



# Economic Crime (Transparency and Enforcement) Act 2022

## 2022 CHAPTER 10

An Act to set up a register of overseas entities and their beneficial owners and require overseas entities who own land to register in certain circumstances; to make provision about unexplained wealth orders; and to make provision about sanctions. [15th March 2022]

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### REGISTRATION OF OVERSEAS ENTITIES

##### *Introduction*

#### **1 Overview**

This Part—

- (a) sets up a register of overseas entities, which will include information about their beneficial owners (sections 3 to 32), and
- (b) makes provision that, broadly speaking, is designed to compel overseas entities to register if they own land (sections 33 and 34).

#### **2 Definition of “overseas entity” etc**

- (1) In this Part “overseas entity” means a legal entity that is governed by the law of a country or territory outside the United Kingdom.

- (2) In this Part “legal entity” means a body corporate, partnership or other entity that (in each case) is a legal person under the law by which it is governed.

*The register and registration*

**3 Register of overseas entities**

- (1) The registrar of companies for England and Wales (“the registrar”) must keep a register of overseas entities in accordance with this Part.
- (2) The register is to consist of—
- (a) a list of registered overseas entities,
  - (b) documents delivered to the registrar under this Part or regulations made under it, or otherwise in connection with the register, and
  - (c) any other information required to be included in the register by this Part or regulations made under it.
- (3) The list of registered overseas entities must contain the name of each overseas entity that—
- (a) has made an application for registration in accordance with the requirements of this Part (see section 4), and
  - (b) has not been removed from the list under section 10.

**4 Application for registration**

- (1) An application by an overseas entity for registration must be delivered to the registrar and contain—
- (a) the statement and information listed in row 1, 2 or 3 of the table, and, where applicable, the statement and information mentioned in subsection (3),
  - (b) a statement that the entity has complied with section 12 (duty to take steps to identify registrable beneficial owners etc),
  - (c) anything required by regulations under section 16 (verification of registrable beneficial owners and managing officers) to be delivered to the registrar, and
  - (d) the name and contact details of an individual who may be contacted about the application.
- (2) This is the table—

	<i>Statement</i>	<i>Information</i>
1	<p>A statement:</p> <ol style="list-style-type: none"> <li>(a) that the entity has identified one or more registrable beneficial owners and that it has no reasonable cause to believe there are others, and</li> <li>(b) that the entity is able to provide the required information about each registrable beneficial owner it has identified.</li> </ol>	<ol style="list-style-type: none"> <li>1. The required information about the entity.</li> <li>2. The required information about each registrable beneficial owner that the entity has identified.</li> </ol>

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	<i>Statement</i>	<i>Information</i>
2	A statement that the entity has no reasonable cause to believe that it has any registrable beneficial owners.	<ol style="list-style-type: none"><li>1. The required information about the entity.</li><li>2. The required information about each managing officer of the entity.</li></ol>
3	A statement: <ol style="list-style-type: none"><li>(a) that the entity has reasonable cause to believe that there is at least one registrable beneficial owner that it has not identified,</li><li>(b) that the entity is not able to provide the required information about one or more of the registrable beneficial owners it has identified, or</li><li>(c) that paragraphs (a) and (b) both apply.</li></ol>	<ol style="list-style-type: none"><li>1. The required information about the entity.</li><li>2. The required information about each managing officer of the entity.</li><li>3. The required information about each registrable beneficial owner that the entity has identified or so much of that information as it has been able to obtain.</li></ol>

(3) Where an application includes information that a registrable beneficial owner is a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the application must also include—

- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
- (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.

(4) For the required information, see Schedule 1.

(5) For the meaning of “registrable beneficial owner”, see Schedule 2.

(6) The Secretary of State may by regulations specify additional statements or information that must be included in an application under this section.

(7) Regulations under subsection (6) are subject to the negative resolution procedure.

## **5 Registration and allocation of overseas entity ID**

(1) On the registration of an overseas entity under this Part, the registrar must—

- (a) record the date of registration in the register,
- (b) allocate an overseas entity ID to the entity, and
- (c) record the overseas entity ID in the register.

(2) Overseas entity IDs are to be in such form, consisting of one or more sequences of figures or letters, as the registrar may determine.

(3) The registrar may adopt a new form of overseas entity ID and make such changes to existing overseas entity IDs as appear necessary.

(4) A change of an overseas entity ID has effect from the date on which the overseas entity is notified by the registrar of the change.

**6 Notice of registration**

- (1) On the registration of an overseas entity under this Part, the registrar must notify the overseas entity that it has been registered.
- (2) The notice must state—
  - (a) the date of registration, and
  - (b) the overseas entity ID allocated to the entity.
- (3) The notice must also contain information about—
  - (a) the updating duty under section 7 and the consequences of failing to comply with it;
  - (b) applying under section 9 for removal from the list of registered overseas entities.

*Updating***7 Updating duty**

- (1) A registered overseas entity must, within the period of 14 days after each update period, deliver to the registrar—
  - (a) the statement and information listed in row 1, 2 or 3 of the table in section 4(2), and, where applicable, the statement and information mentioned in subsection (3),
  - (b) the statement in row 1 of the table set out in subsection (2) or the statement and information listed in row 2 of that table, and, where applicable, the statement and information mentioned in subsection (4),
  - (c) a statement that the entity has complied with section 12 (duty to take steps to identify registrable beneficial owners etc),
  - (d) anything required by regulations under section 16 (verification of registrable beneficial owners and managing officers) to be delivered to the registrar, and
  - (e) the name and contact details of an individual who may be contacted about the statements and information.
- (2) This is the table referred to in subsection (1)(b)—

	<i>Statement</i>	<i>Information</i>
1	A statement that the entity has no reasonable cause to believe that anyone has become or ceased to be a registrable beneficial owner during the update period.	
2	A statement that the entity has reasonable cause to believe that at least one person has become or ceased to be a registrable beneficial owner during the update period.	<ol style="list-style-type: none"> <li>1. The required information about each person who has become or ceased to be a registrable beneficial owner during the update period, or so much of that information as the entity has been able to obtain.</li> <li>2. The date on which each of them became or ceased to</li> </ol>

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<i>Statement</i>	<i>Information</i>
	be a registrable beneficial owner, if the entity has been able to obtain that information.

- (3) Where information provided under subsection (1)(a) includes information that a registrable beneficial owner is a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(a) to provide—
- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
  - (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.
- (4) Where information provided under subsection (1)(b) includes information that a person who became or ceased to be a registrable beneficial owner was a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(b) to provide—
- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
  - (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.
- (5) For the required information, see Schedule 1.
- (6) The information required by subsection (1)(a), and any statements required by subsection (1)(a) or (b), must relate to the state of affairs as at the end of the update period.
- (7) Any information required by subsection (1)(b) as a result of a person having become or ceased to be a registrable beneficial owner must relate to the time when the person became or ceased to be a registrable beneficial owner.
- (8) A requirement in subsection (1) to provide information may be met (in whole or in part) by confirming information previously provided.
- (9) For the purposes of this section, each of the following is an update period—
- (a) the period of 12 months beginning with the date of the overseas entity's registration;
  - (b) each period of 12 months beginning with the day after the end of the previous update period.
- (10) But a registered overseas entity may shorten an update period by—
- (a) notifying the registrar of the shortened update period, and
  - (b) delivering the statements and information required by subsection (1) within the period of 14 days after that shortened update period.
- (11) The Secretary of State may by regulations amend this section for the purpose of changing the meaning of update period in this section.
- (12) Regulations under this section are subject to the affirmative resolution procedure.

