☆ To move the following Clause—

“Unlawful conduct: gross human rights abuses or violations

- (1) Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc of unlawful conduct) is amended as follows.
- (2) In section 241 (meaning of “unlawful conduct”), after subsection (2) insert—
 - “(2A) Conduct which—
 - (a) occurs in a country or territory outside the United Kingdom,
 - (b) constitutes, or is connected with, the commission of a gross human rights abuse or violation (see section 241A), and
 - (c) if it occurred in a part of the United Kingdom, would be an offence triable under the criminal law of that part on indictment only or either on indictment or summarily,

Criminal Finances Bill, *continued*

is also unlawful conduct.”

(3) After that section insert—

“241A “Gross human rights abuse or violation”

- (1) Conduct constitutes the commission of a gross human rights abuse or violation if each of the following three conditions is met.
- (2) The first condition is that—
 - (a) the conduct constitutes the torture of a person who has sought—
 - (i) to expose illegal activity carried out by a public official or a person acting in an official capacity, or
 - (ii) to obtain, exercise, defend or promote human rights and fundamental freedoms, or
 - (b) the conduct otherwise involves the cruel, inhuman or degrading treatment or punishment of such a person.
- (3) The second condition is that the conduct is carried out in consequence of that person having sought to do anything falling within subsection (2)(a)(i) or (ii).
- (4) The third condition is that the conduct is carried out—
 - (a) by a public official, or a person acting in an official capacity, in the performance or purported performance of his or her official duties, or
 - (b) by a person not falling within paragraph (a) at the instigation or with the consent or acquiescence—
 - (i) of a public official, or
 - (ii) of a person acting in an official capacity,who in instigating the conduct, or in consenting to or acquiescing in it, is acting in the performance or purported performance of his or her official duties.
- (5) Conduct is connected with the commission of a gross human rights abuse or violation if it is conduct by a person that involves—
 - (a) acting as an agent for another in connection with activities relating to conduct constituting the commission of a gross human rights abuse or violation,
 - (b) directing, or sponsoring, such activities,
 - (c) profiting from such activities, or
 - (d) materially assisting such activities.
- (6) Conduct that involves the intentional infliction of severe pain or suffering on another person is conduct that constitutes torture for the purposes of subsection (2)(a).
- (7) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or omission.
- (8) The cases in which a person materially assists activities for the purposes of subsection (5)(d) include those where the person—
 - (a) provides goods or services in support of the carrying out of the activities, or
 - (b) otherwise provides any financial or technological support in connection with their carrying out.”

Criminal Finances Bill, *continued*

- (4) The amendments made by this section—
- (a) apply in relation to conduct, so far as that conduct constitutes or is connected with the torture of a person (see section 241A(2)(a) of the Proceeds of Crime Act 2002 as inserted by subsection (3) above), whether the conduct occurs before or after the coming into force of this section;
 - (b) apply in relation to property obtained through such conduct whether the property is obtained before or after the coming into force of this section;
 - (c) apply in relation to conduct, so far as that conduct involves or is connected with the cruel, inhuman or degrading treatment or punishment of a person (see section 241A(2)(b) of that Act as inserted by subsection (3) above), only if the conduct occurs after the coming into force of this section.

This is subject to subsection (5).

- (5) Proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 may not be brought in respect of property obtained through unlawful conduct of the kind mentioned in section 241(2A) of the Proceeds of Crime Act 2002 (as inserted by subsection (2) above) after the end of the period of 20 years from the date on which the conduct constituting the commission of the gross human rights abuse or violation concerned occurs.
- (6) Proceedings under that Chapter are brought in England and Wales or Northern Ireland when—
- (a) a claim form is issued,
 - (b) an application is made for a property freezing order under section 245A of that Act, or
 - (c) an application is made for an interim receiving order under section 246 of that Act,
- whichever is the earliest.
- (7) Proceedings under that Chapter are brought in Scotland when—
- (a) the proceedings are served,
 - (b) an application is made for a prohibitory property order under section 255A of that Act, or
 - (c) an application is made for an interim administration order under section 256 of that Act,
- whichever is the earliest.”

Member’s explanatory statement

This new clause extends the meaning of “unlawful conduct” for the purposes of Part 5 of the Proceeds of Crime Act 2002, so that it includes conduct in other countries that constitutes the gross human rights abuse or violation of a person who has sought to expose illegal activity of a public official or person acting in an official capacity, or to promote etc human rights. Part 5 confers civil recovery powers in relation to property that has been obtained through unlawful conduct.

Secretary Amber Rudd

NC8

- ☆ To move the following Clause—

“Her Majesty’s Revenue and Customs: removal of restrictions

- (1) The following provisions, which impose restrictions on the exercise of certain powers conferred on officers of Revenue and Customs, are amended as follows.

Criminal Finances Bill, *continued*

- (2) In section 23A of the Criminal Law (Consolidation) (Scotland) Act 1995 (investigation of offences by Her Majesty's Revenue and Customs), omit the following—
- (a) in subsection (2), the words “Subject to subsection (3) below,” and the words from “other than” to the end of the subsection;
 - (b) subsection (3).
- (3) In section 307 of the Criminal Procedure (Scotland) Act 1995 (interpretation), omit the following—
- (a) in subsection (1), in paragraph (ba) of the definition of “officer of law”, the words “subject to subsection (1A) below,”;
 - (b) subsection (1A).
- (4) In the Proceeds of Crime Act 2002 omit the following—
- (a) in section 289 (searches), subsections (5)(ba) and (5A);
 - (b) in section 294 (seizure of cash), subsections (2A), (2B) and (2C);
 - (c) section 375C (restriction on exercise of certain powers conferred on officers of Revenue and Customs);
 - (d) section 408C (restriction on exercise of certain powers conferred on officers of Revenue and Customs).
- (5) In the Finance Act 2007, in section 84 (sections 82 and 83: supplementary), omit subsection (3).”

Member's explanatory statement

This new clause, together with amendments 20, 25 and 28, removes restrictions on the exercise of certain powers by HMRC officers. The restrictions prevented the powers being exercised in relation to certain former Inland Revenue functions.

