

Sanctions and Anti-Money Laundering Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 1

LORD AHMAD OF WIMBLEDON

Page 2, line 13, at end insert—

“() Section (*Additional requirements for regulations for a purpose within section 1(2)*) contains additional requirements in relation to regulations stating a purpose within subsection (2) above.”

After Clause 1

LORD AHMAD OF WIMBLEDON

Insert the following new Clause—

“Additional requirements for regulations for a purpose within section 1(2)

- (1) This section applies to regulations under section 1 any of whose purposes (as stated under section 1(3)) is a discretionary purpose.
In this section “discretionary purpose” means a purpose which is not compliance with a UN obligation or other international obligation but is within section 1(2).
- (2) An appropriate Minister may not decide that it is appropriate to make regulations to which this section applies unless, in respect of each discretionary purpose stated in the regulations, that Minister—
 - (a) has considered whether there are good reasons to pursue that purpose and has determined that there are, and
 - (b) has considered whether the imposition of sanctions is a reasonable course of action for that purpose and has determined that it is.
- (3) In subsection (2)(b) “sanctions” means prohibitions and requirements of the kinds which are imposed by the regulations for the purpose in question (or both for that purpose and for another purpose of the regulations).
- (4) In relation to any regulations to which this section applies, the appropriate Minister making the regulations (“the Minister”) must at the required time lay before Parliament a report which explains in respect of each discretionary purpose stated under section 1(3) in the regulations—

After Clause 1 - continued

- (a) why the Minister considers that carrying out that purpose would meet one or more of the conditions in paragraphs (a) to (d) of section 1(2),
 - (b) why the Minister considers that there are good reasons to pursue that purpose, and
 - (c) why the Minister considers that the imposition of sanctions (within the meaning given by subsection (3)) is a reasonable course of action for that purpose.
- (5) Nothing in subsection (4) requires the report to contain anything the disclosure of which may, in the opinion of the Minister, damage national security or international relations.
- (6) In subsection (4) “the required time” means –
- (a) in the case of regulations contained in a statutory instrument which is laid before Parliament after being made, the same time as the instrument is laid before Parliament;
 - (b) in the case of regulations contained in a statutory instrument a draft of which is laid before Parliament, the same time as the draft is laid.”

Clause 2

LORD AHMAD OF WIMBLEDON

Page 4, line 2, after “received” insert “, procured”

Page 4, line 3, after “received” insert “, procured”

Clause 9

LORD AHMAD OF WIMBLEDON

Page 9, line 36, leave out subsection (3) and insert –

- “(3) Regulations under section 1 which contain a designation power must provide that where an appropriate Minister –
- (a) has made a designation under the power, or
 - (b) has varied or revoked a designation made under the power (see section 18),
- that Minister must without delay take such steps as are reasonably practicable to inform the designated person of the designation, variation or revocation.
- (3A) The regulations may include provision, additional to that required by subsection (3), as to steps to be taken as regards notification or publicity where a designation has been made under the designation power or a designation made under the power has been varied or revoked.
- (3B) The regulations need not require a person to be notified of an intention to designate the person.”

Clause 10

LORD AHMAD OF WIMBLEDON

Page 10, line 10, leave out paragraph (b) and insert –

- “(b) considers that the designation of that person is appropriate, having regard to –
- (i) the purpose of the regulations as stated under section 1(3), and
 - (ii) the likely significant effects of the designation on that person (as they appear to the Minister to be on the basis of the information that the Minister has).”

Page 10, line 31, at end insert –

- “(7) The regulations must, in relation to any case where the Minister designates a person by name, require the information given under the provision made under section 9(3) to include a statement of reasons.
- (8) In subsection (7) a “statement of reasons” means a brief statement of the matters that the Minister knows, or has reasonable grounds to suspect, in relation to that person which have led the Minister to make the designation.
- (9) The regulations may authorise matters to be excluded from that statement where the Minister considers that they should be excluded –
- (a) in the interests of national security or international relations,
 - (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
 - (c) in the interests of justice
- (but the regulations may not authorise the Minister to provide no statement of reasons).”

Clause 11

LORD AHMAD OF WIMBLEDON

Page 10, line 33, leave out “authorise” and insert “grant a power for”

Page 10, line 35, at end insert –

- “() The regulations must contain provision which prohibits the exercise of that power except where conditions A to C are met.
- () Condition A is that the description of persons specified is such that a reasonable person would know whether that person fell within it.
- () Condition B is that, at the time the description is specified, it is not practicable for the Minister to identify and designate by name all the persons falling within that description at that time.”

Page 10, line 36, leave out from beginning to “the” in line 37 and insert “Condition C is that”

Clause 11 - continued

Page 11, line 1, leave out paragraph (b) and insert –

- “(b) considers that the designation of persons of the specified description is appropriate, having regard to –
- (i) the purpose of the regulations as stated under section 1 (3), and
 - (ii) the likely significant effects of the designation (as they appear to the Minister to be on the basis of the information that the Minister has) on persons of that description.”