## 8 Failure to comply with updating duty

- (1) If a registered overseas entity fails to comply with the duty under section 7 an offence is committed by—
  - (a) the entity, and
  - (b) every officer of the entity who is in default.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
  - (a) in England and Wales to a fine and, for continued contravention, a daily default fine not exceeding the greater of £2,500 and one half of level 4 on the standard scale;
  - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one half of level 5 on the standard scale.
- (3) The contravention continues until such time as the registered overseas entity has delivered the statements and information required by section 7(1).
- (4) In the case of continued contravention, an offence is also committed by every officer of the registered overseas entity who did not commit an offence under subsection (1) in relation to the initial contravention but who is in default in relation to the continued contravention.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction—
  - (a) in England and Wales, to a fine not exceeding the greater of £2,500 and one half of level 4 on the standard scale for each day on which the contravention continues and the person is in default;
  - (b) in Scotland or Northern Ireland, to a fine not exceeding one half of level 5 on the standard scale for each day on which the contravention continues and the person is in default.

### *Removal*

## 9 Application for removal

- (1) An application by a registered overseas entity for removal from the list of registered overseas entities must be delivered to the registrar and contain—
  - (a) a statement confirming that the entity is not registered as the proprietor of a relevant interest in land,
  - (b) the statement and information listed in row 1, 2 or 3 of the table in section 4(2), and, where applicable, the statement and information mentioned in subsection (3),
  - (c) the statement in row 1 of the table set out in subsection (2) or the statement and information listed in row 2 of that table, and, where applicable, the statement and information mentioned in subsection (4),
  - (d) a statement that the entity has complied with section 12 (duty to take steps to identify registrable beneficial owners etc),
  - (e) anything required by regulations under section 16 (verification of registrable beneficial owners and managing officers) to be delivered to the registrar, and
  - (f) the name and contact details of an individual who may be contacted about the application.

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(2) This is the table referred to in subsection (1)(c)—

	<i>Statement</i>	<i>Information</i>
1	A statement that the entity has no reasonable cause to believe that anyone has become or ceased to be a registrable beneficial owner during the relevant period.	
2	A statement that the entity has reasonable cause to believe that at least one person has become or ceased to be a registrable beneficial owner during the relevant period.	<ol style="list-style-type: none"><li>1. The required information about each person who has become or ceased to be a registrable beneficial owner during the relevant period, or so much of that information as the entity has been able to obtain.</li><li>2. The date on which each of them became or ceased to be a registrable beneficial owner, if the entity has been able to obtain that information.</li></ol>

(3) Where information provided under subsection (1)(b) includes information that a registrable beneficial owner is a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(b) to provide—

- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
- (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.

(4) Where information provided under subsection (1)(c) includes information that a person who became or ceased to be a registrable beneficial owner was a trustee (see paragraphs 3(1)(f) and 5(1)(h) of Schedule 1), the overseas entity is also required by subsection (1)(c) to provide—

- (a) the required information about the trust or so much of that information as the overseas entity has been able to obtain, and
- (b) a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.

(5) For the required information, see Schedule 1.

(6) For the purposes of subsection (2) “the relevant period” means the period—

- (a) beginning with the date of the overseas entity’s registration or (if later) the end of its last update period, and
- (b) ending with the date of the application for removal.

(7) The information required by subsection (1)(b), and any statements required by subsection (1)(b) or (c), must relate to the state of affairs as at the time of the application for removal.

- (8) Any information required by subsection (1)(c) as a result of a person having become or ceased to be a registrable beneficial owner must relate to the time when the person became or ceased to be a registrable beneficial owner.
- (9) The requirement in subsection (1) to provide information may be met (in whole or in part) by confirming information previously provided.
- (10) For the purposes of this section and section 10 an overseas entity is registered as the proprietor of a relevant interest in land if—
- (a) the entity—
    - (i) is registered in the register of title kept under the Land Registration Act 2002 as the proprietor of a qualifying estate within the meaning of Schedule 4A to that Act, and
    - (ii) became so registered in pursuance of an application made on or after 1 January 1999,
  - (b) the entity—
    - (i) is entered, on or after 8 December 2014, as proprietor in the proprietorship section of the title sheet for a plot of land that is registered in the Land Register of Scotland,
    - (ii) in relation to a lease that was recorded in the General Register of Sasines or registered in the Land Register of Scotland before that date is, by virtue of an assignation of the lease registered in the Land Register of Scotland on or after that date, the tenant under the lease, or
    - (iii) is the tenant under a lease that was registered in the Land Register of Scotland on or after that date, or
  - (c) the entity—
    - (i) is registered in the register kept under the [Land Registration Act \(Northern Ireland\) 1970 \(c. 18 \(N.I.\)\)](#) as the owner of a qualifying estate within the meaning of Schedule 8A to that Act, and
    - (ii) became so registered on or after the day on which that Schedule came into force.
- (11) In subsection (10)(b), “lease”, “plot of land” and “proprietor” have the meanings given by section 113(1) of the Land Registration etc. (Scotland) Act 2012 (asp 5).
- (12) For the purposes of subsection (10)(b)(i)—
- (a) the reference to an overseas entity’s being entered as proprietor in the proprietorship section of a title sheet is a reference to the name of the entity being so entered, and
  - (b) the date on which an overseas entity is entered as proprietor in the proprietorship section of a title sheet is, where the entry is made by virtue of an application for registration, the date of registration as determined under section 37 of the Land Registration etc. (Scotland) Act 2012 (date and time of registration).

## 10 Processing of application under section 9

- (1) On receipt of an application by a registered overseas entity under section 9, the registrar must check whether the overseas entity is registered as the proprietor of a relevant interest in land (see subsection (10) of that section).



- (2) If the overseas entity is not registered as the proprietor of a relevant interest in land, the registrar must remove it from the list of registered overseas entities.
- (3) If the overseas entity is registered as the proprietor of a relevant interest in land, the registrar must refuse the application.
- (4) The registrar must send the overseas entity a notice stating—
  - (a) whether the application for removal has been successful, and
  - (b) if it has been successful, the date of removal from the list of registered overseas entities.
- (5) Where an overseas entity is removed from the list of registered overseas entities, the registrar must record the date of removal in the register.