Dominic Raab
 Dame Margaret Hodge
 Tom Brake
 Mr Douglas Carswell
 Ian Blackford
 Caroline Lucas

Mr Andrew Mitchell
 Mr Jonathan Djanogly
 James Gray
 Ms Harriet Harman
 Catherine McKinnell
 Mr Ben Bradshaw
 Ms Margaret Ritchie
 Fiona Mactaggart
 Ms Karen Buck
 Neil Gray
 Dr Eilidh Whiteford
 Ms Tasmina Ahmed-Sheikh

Mr Dominic Grieve
 Tim Loughton
 Bob Stewart
 Margaret Beckett
 Caroline Flint
 Rushanara Ali
 Mark Durkan
 Mr George Howarth
 Ann Coffey
 Drew Hendry
 Brendan O'Hara
 Hannah Bardell

Dr Sarah Wollaston
 Mr Jacob Rees-Mogg
 Sir Edward Garnier
 Chris Bryant
 Rachel Reeves
 Mr David Lammy
 Sammy Wilson
 Ian Austin
 Ms Angela Eagle
 Calum Kerr
 Stephen Gethins
 Joanna Cherry

Criminal Finances Bill, *continued*

John Nicolson
Patrick Grady
Sir Jeffrey Donaldson

Douglas Chapman
Charlie Elphicke
Richard Benyon

Chris Stephens
Mr Nigel Dodds

NC1

To move the following Clause—

“Civil recovery: gross abuse of human rights

- (1) Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc. of unlawful conduct) is amended as follows.
- (2) In section 241 (which defines unlawful conduct), after subsection (2), insert—
 - “(2A) Conduct which—
 - (a) occurs in a country or territory outside the United Kingdom and has been designated as conduct by a person connected to a gross human rights abuse in accordance with the provisions of section 241B, and
 - (b) if it occurred in a part of the United Kingdom, would be or would have been unlawful under the criminal law of that part at the relevant time,
 is also unlawful conduct.”
- (3) After section 241 (which defines unlawful conduct), insert—

“241A Conduct connected to a gross human rights abuse

- (1) “Conduct connected to a gross human rights abuse” means—
 - (a) involvement by a Person (“A”) in torture or other serious breaches of human rights and fundamental freedoms against a Person (“B”) where B sought or seeks—
 - (i) to expose illegal activity carried out by foreign public officials, or
 - (ii) to obtain, exercise, defend or promote human rights and fundamental freedoms,
 - (b) activities by a Person (“C”) as an agent in a matter relating to an activity by A described in paragraph (a),
 - (c) activities by a Person (“D”) to profit from, materially assist, sponsor, or provide financial, material or technological support for, or goods and services in support of, an activity by A described in paragraph (a),
 - (d) commission by a Person (“E”), whether or not a foreign public official, of the illegal activity described in paragraph (a)(i).
- (2) For the purposes of this section, it is immaterial where the conduct occurred.
- (3) In this section “human rights and fundamental freedoms” means the “Convention rights” as defined in section 1 of the Human Rights Act 1998.

241B Designation of conduct connected to a gross human rights abuse

- (1) The High Court may make an order designating that the actions of the respondent constitute conduct connected to a gross human rights abuse and, if considered appropriate, that—
 - (a) a person is prohibited from dealing with property, funds or economic resources owned, held or controlled by the respondent if the person knows, or has reasonable cause to suspect, that the

Criminal Finances Bill, *continued*

- person is dealing with such property, funds or economic resources,
- (b) a person is prohibited from making property, funds or financial services available (directly or indirectly) to the respondent if the person knows, or has reasonable cause to suspect that the person is making the funds or financial services so available,
 - (c) a person is prohibited from making funds or financial services available to any person for the benefit of the respondent if the person knows, or has reasonable cause to suspect, that the person is making the funds or financial services so available.
- (2) An order under subsection (1) may only be made on application.
 - (3) An application for an order under subsection (1) may be made by—
 - (a) the Secretary of State,
 - (b) an individual, or
 - (c) an entity, including a non-governmental organisation.
 - (4) An application for an order under subsection (1) must be supported by a statement of information which addresses—
 - (a) the circumstances surrounding the respondent's conduct connected to a gross human rights abuse, and
 - (b) the nature and extent of the respondent's involvement.
 - (5) An application for an order under subsection (1) may be made without notice to the respondent to a judge in chambers.
 - (6) The Court must be satisfied that it is in the public interest to make an order under subsection (1).
 - (7) The Court shall reach a decision on an order under subsection (1) on the balance of probabilities.

241C Duration, extension, variation and discharge of an order

- (1) The High Court shall specify the duration of an order under section 241B(1) which shall not exceed two years.
- (2) In determining the duration of an order, the Court shall have regard to the likely duration of consequential proceedings under this Part.
- (3) The Court may extend an order for a maximum period to two years at any time before it expires, if it is satisfied that the requirements of a designation order continue to be met.
- (4) An extension application may be made without the need for a hearing if the court considers it appropriate.
- (5) An application to extend, vary or discharge an order may be made to the court by—
 - (a) the Secretary of State,
 - (b) the applicant,
 - (c) the respondent, or
 - (d) any person affected by the order.
- (6) An application to discharge a designation order must be made by the applicant as soon as reasonably practicable in circumstances where the requirements of an order are no longer satisfied.

Criminal Finances Bill, *continued*

241D Appeals, etc.

- (1) The following persons may appeal to the Court of Appeal in respect of the High Court's decision on matters falling to be decided under sections 241B and 241C—
 - (a) the applicant,
 - (b) the respondent, or
 - (c) any person affected by the order.
- (2) On an appeal under subsection (1) the Court of Appeal may—
 - (a) confirm the decision, or
 - (b) make such orders as it believes appropriate.
- (3) An appeal lies to the Supreme Court from a decision of the Court of Appeal on an appeal under this section.
- (4) An appeal under this section lies at the instance of any person who was a party to the proceedings before the Court of Appeal.
- (5) On an appeal under this section the Supreme Court may—
 - (a) confirm the decision of the Court of Appeal, or
 - (b) make such order as it believes is appropriate.

241E Standard to be applied

All matters to be determined by a court under sections 241B to 241D are to be decided on the balance of probabilities.

241F Costs

In the exercise of its discretion, a court may, on application, make a costs capping order in respect of proceedings under sections 241B to 241D.

241G Duties in respect of gross abuse of human rights

- (1) It shall be the duty of the Secretary of State to apply for an order under section 241B where the Secretary of State is satisfied that—
 - (a) the requirements for the making of an order are met; and
 - (b) it is in the public interest to make the application.
- (2) It shall be the duty of the Secretary of State to maintain a public register of—
 - (a) individuals in respect of whom orders have been made under section 241B(1),
 - (b) the circumstances giving rise to the making of such orders, and
 - (c) any decisions of a court under sections 241C and 241D in relation to such orders.
- (3) In any case where a relevant authority considers that evidence is available of property being held by a person in respect of whom an order has been made under section 241B which may represent property obtained through unlawful conduct, it shall be the duty of the relevant authority to seek to initiate proceedings for civil recovery under this Part.”

Criminal Finances Bill, *continued*

- (4) In section 304 (which defines recoverable property), after subsection (1), insert—
- “(1A) Property of a person who is the subject of a designation order under section 241B is presumed to have been obtained through unlawful conduct unless the contrary is shown by the respondent.””

Member’s explanatory statement

This new clause extends the scope of unlawful conduct for the purposes of Part 5 of the Proceeds of Crime Act 2002 to cover to certain actions connected to a gross human rights abuse which has taken place abroad.