Page 11, line 5, at end insert –

- “(3A) The regulations must, in relation to any case where the Minister provides that persons of a specified description are designated persons, require the information given under the provision made under section 9(3) to include a statement of reasons.
- (3B) In subsection (3A) a “statement of reasons” means a brief statement of the matters that the Minister knows, or has reasonable grounds to suspect, in relation to persons of the specified description which have led the Minister to make the provision designating persons of that description.
- (3C) The regulations may authorise matters to be excluded from that statement where the Minister considers that they should be excluded –
- (a) in the interests of national security or international relations,
 - (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
 - (c) in the interests of justice
- (but the regulations may not authorise the Minister to provide no statement of reasons).”

Clause 16

LORD AHMAD OF WIMBLEDON

Page 14, line 14, leave out “, including defences and evidentiary matters” and insert “(including provision creating defences)”

Page 14, line 19, leave out “10 years” and insert “the maximum permitted period”(see subsection (4A))”

Page 14, line 25, at end insert –

- “(4A) In subsection (4)(a) “the maximum permitted period” means –
- (a) 2 years in the case of an offence (however expressed) of –
 - (i) failing to comply with a condition of a licence or of a direction issued by virtue of section 14 , or
 - (ii) failing to comply with a requirement imposed by virtue of section 15(1)(a) or (b);
 - (b) 10 years in the case of an offence not falling within paragraph (a).”

Clause 18

LORD AHMAD OF WIMBLEDON

Page 16, line 2, at end insert “(reading that provision, so far as made under section 10(2)(b), as if references to the designation were references to leaving the designation in place)”

Page 16, line 4, at end insert “(reading that provision, so far as made under section 11(2)(b), as if references to the designation were references to leaving the designation in place)”

Clause 26

LORD AHMAD OF WIMBLEDON

Leave out Clause 26 and insert the following new Clause –

“Review by appropriate Minister of regulations under section 1

- (1) Subsection (2) applies where any regulations under section 1 are in force.
- (2) The appropriate Minister who made the regulations must in each relevant period review whether the regulations are still appropriate for the purpose stated in them under section 1(3).
- (3) If a purpose so stated in any regulations under section 1 is a purpose other than compliance with a UN obligation or other international obligation, any review of those regulations under this section must also include a consideration of –
 - (a) whether carrying out that purpose would meet any one or more of the conditions in paragraphs (a) to (d) of section 1(2),
 - (b) whether there are good reasons to pursue that purpose, and
 - (c) whether the imposition of sanctions is a reasonable course of action for that purpose.
- (4) In subsection (3)(c) “sanctions” means prohibitions and requirements of the kinds which are imposed by the regulations for the purpose in question (or both for that purpose and for another purpose of the regulations).
- (5) An appropriate Minister who has carried out a review under this section must lay before Parliament a report containing –
 - (a) the conclusions of the review,
 - (b) the reasons for those conclusions, and
 - (c) a statement of any action that that Minister has taken or proposes to take in consequence of the review.
- (6) Nothing in subsection (5) requires the report to contain anything the disclosure of which may, in the opinion of that Minister, damage national security or international relations.
- (7) For the purposes of this section each of the following is a “relevant period” in relation to regulations under section 1 –
 - (a) the period of one year beginning with the date when the regulations are made;

Clause 26 - continued

- (b) each period of one year that begins with the date when a report under this section containing the conclusions of a review of the regulations is laid before Parliament.”

Clause 27

LORD AHMAD OF WIMBLEDON

Page 19, line 15, at end insert –

- “() Regulations made under this section in relation to a request under section 19 , 21 , 23 or 25 must require –
- (a) the decision on any such request to be made as soon as reasonably practicable after the receipt by the appropriate Minister dealing with the request of the information needed for making the decision, and
 - (b) the person who made the request to be informed of the decision and the reasons for it as soon as reasonably practicable after the decision is made.
- () The regulations may authorise matters to be excluded from the reasons given for the decision where the appropriate Minister who made the decision considers that those matters should be excluded –
- (a) in the interests of national security or international relations,
 - (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
 - (c) in the interests of justice
- (but the regulations may not authorise that Minister to provide no reasons).”

Clause 29

LORD AHMAD OF WIMBLEDON

Page 20, line 6, leave out “the appropriate” and insert “that”

Page 20, line 10, leave out paragraph (b) and insert –

- “(b) considers that it is appropriate to give the direction, having regard to –
- (i) the purpose of the EU provision which relates to persons in that list (see subsections (4) and (5) below), and
 - (ii) the likely significant effects of the direction on the person to whom it relates (as they appear to that Minister to be on the basis of the information that the Minister has).”