## **11 Transfer of documents to Public Record Office**

Where an overseas entity has been removed from the list of registered overseas entities for at least two years, the registrar may transfer any records relating to that entity to the Public Record Office.

### *Obtaining, updating and verifying information*

## **12 Identifying registrable beneficial owners**

- (1) An overseas entity must comply with this section before—
  - (a) making an application under section 4 for registration;
  - (b) complying with the updating duty under section 7;
  - (c) making an application under section 9 for removal.
- (2) The overseas entity must take reasonable steps—
  - (a) to identify any registrable beneficial owners in relation to the entity, and
  - (b) if it identifies any, to obtain, for the purposes of the application under section 4 or 9 or for the purposes of complying with the updating duty under section 7—
    - (i) the required information about each registrable beneficial owner, and
    - (ii) in respect of any registrable beneficial owner who is a trustee, the required information about the trust.
- (3) The steps that an overseas entity must take include giving an information notice under this section to any person that it knows, or has reasonable cause to believe, is a registrable beneficial owner in relation to the entity.
- (4) An information notice under this section is a notice requiring the person to whom it is given—
  - (a) to state whether or not the person is a registrable beneficial owner in relation to the overseas entity,
  - (b) if the person is a registrable beneficial owner, to confirm or correct any of the required information about the person that is specified in the notice and to supply any of the required information that the notice states the overseas entity does not already have, and
  - (c) if the person is a registrable beneficial owner by virtue of being a trustee, to confirm or correct any of the required information about the trust that is

specified in the notice and to supply any of the required information about the trust that the notice states the overseas entity does not already have.

- (5) An information notice under this section must require the person to whom it is given to comply with the notice within the period of one month beginning with the day on which it is given.

### **13 Additional powers to obtain information**

- (1) An overseas entity may give a person an information notice under this section if it knows or has reasonable cause to believe that the person knows the identity of—
- (a) a person who is a registrable beneficial owner in relation to the overseas entity,
  - (b) any legal entity not falling within paragraph (a) that is a beneficial owner in relation to the overseas entity, or
  - (c) a person likely to have knowledge of the identity of a person within paragraph (a) or (b).
- (2) An information notice under this section is a notice requiring the addressee—
- (a) to state whether or not the addressee knows the identity of a person within paragraph (a), (b) or (c) of subsection (1), and
  - (b) if so—
    - (i) to supply any information that the addressee has that might help the overseas entity to identify that person, and
    - (ii) to state whether that information is being supplied with the knowledge of the person to whom it relates.
- (3) An information notice under this section must require the person to whom it is given to comply with the notice within the period of one month beginning with the day on which it is given.
- (4) A person given a notice under subsection (1) is not required by that notice to disclose any information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality of communications, could be maintained in legal proceedings.
- (5) In this section a reference to knowing the identity of a person includes knowing information from which that person can be identified.

### **14 Sections 12 and 13: supplementary**

- (1) The Secretary of State may by regulations make further provision about the giving of notices under section 12 or 13, including provision about the form and content of any such notices and the manner in which they must be given.
- (2) Regulations under subsection (1) are subject to the negative resolution procedure.

### **15 Failure to comply with notice under section 12 or 13**

- (1) A person who, without reasonable excuse, fails to comply with a notice under section 12 or 13 commits an offence.
- (2) A person who is given a notice under section 12 or 13 commits an offence if, in purported compliance with the notice, the person—

- (a) makes a statement that the person knows to be false in a material particular, or
  - (b) recklessly makes a statement that is false in a material particular.
- (3) Where an offence under subsection (1) or (2) is committed by a legal entity, the offence is also committed by every officer of the entity who is in default.
- (4) A person does not commit an offence under subsection (1), or under subsection (3) as it applies in relation to subsection (1), if the person proves that the requirement to give information was frivolous or vexatious.
- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for the maximum summary term for either-way offences or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).
- (6) In subsection (5)(a) “the maximum summary term for either-way offences” means—
- (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
  - (b) in relation to an offence committed after that time, 12 months.

## **16 Verification of registrable beneficial owners and managing officers**

- (1) The Secretary of State must by regulations make provision requiring the verification of information before an overseas entity—
- (a) makes an application under section 4 for registration;
  - (b) complies with the updating duty under section 7;
  - (c) makes an application under section 9 for removal.
- (2) Regulations under this section may, among other things, make provision—
- (a) about the information that must be verified;
  - (b) about the person by whom the information must be verified;
  - (c) requiring a statement, evidence or other information to be delivered to the registrar for the purposes of sections 4(1)(c), 7(1)(d) and 9(1)(e).
- (3) The first regulations under this section must be made so as to come into force before any applications may be made under section 4(1).
- (4) Regulations under this section are subject to the negative resolution procedure.

### *Exemptions*

## **17 Power to modify application process etc in certain cases**

- (1) The Secretary of State may by regulations modify the application requirements or the update requirements in relation to overseas entities of a description specified in the regulations.

- (2) The regulations may modify the application or update requirements in relation to a description of overseas entity only if the Secretary of State considers that the modifications are appropriate in light of the information that is publicly available otherwise than by virtue of this Part.
- (3) Regulations under subsection (1) may make such modifications to this Part as are consequential on those regulations.
- (4) Regulations under subsection (1) are subject to the negative resolution procedure.
- (5) In this section—
  - “the application requirements” means the requirements as to the contents of applications under section 4 or 9;
  - “the update requirements” means the requirements as to the material that must be delivered to the registrar under section 7.

## 18 Exemptions

- (1) The Secretary of State may, by giving written notice to a person, exempt the person under this section if satisfied that to do so is necessary—
  - (a) in the interests of national security;
  - (b) for the purposes of preventing or detecting serious crime.
- (2) The effect of an exemption is that—
  - (a) overseas entities are not required to take steps or give notices under section 12 in relation to the exempt person,
  - (b) the exempt person is not required to comply with any notice given by an overseas entity under section 12 or 13 if the exempt person brings the existence of the exemption to the attention of the entity,
  - (c) a notice given by an overseas entity under section 13 does not require any other person to supply information about the exempt person, and
  - (d) the exempt person does not count as a registrable beneficial owner in relation to any overseas entity for the purposes of this Part.
- (3) For the purposes of subsection (1)(b)—
  - (a) “crime” means conduct which—
    - (i) constitutes a criminal offence, or
    - (ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute a criminal offence, and
  - (b) crime is “serious” if—
    - (i) the offence which is or would be constituted by the conduct is an offence for which the maximum sentence (in any part of the United Kingdom) is imprisonment for 3 years or more, or
    - (ii) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

### *Language requirement*

## **19 Documents to be in English**

Documents delivered to the registrar under this Part, or under regulations made under it, must be drawn up and delivered in English.