Sir Edward Garnier
Catherine McKinnell

NC2

To move the following Clause—

“Failure to Prevent an Economic Criminal Offence

- (1) A relevant body (B) is guilty of an offence if a person commits a economic criminal offence when acting in the capacity of a person associated with (B).
- (2) For the criminal purposes of this clause—
 - “economic criminal offence” means any of the offences listed in Part 2 of Schedule 17 to the Crime and Courts Act 2013.
 - “relevant body” and “acting in the capacity of a person associated with B” has the same meaning as in section 39.
- (3) It is a defence for B to prove that, when the economic criminal offence was committed—
 - (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
 - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (4) In subsection (2) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing a economic criminal offence.
- (5) A relevant body guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to a fine,
 - (b) on summary conviction in England and Wales, to a fine,
 - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (6) It is immaterial for the purposes of this section whether—
 - (a) any relevant conduct of a relevant body, or
 - (b) any conduct which constitutes part of a relevant criminal financial offence takes place in the United Kingdom or elsewhere.

Criminal Finances Bill, *continued*

- (7) The Chancellor of the Exchequer and the Secretary of State must prepare and publish guidance about procedures that relevant bodies can put in place to prevent persons acting in the capacity of an associated person from committing an economic criminal offence.”

Member’s explanatory statement

This new clause would create a corporate offence of failing to prevent economic crime, defined by reference to the offences listed in Part 2 of Schedule 17 to the Crime and Courts Act 2013.

Sir Edward Garnier
Catherine McKinnell

NC3

To move the following Clause—

“Failure to Prevent an Economic Criminal Offence (No. 2)

- (1) A relevant body (B) is guilty of an offence if a person commits a economic criminal offence when acting in the capacity of a person associated with (B).
- (2) For the purposes of this clause—
“economic criminal offence” means one of the following—
- (a) a common law offence of conspiracy to defraud;
 - (b) an offence under section 1, 5 or 7 of Fraud Act 2006;
 - (c) an offence under section 1, 17 or 20 of the Theft Act 1968 (theft, false accounting and destruction of documents);
 - (d) an offence under section 993 of the Companies Act 2006 (fraudulent trading);
 - (e) an offence under sections 346, 397 and 398 of the Financial Services and Markets Act 2000 (providing false statements to auditors, misleading statements, and misleading the FCA);
 - (f) an offence under section 327, 328 and 329 of the Proceeds of Crime Act 2002 (concealing criminal property, facilitating acquisition, acquisition and use of criminal property).
- “relevant body” and “acting in the capacity of a person associated with B” has the same meaning as in section 39.
- (3) It is a defence for B to prove that, when the economic criminal offence was committed—
- (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
 - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (4) In subsection (2) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing a economic criminal offence.
- (5) A relevant body guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine,
 - (b) on summary conviction in England and Wales, to a fine,
 - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (6) It is immaterial for the purposes of this section whether—
- (a) any relevant conduct of a relevant body, or

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- (b) any conduct which constitutes part of a relevant criminal financial offence takes place in the United Kingdom or elsewhere.
- (7) The Chancellor of the Exchequer and the Secretary of State must prepare and publish guidance about procedures that relevant bodies can put in place to prevent persons acting in the capacity of an associated person from committing an economic criminal offence.”

Member's explanatory statement

This new clause would create a corporate offence of failing to prevent economic crime, defined by reference to certain offences listed in subsection (2).

Catherine McKinnell
 Nigel Mills
 Mark Durkan
 Dame Margaret Hodge
 Ian Blackford
 Sir Edward Garnier

NC4

To move the following Clause—

“Failure to prevent criminal financial offences in the UK

- (1) A relevant body (B) is guilty of an offence if a person commits a criminal financial offence when acting in the capacity of a person associated with B.
- (2) It is a defence for B to prove that, when the criminal financial offence was committed—
 - (a) B had in place such prevention procedures as it was reasonable in all the circumstances to expect B to have in place, or
 - (b) it was not reasonable in all the circumstances to expect B to have any prevention procedures in place.
- (3) In subsection (2) “prevention procedures” means procedures designed to prevent persons acting in the capacity of a person associated with B from committing criminal financial offences.
- (4) For the purposes of this clause—
 - “criminal financial offence” means an offence listed in Part 2 of Schedule 17 to the Crime and Courts Act 2013 [that could not be prosecuted under the offences created by sections 7 and 38 of this Act],
 - or, one of the offences listed below—
 - (a) an offence under section 1, 6 or 7 of the Fraud Act 2006;
 - (b) an offence under section 1, 17 or 20 of the Theft Act 1968;
 - (c) an offence under section 993 of the Companies Act 2006;
 - (d) an offence under section 327, 328 and 329 of the Proceeds of Crime Act 2002;
 - (e) the common law offence of conspiracy to defraud;
 - “relevant body” has the same meaning as in section 36.
- (5) A relevant body guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to a fine,
 - (b) on summary conviction in England, to a fine,
 - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

Criminal Finances Bill, continued

- (6) It is immaterial for the purposes of this section whether—
- (a) any relevant conduct of a relevant body, or
 - (b) any conduct which constitutes part of a relevant criminal financial offence takes place in the United Kingdom or elsewhere.”

Member’s explanatory statement

This New Clause would create an offence of failing to prevent any financial offence listed in Part 2 of Schedule 17 of the Crime and Courts Act 2013.

Nigel Mills
 Catherine McKinnell
 Mark Durkan
 Byron Davies
 Dame Margaret Hodge
 Ian Blackford

NC5

To move the following Clause—

“Unexplained Wealth Orders: award of costs

In Chapter 2 of Part 8 of the Proceeds of Crime Act 2002, after section 362H insert—

“362HB Unexplained Wealth Orders: award of costs

- (1) Pursuant to Part 3 of the Civil Procedure Rules (The Court’s Case Management Powers) the High Court must make a costs capping order, in respect of—
 - (a) unexplained wealth orders under section 362A of this Act;
 - (b) interim freezing orders under section 262I of this Act.
- (2) The High Court shall not have power to make an award for costs on the indemnity basis against enforcement authorities who bring an unsuccessful application for—
 - (a) unexplained wealth orders under section 362A of this Act;
 - (b) interim freezing orders under section 262I of this Act.
- (3) For the purposes of this section “enforcement agencies” has the same meaning as in subsection 362A(7).”

Member’s explanatory statement

This new clause would prevent the courts from awarding uncapped costs on the indemnity basis against enforcement agencies where they have brought unsuccessful applications for unexplained wealth orders or interim freezing orders. It seeks to define such civil actions as within “exceptional circumstances” required for the purposes of Practice Direction 3F to Part 3 of the Civil Procedure Rules under which the court has the power to make a cost capping order.