Page 20, line 40, at end insert –

- “(7A) Regulations made under subsection (7) must, in relation to any case where a direction under section 28 has been given, require the appropriate Minister who gave the direction (“the Minister”) to take without delay such steps as are reasonably practicable –
- (a) to inform the person to whom it relates that the direction has been given, and

Clause 29 - continued

- (b) where the direction is under section 28(3)(a), to include with that information a brief statement of the matters that the Minister knows, or has reasonable grounds to suspect, in relation to that person which have led the Minister to give the direction.
- (7B) The regulations may authorise the statement required by virtue of subsection (7A)(b) to exclude matters where the Minister considers that they should be excluded –
- (a) in the interests of national security or international relations,
 - (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
 - (c) in the interests of justice
- (but the regulations may not authorise the Minister to provide no such statement).”

Page 20, line 42, leave out “any such direction” and insert “a direction under section 28 ”

Clause 30

LORD AHMAD OF WIMBLEDON

Page 21, line 24, at end insert –

- “() Regulations made under subsection (5) in relation to a request under this section or section 31 must require –
- (a) the decision on any such request to be made as soon as reasonably practicable after the receipt by the appropriate Minister dealing with the request of the information needed for making the decision, and
 - (b) the person who made the request to be informed of the decision and the reasons for it as soon as reasonably practicable after the decision is made.
- () The regulations may authorise matters to be excluded from the reasons given for the decision where the appropriate Minister who made the decision considers that those matters should be excluded –
- (a) in the interests of national security or international relations,
 - (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
 - (c) in the interests of justice
- (but the regulations may not authorise that Minister to provide no reasons).”

Clause 38

LORD AHMAD OF WIMBLEDON

Page 27, line 1, leave out subsections (2) and (3) and insert –

- “(2) The condition referred to in subsection (1)(b) is that the appropriate Minister making the new regulations –

Clause 38 - continued

- (a) considers that the regulations being amended will, as amended, be sanctions regulations within the meaning given by section 1(4) that are appropriate for the purpose stated in them under section 1(3), and
 - (b) if any purpose stated in the regulations being amended is a purpose other than compliance with a UN obligation or other international obligation, considers in respect of each such purpose –
 - (i) that carrying out that purpose would meet one or more of the conditions in paragraphs (a) to (d) of section 1(2),
 - (ii) that there are good reasons to pursue that purpose, and
 - (iii) that the imposition of sanctions is a reasonable course of action for that purpose.
- (2A) In subsection (2)(b)(iii) “sanctions” means prohibitions and requirements of the kinds imposed by the amended regulations for the purpose in question (or both for that purpose and for another purpose of those regulations).
- In this subsection “the amended regulations” means the regulations being amended as those regulations will be when amended.”

Page 27, line 7, leave out “The purpose stated” and insert “Except as permitted by subsection (4A), the purpose stated under section 1(3)”

Page 27, line 10, at end insert –

- “(4A) Where the purpose stated under section 1(3) in any regulations under section 1 is or includes compliance with a specified UN obligation or other international obligation, regulations made by virtue of this section may amend that purpose so as to –
- (a) add a reference to a UN obligation, or other international obligation, to which the United Kingdom is for the time being subject,
 - (b) substitute such a reference for another reference to a UN obligation or other international obligation, or
 - (c) remove a reference to a UN obligation, or other international obligation, to which the United Kingdom is no longer subject.
- (4B) The requirements of section 1(1) and (3), section (*Additional requirements for regulations for a purpose within section 1(2)*) and section 26 do not apply in relation to regulations made by virtue of this section.”

After Clause 38

LORD AHMAD OF WIMBLEDON

Insert the following new Clause –

“Report where regulations for a purpose within section 1(2) are amended

- (1) This section applies where –
 - (a) by virtue of section 38 regulations under section 1 are amended by further regulations under section 1 (“new regulations”), and
 - (b) the regulations being amended state under section 1(3) a purpose other than compliance with a UN obligation or other international obligation.

After Clause 38 - continued

- (2) The appropriate Minister making the new regulations must at the required time lay before Parliament a report which explains why that Minister is of the opinion mentioned in section 38(2)(b).
- (3) Nothing in subsection (2) requires the report to contain anything the disclosure of which may in the opinion of that Minister damage national security or international relations.
- (4) In subsection (2) “the required time” means –
 - (a) where the new regulations are contained in a statutory instrument which is laid before Parliament after being made, the same time as the instrument is laid before Parliament;
 - (b) where a draft of a statutory instrument containing the new regulations is laid before Parliament, the same time as the draft is laid.”