### *Annotation of the register*

## **20 Annotation of the register**

- (1) The registrar must place a note in the register recording—
  - (a) the date on which a document is delivered to the registrar under this Part or regulations made under it, or otherwise in connection with the register;
  - (b) if a document is replaced (whether or not material derived from it is removed), the fact that it has been replaced and the date of delivery of the replacement;
  - (c) if material is removed—
    - (i) what was removed (giving a general description of its contents),
    - (ii) under what power, and
    - (iii) the date on which that was done.
- (2) The Secretary of State may by regulations make provision—
  - (a) authorising or requiring the registrar to annotate the register in such other circumstances as may be specified in the regulations, and
  - (b) as to the contents of any such annotation.
- (3) No annotation is required in the case of a document that by virtue of section 1072(2) of the Companies Act 2006 (documents not meeting requirements for proper delivery) is treated as not having been delivered.
- (4) A note may be removed if it no longer serves any useful purpose.
- (5) Any duty or power of the registrar with respect to annotation of the register is subject to the court's power under section 31 (powers of court on ordering removal of material from the register) to direct—
  - (a) that a note be removed from the register, or
  - (b) that no note may be made of the removal of material that is the subject of the court's order.
- (6) Regulations under this section are subject to the negative resolution procedure.

### *Inspection of the register and protection of information*

## **21 Inspection and copies of register**

- (1) Any person may—
  - (a) inspect the register (but see the exceptions in section 22);
  - (b) require a copy of any material on the register that is available for inspection.
- (2) The registrar may specify the form and manner in which an application is to be made for inspection or a copy.

- (3) The registrar may determine the form and manner in which copies are to be provided.
- (4) Section 1091 of the Companies Act 2006 (certification of copies), and any regulations made under it, apply in relation to copies provided under this section as they apply in relation to the copies provided as mentioned in that section.

## **22 Material unavailable for inspection**

- (1) The following material must not be made available by the registrar for public inspection—
  - (a) any date of birth or residential address information protected under subsection (2),
  - (b) the name or contact details of an individual delivered to the registrar under section 4(1)(d) (application for registration), 7(1)(e) (updating duty) or 9(1)(f) (application for removal),
  - (c) any required information about a trust delivered to the registrar by virtue of section 4(3), 7(3) or (4) or 9(3) or (4) (required information about trusts),
  - (d) information that, by virtue of regulations under section 25 (power to protect other information), the registrar must omit from the material on the register that is available for inspection,
  - (e) any application or other document delivered to the registrar under section 29 (application for rectification of register),
  - (f) any court order under section 30 (rectification of the register under court order) that the court has directed under section 31 is not to be made available for public inspection, and
  - (g) any email address, identification code or password deriving from a document delivered for the purpose of authorising or facilitating electronic filing procedures or providing information by telephone.
- (2) Date of birth information or residential address information is “protected” if—
  - (a) it relates to a registrable beneficial owner or managing officer in relation to an overseas entity,
  - (b) it is contained in a document delivered to the registrar in which date of birth information or residential address information is required to be stated,
  - (c) in the case of a document having more than one part, it is contained in a part of the document in which date of birth information or residential address information is required to be stated, and
  - (d) it is not information about a trust delivered to the registrar by virtue of section 4(3), 7(3) or (4) or 9(3) or (4).
- (3) In this section—
  - “date of birth information” means information as to the day of the month on which an individual was born (but not the month or year);
  - “residential address information” means—
    - (a) information as to the usual residential address of an individual, or
    - (b) information that the service address of an individual is the individual’s usual residential address.
- (4) Nothing in this section obliges the registrar to check documents other than those mentioned in subsection (2)(b), or parts of documents other than those mentioned

in subsection (2)(c), to ensure the absence of date of birth information or residential address information.

## **23 Disclosure of information about trusts**

- (1) This section applies to information delivered to the registrar by virtue of section 4(3), 7(3) or (4) or 9(3) or (4) (required information about trusts).
- (2) The registrar may not disclose the information unless—
  - (a) the same information is made available by the registrar for public inspection otherwise than by virtue of being delivered to the registrar by virtue of a provision mentioned in subsection (1), or
  - (b) the disclosure is permitted by subsection (3).
- (3) The registrar may disclose the information to—
  - (a) the Commissioners for Her Majesty’s Revenue and Customs, or
  - (b) any other person who—
    - (i) has functions of a public nature, and
    - (ii) is specified for the purposes of this section by regulations made by the Secretary of State.
- (4) Regulations under this section are subject to the negative resolution procedure.

## **24 Disclosure of protected information**

- (1) The registrar must not disclose protected date of birth information or protected residential address information about a person unless—
  - (a) the same information about the person (whether in the same or a different capacity) is made available by the registrar for public inspection as a result of being contained in another description of document in relation to which no restriction under section 22 applies, or
  - (b) disclosure is permitted by subsection (2).
- (2) The registrar may disclose protected date of birth information or residential address information to any person who—
  - (a) has functions of a public nature, and
  - (b) is specified for the purposes of this section by regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations make provision—
  - (a) specifying conditions for the disclosure of protected date of birth information or residential address information in accordance with this section, and
  - (b) providing for the charging of fees.
- (4) This section does not apply to protected date of birth information, or protected residential address information, about a person in their capacity as a registrable beneficial owner or managing officer if an application under regulations made under section 25 has been granted in respect of that information and has not been revoked.
- (5) In this section—
  - “date of birth information” has the meaning given by section 22(3);
  - “protected” has the meaning given by section 22(2);

“residential address information” has the meaning given by section 22(3).

(6) Regulations under this section are subject to the negative resolution procedure.

## **25 Power to protect other information**

(1) The Secretary of State may by regulations make provision requiring the registrar, on application—

- (a) to make information relating to a relevant individual unavailable for public inspection, and
- (b) to refrain from disclosing that information or to refrain from doing so except in specified circumstances.

(2) In this section “relevant individual” means an individual who is or used to be—

- (a) a registrable beneficial owner in relation to an overseas entity, or
- (b) a managing officer of an overseas entity.

(3) Regulations under this section may make provision as to—

- (a) who may make an application,
- (b) the grounds on which an application may be made,
- (c) the information to be included in and documents to accompany an application,
- (d) how an application is to be determined,
- (e) the recording of restrictions in the register,
- (f) the duration of and procedures for revoking the restrictions on disclosure, and
- (g) the charging of fees by the registrar for disclosing information where the regulations permit disclosure, by way of exception, in specified circumstances.

(4) The provision that may be made under subsection (3)(d) or (f) includes provision—

- (a) conferring a discretion on the registrar;
- (b) providing for a question to be referred to a person other than the registrar for the purposes of determining the application or revoking the restrictions.

(5) Regulations under this section may impose a duty on the registrar to publish, in relation to such periods as may be specified—

- (a) details of how many applications have been made under the regulations and how many of them have been allowed, and
- (b) such other details in connection with applications under the regulations as may be specified in the regulations.

(6) Regulations under this section are subject to the affirmative resolution procedure.

(7) Nothing in this section or in regulations made under it affects the disclosure of information about a person in any capacity other than that mentioned in subsection (2).