Criminal Finances Bill, continued

Dame Margaret Hodge
 Mr Andrew Mitchell
 Ms Harriet Harman
 Meg Hillier
 Calum Kerr
 Mark Durkan

Mr Nigel Dodds	Hywel Williams	Tom Brake
Caroline Lucas	Nigel Mills	Mr David Burrowes
Byron Davies	Jeremy Lefroy	Sir Peter Bottomley
Rushanara Ali	Heidi Alexander	Ian Austin
Mr Adrian Bailey	Chris Bryant	Ms Karen Buck
Liam Byrne	Ann Clwyd	Ann Coffey
Rosie Cooper	Stephen Doughty	Jim Dowd
Ms Angela Eagle	Chris Evans	Frank Field
Caroline Flint	Mr Roger Godsiff	Helen Goodman
Kate Green	Mr David Hanson	Helen Hayes
Kelvin Hopkins	Mr George Howarth	Dan Jarvis
Liz Kendall	Mr David Lammy	Mr Ivan Lewis
Shabana Mahmood	Steve McCabe	Kerry McCarthy
Siobhain McDonagh	Catherine McKinnell	Mrs Madeleine Moon
Ian Murray	Rachel Reeves	Joan Ryan
Mr Virendra Sharma	Angela Smith	Karin Smyth
John Spellar	Wes Streeting	Stephen Timms
Mr David Winnick	Anna Turley	Mr Chuka Umunna
Ms Tasmina Ahmed-Sheikh	Roger Mullin	Richard Arkless
Chris Stephens	Hannah Bardell	Ian Blackford
Douglas Chapman	Stephen Gethins	John Nicolson
Brendan O'Hara	Dr Eilidh Whiteford	Joanna Cherry
Neil Gray	Alan Brown	Drew Hendry
Stewart Malcolm McDonald	Ms Margaret Ritchie	Dr Alasdair McDonnell
Sir Jeffrey Donaldson	Sammy Wilson	Rob Marris
Kate Osamor	Tom Blenkinsop	Caroline Ansell
Dame Caroline Spelman	Jason McCartney	Nick Herbert

NC6

To move the following Clause—

“Public registers of beneficial ownership of companies registered in the Overseas Territories

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

“2AA Duty of Secretary of State: Public registers of beneficial ownership of companies registered in Overseas Territories

- (1) It shall be the duty of the Secretary of State, in furtherance of the purposes of—
- (a) this Act; and
 - (b) Part 3 of the Criminal Finances Act 2017
- to take the steps set out in this section.
- (2) The first step is, no later than 31 December 2018, to provide all reasonable assistance to the Governments of the UK's Overseas Territories to enable each of those Governments to establish a publicly accessible register of the beneficial ownership of companies registered in that Government's jurisdiction.

Criminal Finances Bill, *continued*

- (3) The second step is, no later than 31 December 2019, to prepare an Order in Council and take all reasonable steps to ensure its implementation, in respect of any Overseas Territory that has not yet introduced a publicly accessible register of the beneficial ownership of companies within their jurisdiction. This Order would require the Overseas Territory to adopt such a register.
- (4) In this section “a publicly accessible register of the beneficial ownership of companies” means a register which, in the opinion of the Secretary of State, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006.””

Member’s explanatory statement

This new clause would require the Secretary of State to take steps to provide that Overseas Territories establish publicly accessible registers of the beneficial ownership of companies, for the purposes of the Proceeds of Crime Act 2002 and Part 3 of the Bill (corporate offences of failure to prevent facilitation of tax evasion).

Carolyn Harris
Dr Rupa Huq

NC9

★ To move the following Clause—

“Gaming machines

- (1) A person who holds a licence which states that it authorises the licensee to make gaming machines available for use, or any person acting on their behalf, must establish and verify the identity of any customer who meets the condition in subsection (2).
- (2) The condition is that the customer pays more than 200 pounds sterling in the course of any period of 24 hours for the use of gaming machines.
- (3) A person who holds a licence under subsection (1) is a “relevant person” within the meaning given by Regulation 2 of the Money Laundering Regulations 2007 and shall be subject to the duties and responsibilities of a “relevant person” under those Regulations, whenever the condition under subsection (2) is met.
- (4) “Gaming machine” has the meaning given by section 235 (gaming machine) of the Gambling Act 2005.”

Dr Rupa Huq

1

Clause 1, page 3, leave out line 29

Member’s explanatory statement

This amendment would allow unexplained wealth orders to be issued to politically exposed persons in the United Kingdom and EEA States.

Criminal Finances Bill, continued

Secretary Amber Rudd

2

- ☆ Clause 9, page 27, line 12, at end insert “, and
(b) section 336BA, which provides for an automatic extension of the moratorium period in certain cases (period extended if it would otherwise end before determination of application or appeal proceedings etc).”

Member’s explanatory statement

This amendment is consequential on amendment 9.

Secretary Amber Rudd

3

- ☆ Clause 9, page 27, line 15, at end insert “, and
(b) section 336BA, which provides for an automatic extension of the moratorium period in certain cases (period extended if it would otherwise end before determination of application or appeal proceedings etc).”

Member’s explanatory statement

This amendment is consequential on amendment 9.

Secretary Amber Rudd

4

- ☆ Clause 9, page 27, line 35, at end insert—
“() A moratorium period extended in accordance with subsection (2) or (4) of section 336BA may also be further extended by the court on the making of an application under this section.”

Member’s explanatory statement

This amendment is consequential on amendment 9 and clarifies that where a moratorium period has been extended automatically under subsection (2) or (4) of new section 336BA it may be further extended by the court on the making of an application under section 336A.

Secretary Amber Rudd

5

- ☆ Clause 9, page 28, line 3, at end insert—
“(8) An application under this section may be made by an immigration officer only if the officer has reasonable grounds for suspecting that conduct constituting the prohibited act in relation to which the moratorium period in question applies—
(a) relates to the entitlement of one or more persons who are not nationals of the United Kingdom to enter, transit across, or be in, the United Kingdom (including conduct which relates to conditions or other controls on any such entitlement), or
(b) is undertaken for the purposes of, or otherwise in relation to, a relevant nationality enactment.
(9) In subsection (8)—
“prohibited act” has the meaning given by section 335(8) or (as the case may be) section 336(10);
“relevant nationality enactment” means any enactment in—
(a) the British Nationality Act 1981,
(b) the Hong Kong Act 1985,
(c) the Hong Kong (War Wives and Widows) Act 1996,
(d) the British Nationality (Hong Kong) Act 1997,
(e) the British Overseas Territories Act 2002, or
(f) an instrument made under any of those Acts.”

Member’s explanatory statement

This amendment is consequential on amendments 13 and 14 and ensures that immigration officers

Criminal Finances Bill, continued

may exercise their powers to make applications to extend the moratorium period only for the purposes of their immigration functions.

Secretary Amber Rudd

6

☆ Clause 9, page 28, line 6, at end insert—

“() The court must determine the proceedings as soon as reasonably practicable.”

Member’s explanatory statement

This amendment requires the court to determine proceedings on applications to extend the moratorium period as quickly as possible.

Secretary Amber Rudd

7

☆ Clause 9, page 28, line 31, leave out from “appeal” to “may” in line 33 and insert “lies to the appropriate appeal court on a point of law arising from a decision made by the Crown Court in Northern Ireland or by the sheriff.

() The appropriate appeal court”

Member’s explanatory statement

This amendment provides for rights of appeals on applications to extend the moratorium period in Northern Ireland or Scotland. Rights of appeal in relation to England and Wales are already available under section 28 of the Senior Courts Act 1981.