Clause 39

LORD AHMAD OF WIMBLEDON

Page 27, leave out line 16 and insert –

- “(a) which are not for the time being authorised by Chapter 1 (ignoring section 7), but
- (b) which are kinds of prohibition or requirement that the United Kingdom –
- (i) has any UN obligation or other international obligation to impose, or
 - (ii) has at any time had any UN obligation or other international obligation to impose.”

Page 27, leave out lines 22 and 23 and insert –

- “() For the avoidance of doubt, regulations under this section may not add to or amend the purposes mentioned in section 1(1) or amend section 1(2).”

After Clause 41

LORD NASEBY

Insert the following new Clause –

“Registration of companies: anti-money laundering checks

- (1) The Registrar of Companies must not register a company unless he or she is satisfied that appropriate anti-money laundering checks have taken place.
- (2) The Companies Act 2006 is amended as follows –
 - (a) in section 9, after subsection (5), insert –

“(5ZA) The application must provide satisfactory evidence that anti-money laundering checks have taken place.”
 - (b) after section 13 insert –

“13A Satisfactory evidence of anti-money laundering checks

After Clause 41 - continued

- (1) The Registrar is entitled to accept the anti-money laundering registration number of the United Kingdom body that has submitted the application as satisfactory evidence under section 9(5ZA), provided he or she believes that number to be valid.
- (2) The Secretary of State may by regulations made by statutory instrument specify any other evidence that the Registrar may accept under section 9(5ZA).
- (3) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

Clause 50

LORD AHMAD OF WIMBLEDON

Page 35, line 4, at end insert –

“() Any reference in this Act to a person named “for the purposes of” a UN Security Council Resolution so far as it provides for the taking of particular measures includes any person who, by virtue of –

- (a) being named for any purposes by the Security Council or a subsidiary organ of the Security Council, and
- (b) the terms of the resolution,

is a person in relation to whom the resolution provides for the measures to be taken.

() Any reference in this Act to ships designated “for purposes of” a UN Security Council Resolution which provides for the taking of measures in relation to ships includes any ship which, by virtue of –

- (a) being designated for any purposes by the Security Council or a subsidiary organ of the Security Council, and
- (b) the terms of the resolution,

is a ship in relation to which the resolution provides for the measures to be taken.”

Schedule 2

LORD AHMAD OF WIMBLEDON

Page 45, line 11, after “persons” insert “carrying on business of a kind which entails risks relating to money laundering, terrorist financing or other threats to the integrity of the international financial system (“relevant persons”)

Page 45, line 12, leave out from “manage” to end of line 14 and insert “those risks”

Page 45, line 15, leave out first “prescribed” and insert “relevant”

Schedule 2 - continued

Page 45, line 30, leave out “prescribed bodies” and insert “the Financial Conduct Authority, the Commissioners for Her Majesty’s Revenue and Customs and such other bodies as may be prescribed”

Page 45, line 31, leave out “prescribed” and insert “relevant”

Page 45, line 36, after “as” insert “relevant persons or as”

Page 45, line 37, leave out “prescribed entities” and insert “relevant persons that are not individuals”

Page 46, line 8, leave out “prescribed” and insert “relevant”

Page 46, line 42, at beginning insert –

“(A1) Authorise the Financial Conduct Authority and the Commissioners for Her Majesty’s Revenue and Customs to impose civil monetary penalties in relation to the contravention of prescribed requirements.”

Page 46, line 42, after “penalties” insert “(other than monetary penalties)”

Page 46, line 44, leave out paragraph (a)

Page 47, line 6, leave out from first “to” to end of line 7 and insert –

“(a) impose civil monetary penalties, and
(b) publish statements of censure,
in relation to the contravention of prescribed requirements by supervisory authorities.”

Page 47, line 9, after “sub-paragraph” insert “(A1),”

Page 47, line 15, leave out “, including defences and evidentiary matters” and insert “(but see paragraphs 18 to 18B)”

Page 47, line 23, leave out from “for” to “to” in line 24 and insert “an offence created by such regulations”

Page 47, line 27, at end insert –

“18A Regulations under section 41 may provide for the creation of a criminal offence only if the regulations also provide for either or both of the following in relation to the offence –
(a) a mental element necessary for its commission;

Schedule 2 - *continued*

(b) a defence to it (for example, a defence grounded on a person's knowledge or belief, or a defence that a person took all reasonable steps and exercised all due diligence).

18B Regulations under section 41 which confer a power to impose a civil monetary penalty must provide that a person is not liable to such a penalty in respect of acts or omissions for which the person has been convicted of a criminal offence created by such regulations."

Page 48, line 14, leave out "persons" and insert "bodies"

Page 48, line 22, at end insert –

““relevant person” means a person on whom requirements are imposed under paragraph 3;”

Page 48, line 24, leave out “a” and insert “the Financial Conduct Authority, the Commissioners for Her Majesty’s Revenue and Customs or any other”

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9 January 2018