## **26 Data protection**

(1) Nothing in section 21, 23 or 24 authorises or requires a disclosure of information which, although made in accordance with that section, would contravene the data protection legislation.



- (2) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

*Correction or removal of material on the register*

**27 Resolving inconsistencies in the register**

- (1) Where it appears to the registrar that the information contained in a document delivered to the registrar is inconsistent with other information on the register, the registrar may give notice to the overseas entity to which the document relates—
- (a) stating in what respects the information contained in it appears to be inconsistent with other information on the register, and
  - (b) requiring the overseas entity to take steps to resolve the inconsistency.
- (2) The notice must—
- (a) state the date on which it is issued, and
  - (b) require the delivery to the registrar, within 14 days after that date, of such replacement or additional documents as may be required to resolve the inconsistency.
- (3) If the necessary documents are not delivered within the period specified, an offence is committed by—
- (a) the overseas entity, and
  - (b) every officer of the overseas entity who is in default.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction—
- (a) in England and Wales, to a fine and, for continued contravention, a daily default fine not exceeding the greater of £2,500 and one half of level 4 on the standard scale;
  - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one half of level 5 on the standard scale.

**28 Administrative removal of material from register**

- (1) The registrar may remove from the register—
- (a) anything that there was power, but no duty, to include;
  - (b) anything listed in section 22(1) (material unavailable for public inspection), if it no longer appears to the registrar reasonably necessary for the purposes for which it was delivered to the registrar.
- (2) The power in subsection (1)(a) is exercisable, in particular, so as to remove—
- (a) unnecessary material within the meaning of section 1074 of the Companies Act 2006,
  - (b) material derived from a document that has been replaced under section 1076 of that Act (replacement of document not meeting requirements for proper delivery), or
  - (c) material derived from a document that has been replaced under section 27.
- (3) On or before removing any material under subsection (1)(a) (otherwise than at the request of the overseas entity) the registrar must give notice—

- (a) to the person by whom the material was delivered (if the identity, and name and address of that person are known), or
  - (b) to the overseas entity to which the material relates (if notice cannot be given under paragraph (a) and the identity of that overseas entity is known).
- (4) The notice must—
- (a) state what material the registrar proposes to remove, or has removed, and on what grounds, and
  - (b) state the date on which it is issued.

## **29 Application to rectify register**

- (1) The Secretary of State may by regulations make provision requiring the registrar, on application, to remove from the register material of a description specified in the regulations that—
- (a) derives from anything invalid or ineffective or that was done without the authority of the overseas entity, or
  - (b) is factually inaccurate, or is derived from something that is factually inaccurate, or forged.
- (2) The regulations may make provision as to—
- (a) who may make an application,
  - (b) the information to be included in and documents to accompany an application,
  - (c) the notice to be given of an application and of its outcome,
  - (d) a period in which objections to an application may be made, and
  - (e) how an application is to be determined.
- (3) An application must—
- (a) specify what is to be removed from the register and indicate where on the register it is, and
  - (b) be accompanied by a statement that the material specified in the application complies with this section and the regulations.
- (4) If no objections are made to the application, the registrar may accept the statement as sufficient evidence that the material specified in the application should be removed from the register.
- (5) Regulations under this section are subject to the affirmative resolution procedure.

## **30 Court order to rectify register**

- (1) The registrar must remove from the register any material—
- (a) that derives from anything that the court has declared to be invalid or ineffective, or to have been done without the authority of the overseas entity, or
  - (b) that a court declares to be factually inaccurate, or to be derived from something that is factually inaccurate, or forged,
- and that the court directs should be removed from the register.
- (2) The court order must specify what is to be removed from the register and indicate where on the register it is.

- (3) A copy of the court's order must be sent to the registrar for registration.

### **31 Court powers on ordering removal of material from the register**

- (1) Where the court makes an order for the removal of anything from the register under section 30, it may give directions under this section.
- (2) It may direct that any note on the register that is related to the material that is the subject of the court's order is to be removed from the register.
- (3) It may direct that its order is not to be available for public inspection as part of the register.
- (4) It may direct—
- (a) that no note is to be made on the register as a result of its order, or
  - (b) that any such note is to be restricted to such matters as may be specified by the court in the direction.
- (5) The court must not give any direction under this section unless it is satisfied—
- (a) that—
    - (i) the presence on the register of the note or, as the case may be, of an unrestricted note, or
    - (ii) the availability for public inspection of the court's order, may cause damage to the overseas entity, and
  - (b) that the overseas entity's interest in non-disclosure outweighs any interest of other persons in disclosure.
- (6) In this section "note" means a note placed in the register under section 20 or regulations made under it.

### *False statements*

### **32 General false statement offence**

- (1) It is an offence for a person, without reasonable excuse, to—
- (a) deliver or cause to be delivered to the registrar for the purposes of this Part any document that is misleading, false or deceptive in a material particular, or
  - (b) make to the registrar, for the purposes of this Part, any statement that is misleading, false or deceptive in a material particular.
- (2) An offence under this section is aggravated if, when the document or statement is delivered, the person knows that it is misleading, false or deceptive in a material particular.
- (3) A person guilty of an offence under this section, other than an aggravated offence, is liable —
- (a) on summary conviction in England and Wales, to a fine;
  - (b) on summary conviction in Scotland, to a fine not exceeding level 5 on the standard scale;
  - (c) on summary conviction in Northern Ireland, to a fine not exceeding level 5 on the standard scale.

- (4) A person guilty of an aggravated offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for the maximum summary term for either-way offences or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).
- (5) In subsection (4)(a) “the maximum summary term for either-way offences” means—
- (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
  - (b) in relation to an offence committed after that time, 12 months.

*Land ownership and transactions*

**33 Land ownership and transactions**

- (1) Schedule 3 contains amendments about—
- (a) the ownership of registered land in England and Wales by overseas entities, and
  - (b) land transactions in England and Wales involving overseas entities.
- (2) Schedule 4—
- (a) makes similar provision for Scotland, and
  - (b) confers a related power to make further or alternative provision (see Part 3 of the Schedule).
- (3) Schedule 5 makes similar provision for Northern Ireland.
- (4) The Secretary of State may by regulations amend Schedule 8A to the Land Registration Act (Northern Ireland) 1970 (inserted by Schedule 5 to this Act) to make provision similar or corresponding to the provision made by paragraphs 3(2)(e), 4(2)(e) and 5 of Schedule 4A to the Land Registration Act 2002 (inserted by Schedule 3 to this Act) (including the provision to make subordinate legislation).
- (5) The provision which may be made by regulations under subsection (4) by virtue of section 67(3) includes provision amending other provisions of the Land Registration (Northern Ireland) Act 1970.
- (6) The Secretary of State must consult the Department of Finance in Northern Ireland before making regulations under subsection (4).
- (7) Regulations under subsection (4) are subject to the affirmative resolution procedure.