Secretary Amber Rudd

8

☆ Clause 9, page 28, line 35, at end insert—

“() The appropriate appeal court is—

(a) in the case of a decision of the Crown Court in Northern Ireland, the Court of Appeal in Northern Ireland;

(b) in the case of a decision of the sheriff, the Sheriff Appeal Court.

() For rights of appeal in the case of decisions made by the Crown Court in England and Wales, see section 28 of the Senior Courts Act 1981 (appeals from Crown Court and inferior courts).”

Member’s explanatory statement

This amendment provides for the meaning of “appropriate appeal court” for the purposes of amendment 7.

Secretary Amber Rudd

9

☆ Clause 9, page 28, line 35, at end insert—

“336BA Extension of moratorium period pending determination of proceedings etc

(1) A moratorium period is extended in accordance with subsection (2) where—

(a) an application is made to the court under section 336A for the extension (or further extension) of the moratorium period, and

(b) the period would (apart from that subsection) end before the court determines the application or it is otherwise disposed of.

(2) The moratorium period is extended from the time when it would otherwise end until the court determines the application or it is otherwise disposed of.

(3) A moratorium period is extended in accordance with subsection (4) where—

(a) proceedings on an appeal in respect of a decision on an application under section 336A have been brought, and

Criminal Finances Bill, continued

- (b) the period would (apart from that subsection) end before the proceedings are finally determined or otherwise disposed of.
- (4) The moratorium period is extended from the time when it would otherwise end until the proceedings are finally determined or otherwise disposed of.
- (5) But the maximum period by which the moratorium period is extended by virtue of subsection (2) or (4) is 31 days beginning with the day after the day on which the period would otherwise have ended.
- (6) A moratorium period is extended in accordance with subsection (7) where—
 - (a) an application is made to the court under section 336A for an extension of the period,
 - (b) the court refuses to grant the application, and
 - (c) the period would (apart from that subsection) end before the end of the 5 day period.
- (7) The moratorium period is extended from the time when it would otherwise end until—
 - (a) the end of the 5 day period, or
 - (b) if proceedings on an appeal against the decision are brought before the end of the 5 day period, the time when those proceedings are brought.
- (8) The “5 day period” is the period of 5 working days beginning with the day on which the court refuses to grant the application.
- (9) This restriction on the overall extension of a moratorium period mentioned in section 336A(6) applies to an extension of a moratorium period in accordance with any provision of this section as it applies to an extension under an order of the court.”

Member’s explanatory statement

This amendment provides for the automatic extension of the moratorium period (up to a maximum of 31 days) in circumstances where an application for its extension has been made under new section 336A of the Proceeds of Crime Act 2002 but proceedings on that application have not been determined before the period would otherwise end or where an appeal has been brought in relation to such an application that has yet to be determined when the period would otherwise end. It also provides for a 5 day extension where a court refuses a section 336A application for the purposes of enabling the applicant to bring appeal proceedings before the period would otherwise end.

Secretary Amber Rudd

- ☆ Clause 9, page 28, line 36, leave out “and 336B” and insert “to 336BA”

10

Member’s explanatory statement

This amendment is consequential on amendment 9.

Secretary Amber Rudd

- ☆ Clause 9, page 28, line 38, leave out “and 336B” and insert “to 336BA”

11

Member’s explanatory statement

This amendment is consequential on amendment 9.

Secretary Amber Rudd

- ☆ Clause 9, page 29, line 6, at end insert “or in accordance with any provision of section 336BA”

12

Member’s explanatory statement

This amendment is consequential on amendment 9.

Criminal Finances Bill, continued

Secretary Amber Rudd

13

☆ Clause 9, page 29, line 27, at end insert—

“() an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank,”

Member’s explanatory statement

This amendment enables senior immigration officers to make applications in England and Wales and Northern Ireland to extend the moratorium period under new section 336A of the Proceeds of Crime Act 2002.

Secretary Amber Rudd

14

☆ Clause 9, page 29, line 46, at end insert—

“() an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank.”

Member’s explanatory statement

This amendment enables senior immigration officers to make applications in Scotland to extend the moratorium period under new section 336A of the Proceeds of Crime Act 2002.

Secretary Amber Rudd

15

☆ Clause 9, page 29, line 46, at end insert—

“() “Working day” means a day other than—

(a) a Saturday,

(b) a Sunday,

(c) Christmas Day,

(d) Good Friday, or

(e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the application in question under section 336A is made.”

Member’s explanatory statement

This amendment is consequential on amendment 9.

Secretary Amber Rudd

16

☆ Clause 11, page 35, line 16, after “notice” insert “under this section”

Member’s explanatory statement

This is a minor drafting amendment that ensures stylistic consistency with corresponding provisions in the Bill.

Secretary Amber Rudd

17

☆ Clause 11, page 35, line 17, after “notice” insert “under this section”

Member’s explanatory statement

This is a minor drafting amendment that ensures stylistic consistency with corresponding provisions in the Bill.

Criminal Finances Bill, continued

Secretary Amber Rudd

18

- ☆ Clause 11, page 37, line 32, leave out from “order” to “may” in line 33 and insert “made by a magistrates’ court, the magistrates’ court”

Member’s explanatory statement

This amendment has the effect that the power to impose a civil penalty for failing to comply with a further information order made under new section 339ZJ of the Proceeds of Crime Act 2002 (inserted by clause 11) would not apply in relation to Scotland to orders made by the sheriff.

Secretary Amber Rudd

19

- ☆ Clause 11, page 37, line 35, leave out from beginning to second “the”

Member’s explanatory statement

This amendment is consequential on amendment 18.

Secretary Amber Rudd

That subsection (3) of clause 12 be transferred to the end of line 19 on page 92

Member’s explanatory statement

This is to move the amendment of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 from clause 12 into clause 34. Clause 34 makes other amendments of that Schedule, all of which also relate to the forfeiture of terrorist cash.

Secretary Amber Rudd

20

- ☆ Clause 13, page 42, line 21, leave out from “only” to end of line 23 and insert “if the officer has reasonable grounds for suspecting that the unlawful conduct in question relates to an assigned matter (within the meaning of the Customs and Excise Management Act 1979);”

Member’s explanatory statement

In addition to removing the restriction on powers discussed in the explanatory statement for NC8, this amendment provides that where an HMRC officer exercises the new powers (inserted by clause 13 into the Proceeds of Crime Act 2002) to search for a listed asset the officer must suspect that the unlawful conduct in question would relate to an assigned matter (that is, any matter in relation to which HMRC has powers or duties other than in relation to devolved tax matters). This is in line with the powers to search for cash in section 289 of the 2002 Act (as amended by amendment 67).

Secretary Amber Rudd

21

- ☆ Clause 13, page 42, leave out lines 32 to 35

Member’s explanatory statement

This amendment is consequential on amendment 20.

