

Sanctions and Anti-Money Laundering Bill [HL]

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 10th January 2018, as follows –

Clauses 1 to 4	Clauses 42 to 47
Schedule 1	Schedule 3
Clauses 5 to 41	Clauses 48 to 53
Schedule 2	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 41

BARONESS BOWLES OF BERKHAMSTED
LORD JUDGE
LORD PANNICK
LORD COLLINS OF HIGHBURY

72

Page 28, line 39, at end insert –

- “() Regulations under Part 2, Schedule 2 or section 44(3) may not make provisions that –
- (a) are detrimental to the strength of the regimes for detecting, investigating or preventing money laundering, terrorist financing or risks to the international financial system;
 - (b) prescribe measures to be taken by prescribed persons that are not proportionate to the size, risk and nature of their business and business sector;
 - (c) create new criminal offences; or
 - (d) extend the definition of “terrorist financing” beyond the purpose of section 1(2)(a).”

After Clause 41

BARONESS STERN
 LORD KIRKHOPE OF HARROGATE
 LORD COLLINS OF HIGHBURY
 BARONESS KRAMER

73 Insert the following new Clause—

“Public registers of beneficial ownership of companies in the British overseas territories

- (1) For the purpose of preventing money-laundering, the appropriate Minister must provide all reasonable assistance to the governments of—
 - (a) Anguilla;
 - (b) Bermuda;
 - (c) the British Virgin Islands;
 - (d) the Cayman Islands;
 - (e) Montserrat; and
 - (f) the Turks and Caicos Islands,

to enable each of those governments to establish a publicly accessible register of the beneficial ownership of companies registered in that government’s jurisdiction.
- (2) No later than 1 January 2020 the appropriate Minister must prepare an Order in Council, and take all reasonable steps to ensure its implementation, in respect of any British overseas territories listed in subsection (1) that have not by that date introduced a publicly accessible register of the beneficial ownership of companies within their jurisdiction, requiring them to adopt such a register.
- (3) In this section a “publicly accessible register of beneficial ownership of companies” means a register which, in the opinion of the appropriate Minister, provides information broadly equivalent to that available in accordance with the provisions of Part 21A of the Companies Act 2006 (information about people with significant control).”

BARONESS BOWLES OF BERKHAMSTED
 BARONESS KRAMER
 LORD COLLINS OF HIGHBURY

74 Insert the following new Clause—

“Failure to prevent money laundering

- (1) A relevant body (B) is guilty of an offence if a person commits a money laundering facilitation offence when acting in the capacity of a person associated with B.
- (2) For the purposes of this section “money laundering facilitation offence” means—
 - (a) concealing, disguising, converting, transferring or removing criminal property under section 327 of the Proceeds of Crime Act 2002 (concealing etc);

After Clause 41 - continued

- (b) entering into an arrangement which the person knows, or suspects, facilitates (by whatever means) the acquisition, retention, use, or control of criminal property under section 328 of the Proceeds of Crime Act 2002 (arrangements); or
 - (c) the acquisition, use or possession of criminal property, under section 329 of the Proceeds of Crime Act 2002 (acquisition, use and possession).
- (3) It is a defence for B to prove that, when the money laundering facilitation offence was committed, B had in place adequate procedures designed to prevent persons acting in the capacity of a person associated with B from committing such an offence.
- (4) 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, or
 - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (5) 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 offence,
- takes place in the United Kingdom or elsewhere.
- (6) In this section, “relevant body” and “acting in the capacity of a person associated with B” have the same meaning as in section 44 of the Criminal Finances Act 2017 (meaning of relevant body and acting in the capacity of an associated person).”

LORD FAULKES

LORD HODGSON OF ASTLEY ABBOTTS

BARONESS BOWLES OF BERKHAMSTED

LORD COLLINS OF HIGHBURY

75

Insert the following new Clause—

“Public register of beneficial ownership of UK property by companies and other legal entities registered outside the UK

- (1) In addition to the provisions made under paragraph 6 of Schedule 2, for the purpose of preventing money laundering in the UK property market and public procurement, the Secretary of State must create a public register of beneficial ownership information for companies and other legal entities registered outside of the UK that own or buy UK property, or bid for UK government contracts.
- (2) The register must be implemented within 12 months of the day on which this Act is passed.”

After Clause 41 - continued

LORD NASEBY
BARONESS BOWLES OF BERKHAMSTED

76 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

 - (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.”

Schedule 2

BARONESS BOWLES OF BERKHAMSTED
BARONESS KRAMER

76A★ Page 45, line 4, after “the” insert “wider”

LORD AHMAD OF WIMBLEDON

77 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”)

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

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

80 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”

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

Schedule 2 - continued

- 82 Page 45, line 36, after “as” insert “relevant persons or as”
- 83 Page 45, line 37, leave out “prescribed entities” and insert “relevant persons that are not individuals”
- 84 Page 46, line 8, leave out “prescribed” and insert “relevant”
- 85 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.”
- 86 Page 46, line 42, after “penalties” insert “(other than monetary penalties)”
- 87 Page 46, line 44, leave out paragraph (a)
- 88 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.”
- 89 Page 47, line 9, after “sub-paragraph” insert “(A1),”
- LORD JUDGE
LORD PANNICK
BARONESS NORTHOVER
LORD COLLINS OF HIGHBURY
- 90 Page 47, line 14, leave out paragraph 15
- LORD AHMAD OF WIMBLEDON
- 91 Page 47, line 15, leave out “, including defences and evidentiary matters” and insert “(but see paragraphs 18 to 18B)”
- LORD JUDGE
LORD PANNICK
BARONESS NORTHOVER
- 92 Page 47, line 23, leave out paragraph 18
- LORD AHMAD OF WIMBLEDON
- 93 Page 47, line 23, leave out from “for” to “to” in line 24 and insert “an offence created by such regulations”

Schedule 2 - continued

- 94 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;
 (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.”
- 95 Page 48, line 14, leave out “persons” and insert “bodies”
- 96 Page 48, line 22, at end insert –
 ““relevant person” means a person on whom requirements are imposed under paragraph 3;”
- 97 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”

Clause 44

LORD JUDGE
 LORD PANNICK
 BARONESS NORTHOVER

- 98 Page 29, line 31, leave out paragraph (a)

Schedule 3

BARONESS NORTHOVER
 BARONESS SHEEHAN

- 99 Page 49, line 22, at end insert –
 “*Insolvency Act 1986 (c. 45)*
 In section 124A (petition for winding up on grounds of public interest), after subsection (1)(d) insert –
 “(e) any information notified to the Secretary of State pursuant to regulations made under section 1 of the Sanctions and Anti-Money Laundering Act 2018;”.

Clause 50

BARONESS NORTHOVER
BARONESS SHEEHAN

100 Page 34, line 29, at end insert –

““company” means means a company registered under the Companies Act 2006 in the United Kingdom or a company that may be wound up under Part 5 of the Insolvency Act 1986 (unregistered companies);”

101 Page 34, line 38, at end insert –

““overseas company” means a company incorporated or formed outside the United Kingdom;”

LORD AHMAD OF WIMBLEDON

102 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.”

LORD JUDGE
LORD PANNICK
BARONESS NORTHOVER

103 Page 35, line 15, leave out subsection (4)

After Clause 52

LORD COLLINS OF HIGHBURY

104 Insert the following new Clause –

“Expiry of Act

This Act expires at the end of five years beginning with the date on which this Act is passed.”

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15 January 2018