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

- (1) The Secretary of State may by notice require an overseas entity to apply for registration in the register of overseas entities within the period of 6 months beginning with the date of the notice if at the time the notice is given—

- (a) the entity is registered as the proprietor of a relevant interest in land within the meaning given by section 9(10), and
  - (b) the entity is not registered as an overseas entity, has not made an application for registration that is pending and is not an exempt overseas entity.
- (2) A notice under subsection (1) lapses if, before the end of the period mentioned there, the overseas entity—
  - (a) ceases to be registered as the proprietor of a relevant interest in land within the meaning given by section 9(10), or
  - (b) becomes an exempt overseas entity.
- (3) If an overseas entity fails to comply with a notice under subsection (1), an offence is committed by—
  - (a) the entity, and
  - (b) every officer of the entity who is in default.
- (4) A person guilty of an offence under subsection (3) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for the maximum summary term for either-way offences or a fine (or both);
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (d) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).
- (5) In subsection (4)(a) “the maximum summary term for either-way offences” means—
  - (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
  - (b) in relation to an offence committed after that time, 12 months.
- (6) In this section “exempt overseas entity” means an overseas entity of such description as may be specified in regulations made by the Secretary of State for the purposes of this section.
- (7) Regulations under subsection (6) are subject to the affirmative resolution procedure.

*Supplementary provision about offences*

**35 Liability of officers in default**

- (1) Sections 1121 to 1123 of the Companies Act 2006 (liability of officers in default: interpretation etc) apply for the purposes of any provision made by this Part as they apply for the purposes of provisions of the Companies Acts.
- (2) In those sections as applied, a reference to an officer includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of a legal entity are accustomed to act.
- (3) A person is not to be regarded as falling within subsection (2) by reason only that the board of directors or equivalent management body acts on advice given by the person in a professional capacity.

**36 Meaning of “daily default fine”**

Section 1125 of the Companies Act 2006 (meaning of “daily default fine”) applies for purpose of any provision made by this Part as it applies for the purposes of provisions of the Companies Acts.

**37 Consent required for prosecutions**

Proceedings for an offence under this Part—

- (a) may not be brought in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
- (b) may not be brought in Northern Ireland except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

**38 Further provision about proceedings**

The following provisions of the Companies Act 2006 apply in relation to offences under this Part as they apply in relation to offences under the Companies Acts—

- (a) section 1128 (summary proceedings: time limits);
- (b) section 1130 (proceedings against unincorporated bodies).

*Financial penalties***39 Financial penalties**

- (1) The Secretary of State may by regulations make provision conferring power on the registrar to impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person has engaged in conduct amounting to an offence under this Part.
- (2) The regulations may include provision—
  - (a) about the procedure to be followed in imposing penalties;
  - (b) about the amount of penalties;
  - (c) for the imposition of interest or additional penalties for late payment;
  - (d) conferring rights of appeal against penalties;
  - (e) about the enforcement of penalties.
- (3) The provision that may be made about enforcement includes—
  - (a) in relation to England and Wales or Northern Ireland, provision for unpaid amounts to be secured by a charge on an interest in land (including provision about the priority of any such charge), and
  - (b) in relation to Scotland, provision for penalties to be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) The regulations must provide that—
  - (a) no financial penalty may be imposed under the regulations on a person in respect of conduct amounting to an offence if the person has been convicted of that offence in respect of that conduct, and
  - (b) no proceedings may be brought or continued against a person in respect of conduct amounting to an offence if the person has been given a financial penalty under the regulations in respect of that conduct.

- (5) Amounts recovered by the registrar under the regulations are to be paid into the Consolidated Fund.
- (6) The provision which may be made by regulations under this section by virtue of section 67(3) includes provision amending provision made by or under any of the following, whenever passed or made—
  - (a) an Act;
  - (b) an Act of the Scottish Parliament;
  - (c) Northern Ireland legislation.
- (7) Regulations under this section are subject to the affirmative resolution procedure.
- (8) In this section “conduct” means an act or omission.

#### *Sharing of information by HMRC*

### **40 Sharing of information by HMRC**

- (1) The Commissioners for Her Majesty’s Revenue and Customs may disclose information to the Secretary of State or the registrar for the purpose of the taking of action in connection with an offence under this Part.
- (2) For the purposes of this section, the taking of action in connection with an offence under this Part includes any of the following—
  - (a) investigating whether an offence has been committed;
  - (b) prosecuting an offence;
  - (c) imposing financial penalties for conduct amounting to an offence.
- (3) A person who receives information as a result of this section—
  - (a) may not use the information other than for the purpose of the taking of action in connection with an offence under this Part;
  - (b) may not further disclose the information unless the disclosure is necessary for the taking of action in connection with an offence under this Part.
- (4) It is an offence for a person to disclose, in contravention of subsection (3)(b), any revenue and customs information relating to a person whose identity—
  - (a) is specified in the disclosure, or
  - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already lawfully been made available to the public.
- (6) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under subsection (4) as they apply to an offence under that section.
- (7) In this section “revenue and customs information relating to a person” has the same meaning as in section 19 of the Commissioners for Revenue and Customs Act 2005 (see section 19(2) of that Act).

*Transitional provision***41 Applications in the transitional period: information about land transactions**

- (1) This section applies where an overseas entity makes an application under section 4 for registration before the end of the transitional period.
- (2) If the entity has not made any relevant dispositions of land during the period—
  - (a) beginning with 28 February 2022, and
  - (b) ending with the making of the application,the application must include a statement to that effect.
- (3) If the entity has made any relevant dispositions of land during the period mentioned in subsection (2), the application must include—
  - (a) the required information about each relevant disposition of land made during that period (see subsection (5)),
  - (b) in relation to each such disposition, the statements and information mentioned in paragraphs (a), (b) and (c) of section 4(1) expressed by reference to the state of affairs immediately before the making of the disposition, and
  - (c) a statement that all of the information required by paragraphs (a) and (b) of this subsection has been included in the application.
- (4) In this section “relevant disposition of land”, in relation to an overseas entity, means—
  - (a) a registrable disposition of a qualifying estate within section 27(2)(a), (b)(i) or (f) of the Land Registration Act 2002 other than—
    - (i) a disposition made in pursuance of a statutory obligation or court order, or occurring by operation of law, or
    - (ii) a disposition made by a specified insolvency practitioner in specified circumstances (within the meaning of paragraph 3(3) of Schedule 4A to the Land Registration Act 2002, as inserted by Schedule 3 to this Act);
  - (b) the delivery by the entity of a qualifying registrable deed granted by it where the entity’s interest in respect of which the deed was granted was registered in the Land Register of Scotland on or after 8 December 2014, unless the deed was granted—
    - (i) in pursuance of a statutory obligation or court order, or
    - (ii) by a specified insolvency practitioner in specified circumstances (within the meaning of paragraph 2(5) of schedule 1A of the Land Registration etc. (Scotland) Act 2012, as inserted by Schedule 4 to this Act).
- (5) The required information about a relevant disposition of land is—
  - (a) where the relevant disposition of land is within subsection (4)(a)—
    - (i) the date of disposition, and
    - (ii) the registered title number of the qualifying estate;
  - (b) where the relevant disposition of land is within subsection (4)(b)—
    - (i) the date of delivery of the deed, and
    - (ii) the title number of the title sheet in which the entity’s interest is entered.
- (6) In subsection (4)(a) “qualifying estate” means—