Criminal Finances Bill, continued

Secretary Amber Rudd

22

☆ Clause 13, page 43, line 10, at end insert—

“(ca) in relation to the exercise of a power by a National Crime Agency officer, the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose;”

Member’s explanatory statement

It is intended that National Crime Agency officers will access the powers conferred by new Chapter 3A of Part 5 of the Proceeds of Crime Act 2002 by being designated under section 10 of the Crime and Courts Act 2013 as having the powers and privileges of a constable or by being accredited financial investigators. This amendment sets out who is to be a “senior officer” for the purposes of Chapter 3A when a power is exercised by such an NCA officer.

Secretary Amber Rudd

23

☆ Clause 13, page 43, line 22, leave out “paragraph (d)” and insert “any of the preceding paragraphs”

Member’s explanatory statement

This amendment is partly consequential on amendment 22. It also caters for the possibility that an accredited financial investigator could fall within any of existing paragraphs (a) to (c) of new section 303E(4) and not just paragraph (d).

Secretary Amber Rudd

24

☆ Clause 13, page 45, line 6, at end insert—

“(2A) The Secretary of State must also consult the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.”

Member’s explanatory statement

This amendment inserts into the provision about the making of a code of practice by the Secretary of State the equivalent of new subsection (2A) of section 292 of the Proceeds of Crime Act 2002 that is inserted by paragraph 14(3) of Schedule 1 to the Bill.

Secretary Amber Rudd

25

☆ Clause 13, page 47, leave out lines 13 to 21

Member’s explanatory statement

See the explanatory statement for NC8.

Secretary Amber Rudd

26

☆ Clause 13, page 56, line 41, at end insert—

“() If the property was seized by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.”

Member’s explanatory statement

This amendment sets out by whom compensation is to be paid under new section 303W of the Proceeds of Crime Act 2002 if property seized under new Chapter 3A of Part 5 of that Act was seized by a National Crime Agency officer. See also the explanatory statement for amendment 22.

Criminal Finances Bill, continued

Secretary Amber Rudd

27

- ☆ Clause 13, page 56, line 44, after “officer” insert “or a National Crime Agency officer”

Member’s explanatory statement

This amendment is consequential on amendment 26.

Secretary Amber Rudd

28

- ☆ Clause 14, page 59, leave out lines 32 to 40

Member’s explanatory statement

See the explanatory statement for New Clause NC8.

Secretary Amber Rudd

29

- ☆ Clause 14, page 60, line 5, at end insert—

“() the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose, or”

Member’s explanatory statement

It is intended that National Crime Agency officers will access the powers conferred by new Chapter 3B of Part 5 of the Proceeds of Crime Act 2002 by being designated under section 10 of the Crime and Courts Act 2013 as having the powers and privileges of a constable or by being accredited financial investigators. This amendment sets out who within the NCA is to be a “senior officer” for the purposes of Chapter 3B.

Secretary Amber Rudd

30

- ☆ Clause 14, page 65, line 34, at end insert—

“() Where money is released by virtue of subsection (6)(a), there must be added to the money on its release any interest accrued on it whilst in the account referred to in section 303Z9(6)(b).”

Member’s explanatory statement

If, under new section 303Z12 of the Proceeds of Crime Act 2002, a court sets aside the forfeiture of money pursuant to an account forfeiture notice, this amendment provides that there must be added to the money that is released any interest accrued on that money in the period since its forfeiture.

Secretary Amber Rudd

31

- ☆ Clause 14, page 67, line 33, at end insert—

“() Where money is released by virtue of subsection (4), there must be added to the money on its release any interest accrued on it whilst in the account referred to in section 303Z14(7)(a).”

Member’s explanatory statement

If, under new section 303Z16 of the Proceeds of Crime Act 2002, a court upholds an appeal against the making of a forfeiture order and orders the release of all or part of the forfeited money, this amendment provides that there must be added to the money that is released any interest accrued on that money in the period since its forfeiture.

Criminal Finances Bill, continued

Secretary Amber Rudd

32

- ☆ Clause 14, page 68, line 33, at end insert—

“() If the account freezing order was applied for by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.”

Member’s explanatory statement

This amendment sets out by whom compensation is to be paid under new section 303Z18 of the Proceeds of Crime Act 2002 if an account freezing order made under new Chapter 3B of Part 5 of that Act was applied for by a National Crime Agency officer. See also the explanatory statement for amendment 29.

Secretary Amber Rudd

33

- ☆ Clause 14, page 68, line 36, after “officer” insert “or a National Crime Agency officer”

Member’s explanatory statement

This amendment is consequential on amendment 32.

Secretary Amber Rudd

34

- ☆ Clause 28, page 80, line 6, leave out paragraph (b)

Member’s explanatory statement

The amendment made by the provision that is left out now forms part of the amendment made by amendment 64.

Secretary Amber Rudd

35

- ☆ Clause 28, page 80, line 15, leave out paragraph (b)

Member’s explanatory statement

The amendment made by the provision that is left out now forms part of the amendment made by amendment 65.

Secretary Amber Rudd

36

- ☆ Clause 28, page 80, line 32, leave out paragraph (b)

Member’s explanatory statement

The amendment made by the provision that is left out now forms part of the amendment made by amendment 68.

Secretary Amber Rudd

37

- ☆ Clause 30, page 80, line 44, at end insert—

“(3A) In section 230 (free property: Northern Ireland), in subsection (3)(b) for “or 297D” substitute “, 297D or 298(4)”.”

Member’s explanatory statement

Clause 30(2) and (3) amends sections 82 and 148 of the Proceeds of Crime Act 2002, which determine what constitutes “free property”, in relation to confiscation proceedings in England

Criminal Finances Bill, continued

and Wales and Scotland respectively, by providing that property detained under section 298(4) of the 2002 Act is not free property. This amendment provides for a corresponding change to be made to section 230, which applies in the case of confiscation proceedings in Northern Ireland.

Secretary Amber Rudd

38

☆ Clause 30, page 81, line 4, at end insert—

“() In section 290 (prior approval to exercise of section 289 search powers), in subsection (4), after paragraph (aa) (inserted by Schedule 1 to this Act) insert—

“(ab) in relation to the exercise of a power by a National Crime Agency officer, the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose.”.

() In section 297A (forfeiture notice), in subsection (6), after paragraph (ba) (inserted by Schedule 1 to this Act, but before the “or” at the end of that paragraph) insert—

“(bb) the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose.”.

() In section 302 (compensation), after subsection (7ZA) (inserted by Schedule 1 to this Act) insert—

“(7ZB) If the cash was seized by a National Crime Agency officer, the compensation is to be paid by the National Crime Agency.”

Member’s explanatory statement

This amendment clarifies the way in which Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 is to operate when powers are exercised by a National Crime Agency officer who has been designated under section 10 of the Crime and Courts Act 2013 as having the powers and privileges of a constable or who is an accredited financial investigator.

Secretary Amber Rudd

39

☆ Clause 33, page 87, line 40, after first “notice” insert “under this section”

Member’s explanatory statement

This is a minor drafting amendment that ensures stylistic consistency with corresponding provisions in the Bill.

Secretary Amber Rudd

40

☆ Clause 33, page 88, line 1, after “notice” insert “under this section”

Member’s explanatory statement

This is a minor drafting amendment that ensures stylistic consistency with corresponding provisions in the Bill.

Secretary Amber Rudd

41

☆ Clause 33, page 88, line 2, after “notice” insert “under this section”

Member’s explanatory statement

This is a minor drafting amendment that ensures stylistic consistency with corresponding provisions in the Bill.

Criminal Finances Bill, continued

Secretary Amber Rudd

42

- ☆ Clause 33, page 90, line 20, leave out from “order” to “may” in line 21 and insert “made by a magistrates’ court, the magistrates’ court”

Member’s explanatory statement

This amendment has the effect that the power to impose a civil penalty for failing to comply with a further information order made under new section 22D of the Terrorism Act 2000 (inserted by clause 33) would not apply in relation to Scotland to orders made by the sheriff.

Secretary Amber Rudd

43

- ☆ Clause 33, page 90, line 23, leave out from beginning to second “the”

Member’s explanatory statement

This amendment is consequential on amendment 42.

Secretary Amber Rudd

44

- ☆ Clause 52, page 109, line 20, at end insert—

“() section (*Her Majesty’s Revenue and Customs: removal of restrictions*)(4)(c);”

Member’s explanatory statement

This amendment is consequential on NC8.

Secretary Amber Rudd

45

- ☆ Clause 52, page 109, line 30, at end insert—

“() section (*Her Majesty’s Revenue and Customs: removal of restrictions*)(2), (3) and (4)(d);”

Member’s explanatory statement

This amendment is consequential on NC8.

Secretary Amber Rudd

46

- ☆ Clause 52, page 109, line 39, at end insert—

“() section 30(3A).”

Member’s explanatory statement

This amendment is consequential on amendment 37.

Secretary Amber Rudd

47

- ☆ Clause 53, page 110, line 10, after “28(3)” insert “and 30(3A)”

Member’s explanatory statement

This amendment is consequential on amendment 37.

Criminal Finances Bill, continued

Secretary Amber Rudd

48

- ☆ Clause 53, page 110, line 13, after “Sections” insert “(Her Majesty’s Revenue and Customs: removal of restrictions),”
Member’s explanatory statement
This amendment provides for NC8 to come into force two months after Royal Assent.

Secretary Amber Rudd

49

- ☆ Clause 53, page 111, line 1, at end insert—
“() section 12(1) and (2);”
Member’s explanatory statement
This amendment provides for consultation with the Scottish Ministers before the Secretary of State makes regulations commencing clause 12(1) and (2) of the Bill.

Secretary Amber Rudd

50

- ☆ Clause 53, page 111, line 13, at end insert—
“() section 12(1) and (2);”
Member’s explanatory statement
This amendment provides for consultation with the Department of Justice in Northern Ireland before the Secretary of State makes regulations commencing clause 12(1) and (2) of the Bill.
-

Secretary Amber Rudd

51

- ☆ Schedule 1, page 114, line 32, leave out sub-paragraph (3)
Member’s explanatory statement
The amendment made by the provision that is left out now forms part of the amendment made by amendment 69.
-

Secretary Amber Rudd

52

- ☆ Schedule 3, page 124, line 44, after first “to” insert “a magistrates’ court,”
Member’s explanatory statement
The amendment mirrors for new Part 4A of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 the change being made to existing Schedule 1 to the 2001 Act by amendment 60.
-

Secretary Amber Rudd

53

- ☆ Schedule 4, page 135, line 35, after “But” insert “—
(a) ”
Member’s explanatory statement
The amendment is consequential on amendment 54.

Criminal Finances Bill, continued

Secretary Amber Rudd

54

- ☆ Schedule 4, page 135, line 37, at end insert “, and
 (b) the senior officer must consult the Treasury before making the application for the order or (as the case may be) authorising the application to be made, unless in the circumstances it is not reasonably practicable to do so.”

Member’s explanatory statement

The amendment introduces a consultation requirement into the process of applying for an account freezing order under new Part 4B of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001. The requirement to consult will enable the Treasury to consider whether it is a case in which it should be exercising its powers under the Terrorist Asset-Freezing etc Act 2010.

Secretary Amber Rudd

55

- ☆ Schedule 4, page 140, line 28, after “aside” insert “(or recalling)”

Member’s explanatory statement

This amendment takes account of the fact that in Scotland an account freezing order will be recalled rather than set aside.

Secretary Amber Rudd

56

- ☆ Schedule 4, page 142, line 7, at end insert—

“() Where money is released by virtue of sub-paragraph (6)(a), there must be added to the money on its release any interest accrued on it whilst in the account referred to in paragraph 10W(6)(b).”

Member’s explanatory statement

If, under new paragraph 10Z of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001, a court sets aside the forfeiture of money pursuant to an account forfeiture notice, this amendment provides that there must be added to the money that is released any interest accrued on that money in the period since its forfeiture.

Secretary Amber Rudd

57

- ☆ Schedule 4, page 144, line 20, at end insert—

“() Where money is released by virtue of sub-paragraph (5), there must be added to the money on its release any interest accrued on it whilst in the account referred to in paragraph 10Z2(7)(a).”

Member’s explanatory statement

If, under new paragraph 10Z4 of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001, a court upholds an appeal against the making of a forfeiture order and orders the release of all or part of the forfeited money, this amendment provides that there must be added to the money that is released any interest accrued on that money in the period since its forfeiture.

Criminal Finances Bill, continued

Secretary Amber Rudd

58

☆ Schedule 5, page 146, line 31, at end insert—

“Prescription and Limitation (Scotland) Act 1973 (c. 52)

A1 In section 19B of the Prescription and Limitation (Scotland) Act 1973 (actions for recovery of property obtained through unlawful conduct etc), after subsection (4) insert—

“(4A) Subsection (4) is subject to section (*Unlawful conduct: gross human rights abuses or violations*)(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).”

Limitation Act 1980 (c. 58)

A2 (1) Section 27A of the Limitation Act 1980 (actions for recovery of property obtained through unlawful conduct etc) is amended as follows.

(2) After subsection (4) insert—

“(4A) Subsection (4) is subject to section (*Unlawful conduct: gross human rights abuses or violations*)(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).”

(3) In subsection (8), after paragraph (d) insert—

“(e) Her Majesty’s Revenue and Customs, or
(f) the Financial Conduct Authority.””

Member’s explanatory statement

These amendments are consequential on NC7, except for the amendment to subsection (8) of the Limitation Act 1980 which is consequential on clauses 15 and 16 of the Bill.

Secretary Amber Rudd

59

☆ Schedule 5, page 147, line 3, at end insert—

“Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11))

In Article 72A of the Limitation (Northern Ireland) Order 1989 (actions for recovery of property obtained through unlawful conduct etc), after paragraph (4) insert—

“(4A) Paragraph (4) is subject to section (*Unlawful conduct: gross human rights abuses or violations*)(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).””

Member’s explanatory statement

This amendment is consequential on NC7.