- (a) a freehold estate in land, or
  - (b) a leasehold estate in land granted for a term of more than seven years from the date of grant,
- of which the overseas entity became a registered proprietor in pursuance of an application made on or after 1 January 1999.
- (7) In subsection (6) “registered proprietor” in relation to an estate means the person entered as proprietor of the estate in the register of title kept by the Chief Land Registrar.
- (8) In subsection (4)(b) “qualifying registrable deed” means a registrable deed (within the meaning of the Land Registration etc. (Scotland) Act 2012) which is—
- (a) a disposition,
  - (b) a standard security,
  - (c) a lease (including a sub-lease), or
  - (d) an assignation of a lease (including a sub-lease).
- (9) For the purposes of subsection (4)(b), a qualifying registrable deed is to be treated, as at the date of delivery, as having been granted even if at that time it has been executed by the overseas entity only.
- (10) In this section “the transitional period” means the period of 6 months beginning with the day on which section 3(1) comes fully into force.

## **42 Requirement for certain unregistered overseas entities to provide information**

- (1) An overseas entity, and every officer of the entity who is in default, commits an offence if—
- (a) at any time during the period beginning with 28 February 2022 and ending with the end of the transitional period, the entity has made a relevant disposition of land,
  - (b) at the end of the transitional period the entity—
    - (i) is not registered as an overseas entity,
    - (ii) has not made an application for registration as an overseas entity that is pending, and
    - (iii) is not an exempt overseas entity, and
  - (c) the entity has not, after making the relevant disposition of land and before the end of the transitional period, delivered to the registrar—
    - (i) statements and information of the kind mentioned in paragraphs (a), (b), (c) and (d) of section 4(1), expressed by reference to the state of affairs immediately before the making of the relevant disposition of land, and
    - (ii) the required information about the relevant disposition of land (within the meaning of section 41(5)).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
- (a) in England and Wales to a fine and, for continued contravention, a daily default fine not exceeding the greater of £2,500 and one half of level 4 on the standard scale;

- (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one half of level 5 on the standard scale.
- (3) The contravention continues until such time as the overseas entity has delivered the statements and information mentioned in subsection (1)(c).
- (4) In the case of continued contravention, an offence is also committed by every officer of the overseas entity who did not commit an offence under subsection (1) in relation to the initial contravention but who is in default in relation to the continued contravention.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction—
  - (a) in England and Wales, to a fine not exceeding the greater of £2,500 and one half of level 4 on the standard scale for each day on which the contravention continues and the person is in default;
  - (b) in Scotland or Northern Ireland, to a fine not exceeding one half of level 5 on the standard scale for each day on which the contravention continues and the person is in default.
- (6) In this section—
  - “exempt overseas entity” means an entity of a description specified in regulations under section 34(6);
  - “relevant disposition of land” has the meaning given by section 41(4);
  - “transitional period” has the meaning given by section 41(10).

#### **43 Section 42: supplementary**

- (1) Section 12 has effect as if—
  - (a) subsection (1) included a reference to an overseas entity being under a duty to comply with that section before delivering statements and information under section 42(1)(c)(i);
  - (b) subsection (2) included a reference to obtaining information for the purposes of section 42(1)(c)(i).
- (2) The Secretary of State may by regulations make further provision in connection with—
  - (a) the provision of information under section 42(1)(c),
  - (b) the verification of that information, or
  - (c) the processing of that information by the registrar,
 including provision modifying any provision made by or under this Part or applying any provision made by or under this Part with modifications.
- (3) Regulations under this section are subject to the negative resolution procedure.

#### *Interpretation*

#### **44 Interpretation**

- (1) In this Part—
  - “beneficial owner”, in relation to an overseas entity, has the meaning given by Part 2 of Schedule 2;
  - “the court” has the same meaning as in the Companies Acts (see section 1156 of the Companies Act 2006);

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*Status: This is the original version (as it was originally enacted).*

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“document” means information in any recorded form;

“government or public authority” means—

- (a) a corporation sole;
- (b) a government or government department of a country or territory or a part of a country or territory;
- (c) an international organisation whose members include two or more countries or territories (or their governments);
- (d) a local authority or local government body in the United Kingdom or elsewhere;
- (e) any other public authority in the United Kingdom or elsewhere;

“legal entity” has the meaning given by section 2;

“managing officer”, in relation to an overseas entity, includes a director, manager or secretary;

“overseas entity” has the meaning given by section 2;

“register” means the register kept under section 3;

“registered”: an overseas entity is registered if its name appears in the list of registered overseas entities kept in accordance with section 3(3);

“registrable beneficial owner”, in relation to an overseas entity, has the meaning given by Schedule 2;

“the registrar” has the meaning given by section 3(1).

- (2) A reference in section 12 or 13 to a person who is a registrable beneficial owner of an overseas entity includes, in connection with the obtaining of information required by section 7(1)(b), 9(1)(c), 41(3)(b) or 42(1)(c)(i), a reference to a person who has ceased to be a registrable beneficial owner.
- (3) A reference in this Part to a trust includes arrangements, under the law of a country or territory outside the United Kingdom, that are of a similar character to a trust, and any related expressions are to be read accordingly.
- (4) The Secretary of State may by regulations make provision specifying descriptions of arrangements that are, or are not, to be treated as being of a similar character to a trust for the purposes of subsection (3).
- (5) Regulations under subsection (4) are subject to the negative resolution procedure.

## PART 2

### UNEXPLAINED WEALTH ORDERS

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

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) Section 362A (unexplained wealth orders) is amended in accordance with subsections (3) to (7).
- (3) After subsection (2) insert—

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*Status: This is the original version (as it was originally enacted).*