Criminal Finances Bill, continued

Secretary Amber Rudd

60

☆ Schedule 5, page 148, line 18, at end insert—

“() In paragraph 3(3A), in the words before paragraph (a), after “application to” insert “a magistrates’ court,”

Member’s explanatory statement

This amendment inserts a reference to a magistrates’ court into paragraph 3(3A) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001, which concerns the making of the first application to extend a period of detention of seized cash and allows the application to be made and heard without notice and heard and determined in private.

Secretary Amber Rudd

61

☆ Schedule 5, page 149, line 4, at end insert—

“() After paragraph 10Z8 (inserted by section 38) insert—

“PART 4D

PROCEEDINGS UNDER THIS SCHEDULE

Powers for prosecutors to appear in proceedings

10Z9(1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a person mentioned in sub-paragraph (2) in proceedings under this Schedule if the Director—

- (a) is asked by, or on behalf of, the person to do so, and
- (b) considers it appropriate to do so.

(2) The persons referred to in sub-paragraph (1) are—

- (a) a constable;
- (b) a counter-terrorism financial investigator;
- (c) the Commissioners for Her Majesty’s Revenue and Customs;
- (d) an officer of Revenue and Customs;
- (e) an immigration officer.

(3) The Director of Public Prosecutions may authorise a person (generally or specifically) to carry out the functions of the Director under sub-paragraph (1) if the person is—

- (a) a member of the Director’s staff;
- (b) a person providing services under arrangements made by the Director.

(4) The Director of Public Prosecutions and the Director of Public Prosecutions for Northern Ireland may charge fees for the provision of services under this paragraph.””

Member’s explanatory statement

This amendment inserts an additional Part into Schedule 1 to the Anti-terrorism, Crime and Security Act 2001, conferring power on the Director of Public Prosecutions and the Director of Public Prosecutions for Northern Ireland to appear in proceedings under the Schedule. It is the equivalent of section 302A of the Proceeds of Crime Act 2002, read with section 2C of that Act.

Criminal Finances Bill, *continued*

Secretary Amber Rudd

62

- ☆ Schedule 5, page 149, line 18, leave out “In section 2C (prosecuting authorities), in” and insert—

“(1) Section 2C (prosecuting authorities) is amended as follows.

(2) In”

Member’s explanatory statement

This amendment is consequential on amendment 63.

Secretary Amber Rudd

63

- ☆ Schedule 5, page 149, line 18, at end insert—

“(3) In subsection (3A), after “302A” insert “, 303X or 303Z19”.”

Member’s explanatory statement

This amendment inserts into Schedule 5 to the Bill an amendment of section 2C(3A) of the Proceeds of Crime Act 2002 which is consequential on clauses 13 and 14 of the Bill. Section 2C(3A) prevents section 2C(3) from applying to the functions that the Director of Public Prosecutions for Northern Ireland has under section 302A of the 2002 Act. New sections 303X and 303Z19 of that Act, which are added to section 2C(3A) by the amendment, mirror section 302A.

Secretary Amber Rudd

64

- ☆ Schedule 5, page 149, line 27, at end insert—

“17A In section 47G (appropriate approval for exercise of search and seizure powers in England and Wales), in subsection (3)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.”

Member’s explanatory statement

This amendment clarifies that an accredited financial investigator could fall within any of paragraphs (a) to new (ba) of section 47G(3) of the Proceeds of Crime Act 2002. See also the explanatory statement for amendment 34.

Secretary Amber Rudd

65

- ☆ Schedule 5, page 150, line 26, at end insert—

“21A In section 195G (appropriate approval for exercise of search and seizure powers in Northern Ireland), in subsection (3)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.”

Member’s explanatory statement

This amendment clarifies that an accredited financial investigator could fall within any of paragraphs (a) to new (ba) of section 195G(3) of the Proceeds of Crime Act 2002. See also the explanatory statement for amendment 35.

Secretary Amber Rudd

66

- ☆ Schedule 5, page 150, line 33, at end insert—

“() in paragraph (b) (as amended by section 30(3A) of this Act), for “or 298(4)” substitute “, 298(4) or 303O(5)”.”

Member’s explanatory statement

This amendment is consequential on amendment 37.

Criminal Finances Bill, *continued*

Secretary Amber Rudd

67

- ☆ Schedule 5, page 151, line 19, at end insert—
 - “25A In section 289 (searches), in subsection (5)(b) for “a customs officer” substitute “an officer of Revenue and Customs”.

Member’s explanatory statement
This amendment corrects an out of date reference to a customs officer.

Secretary Amber Rudd

68

- ☆ Schedule 5, page 151, leave out line 20 and insert—
 - “26 (1) Section 290 (prior approval) is amended as follows.
 - (2) In subsection (4)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.
 - (3) After subsection (6) insert—”

Member’s explanatory statement
This amendment is partly consequential on amendment 38. It also clarifies that an accredited financial investigator could fall within any of paragraphs (a) to new (ba) of section 290(4) of the Proceeds of Crime Act 2002. See also the explanatory statement for amendment 36.

Secretary Amber Rudd

69

- ☆ Schedule 5, page 151, line 25, at end insert—
 - “26A In section 302 (compensation), in subsection (7A), for “or a constable” substitute “, a constable, an SFO officer or a National Crime Agency officer”.

Member’s explanatory statement
This amendment is consequential on amendment 38. See also the explanatory statement for amendment 51.

Secretary Amber Rudd

70

- ☆ Schedule 5, page 152, line 33, leave out from beginning to “in” and insert—
 - “(1) Section 333D (tipping off: other permitted disclosures) is amended as follows.
 - (2) ”

Member’s explanatory statement
This amendment is consequential on amendment 71.

Secretary Amber Rudd

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- ☆ Schedule 5, page 152, line 39, at end insert—
 - “() After subsection (1) insert—
 - “(1A) Where an application is made to extend a moratorium period under section 336A, a person does not commit an offence under section 333A if—
 - (a) the disclosure is made to a customer or client of the person,
 - (b) the customer or client appears to the person making the disclosure to have an interest in the relevant property, and
 - (c) the disclosure contains only such information as is necessary for the purposes of notifying the customer or client that the application under section 336A has been made.

Criminal Finances Bill, continued

“Moratorium period” and “relevant property” have the meanings given in section 336C.”

Member’s explanatory statement

This amendment provides that a person carrying on a business in the regulated sector does not commit a tipping off offence under section 333A of the Proceeds of Crime Act 2002 simply by telling a customer that an application to extend a moratorium period, which would prevent a transaction with the customer being concluded, has been made.

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☆ Schedule 5, page 162, line 21, at end insert—

“68A In section 445 (external investigations), omit subsection (3).”

Member’s explanatory statement

Section 445 of the Proceeds of Crime Act 2002 confers a power enabling orders to be made corresponding to those under Part 8 of that Act in connection with external investigations. Subsection (3) of that section provides that the power cannot be exercised so as to enable a disclosure order to be made for the purposes of an external investigation into whether a money laundering offence has been committed. This amendment removes that restriction, in line with clauses 7 and 8.

ORDER OF THE HOUSE [25 OCTOBER 2016]

That the following provisions shall apply to the Criminal Finances Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 24 November 2016.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.
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