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- “(2A) In a case where the respondent is not an individual, the application may also specify a person who is a responsible officer of the respondent (and a person specified may include a person outside the United Kingdom).”
- (4) In subsection (3), in the words before paragraph (a), after “the respondent” insert “or any responsible officer specified in the order (a “specified responsible officer”)”.
- (5) In subsection (5)—
- (a) after “requiring the respondent” insert “or any specified responsible officer”;
  - (b) for “require the respondent” substitute “require them”.
- (6) In subsection (6), after “respondent” insert “or any specified responsible officer”.
- (7) After subsection (7) insert—
- “(8) For the purposes of this Chapter, each of the following is a “responsible officer” of the respondent (in a case where the respondent is not an individual)
- 
- (a) any director of the respondent, including any person occupying the position of a director, by whatever name called;
  - (b) any member of a body of the respondent equivalent to a board of directors;
  - (c) any other manager, secretary or similar officer of the respondent;
  - (d) where the respondent is a partnership, a partner or a member of the partnership;
  - (e) any person in accordance with whose directions or instructions the board of directors or equivalent body of the respondent are accustomed to act.”
- (8) In section 362C (effect of unexplained wealth order in case of non-compliance)—
- (a) in subsection (1), for “the respondent fails” substitute “the respondent and the specified responsible officer (if any), between them, fail”;
  - (b) in subsection (5)(a), after “a respondent” insert “or a specified responsible officer”;
  - (c) in subsection (5)(b)—
    - (i) omit “on the respondent”;
    - (ii) for “the respondent is” substitute “the respondent and the specified responsible officer (if any) are”.
- (9) In section 362D (effect of unexplained wealth order in case of compliance or purported compliance)—
- (a) in subsection (1), for “the respondent complies, or purports to comply, with the” substitute “the respondent and the specified responsible officer (if any) between them comply, or purport to comply, with all of the”;
  - (b) in subsection (7)—
    - (i) omit paragraph (a);
    - (ii) in the words after paragraph (c), for “(a) to (c)” substitute “(b) and (c)”.
- (10) In section 362G(3) (disclosure of information, copying of documents etc), after “the respondent” insert “or any specified responsible officer”.

- (11) In section 362I(3)(b) (application to vary or discharge unexplained wealth order), after “respondent” insert “or any specified responsible officer”.

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

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) Section 396A (unexplained wealth orders) is amended in accordance with subsections (3) to (7).
- (3) After subsection (2) insert—
- “(2A) In a case where the respondent is not an individual, the application may also specify a person who is a responsible officer of the respondent (and a person specified may include a person outside the United Kingdom).”
- (4) In subsection (3), in the words before paragraph (a), after “the respondent” insert “or any responsible officer specified in the order (a “specified responsible officer”)”.
- (5) In subsection (5)—
- (a) after “requiring the respondent” insert “or any specified responsible officer”;
- (b) for “require the respondent” substitute “require them”.
- (6) In subsection (6), after “respondent” insert “or any specified responsible officer”.
- (7) After subsection (6) insert—
- “(7) For the purposes of this Chapter, each of the following is a “responsible officer” of the respondent (in a case where the respondent is not an individual)
- 
- (a) any director of the respondent, including any person occupying the position of a director, by whatever name called;
- (b) any member of a body of the respondent equivalent to a board of directors;
- (c) any other manager, secretary or similar officer of the respondent;
- (d) where the respondent is a partnership, a partner or member of the partnership;
- (e) any person in accordance with whose directions or instructions the board of directors or equivalent body of the respondent are accustomed to act.”
- (8) In section 396C (effect of unexplained wealth order in case of non-compliance)—
- (a) in subsection (1), for “the respondent fails” substitute “the respondent and the specified responsible officer (if any), between them, fail”;
- (b) in subsection (5)(a), after “a respondent” insert “or a specified responsible officer”;
- (c) in subsection (5)(b)—
- (i) omit “on the respondent”;
- (ii) for “the respondent is” substitute “the respondent and the specified responsible officer (if any) are”.

- (9) In section 396D (effect of unexplained wealth order in case of compliance or purported compliance)—
- (a) in subsection (1), for “the respondent complies, or purports to comply, with the” substitute “the respondent and the specified responsible officer (if any) between them comply, or purport to comply, with all of the”;
  - (b) in subsection (8)—
    - (i) omit paragraph (a);
    - (ii) in the words after paragraph (c), for “(a) to (c)” substitute “(b) and (c)”.
- (10) In section 396G(3) (disclosure of information, copying of documents etc), after “the respondent” insert “or any specified responsible officer”.

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

In section 362B(3) of the Proceeds of Crime Act 2002 (income requirement for making of unexplained wealth order)—

- (a) after “suspecting” insert “—  
(a)”;
- (b) at the end insert “, or  
(b) that the property has been obtained through unlawful conduct (within the meaning given by section 242).”

**48 Alternative test to the income requirement: Scotland**

In section 396B(3) of the Proceeds of Crime Act 2002 (income requirement for making of unexplained wealth order)—

- (a) after “suspecting” insert “—  
(a)”;
- (b) at the end insert “, or  
(b) that the property has been obtained through unlawful conduct (within the meaning given by section 242).”

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

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 362D (effect of order: cases of compliance or purported compliance)—
- (a) in subsection (3), at the end insert “, or that period as it may be extended by virtue of section 362DA or 362DB (the “determination period”);
  - (b) in subsection (4), for “60 day period mentioned in subsection (3)” substitute “determination period”.
- (3) After that section insert—

### **“362DA Extension of period for making determination where interim freezing order has been made**

- (1) The High Court may, on an application made by the enforcement authority, extend the determination period if satisfied that—
  - (a) the enforcement authority is working diligently and expeditiously towards making a determination under section 362D(2),
  - (b) further time is needed for the authority to make that determination, and
  - (c) it is reasonable in all the circumstances for the period to be extended.
- (2) The application must be made before the determination period would otherwise end.
- (3) An extension of the determination period must end no later than the end of the period of 63 days beginning with the day after that on which the period would otherwise end.
- (4) Where the determination period is extended under subsection (1), it may be further extended by the High Court (and subsections (2) and (3) apply in relation to any further extension as they apply in relation to the first one).
- (5) But the determination period as extended must not in total exceed the period of 186 days starting with the day of compliance (within the meaning given by section 362D(7)(b)).

### **362DB Extension of period pending determination of proceedings etc**

- (1) Subsection (2) applies where—
  - (a) an application is made to the High Court under section 362DA for the extension (or further extension) of the determination 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 determination period is extended from the time when it would otherwise end until—
  - (a) the Court determines the application or it is otherwise disposed of, or
  - (b) if earlier, the end of the period of 31 days beginning with the day after that on which the period would otherwise have ended.
- (3) Subsection (4) applies where—
  - (a) proceedings on an appeal in respect of a decision on an application under section 362DA have been brought, and
  - (b) the determination period would (apart from that subsection) end before the proceedings are finally determined or otherwise disposed of.
- (4) The determination period is extended from the time when it would otherwise end until—
  - (a) the proceedings are finally determined or otherwise disposed of, or
  - (b) if earlier, the end of the period mentioned in subsection (2)(b).

- (5) Subsection (6) applies where—
  - (a) an application is made to the Court under section 362DA for an extension of the determination 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.
- (6) The determination 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.
- (7) The “5 day period” is the period of 5 working days beginning with the day on which the Court refuses to grant the application; and for these purposes “working day” means a day other than—
  - (a) a Saturday or a Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) 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 362DA is made.
- (8) The restriction on the overall extension of the determination period mentioned in section 362DA(5) applies to an extension of the period in accordance with any provision of this section as it applies to an extension under an order of the Court.”
- (4) In section 362K(6)(a) (variation and discharge of interim freezing order), for “60 day period mentioned in section 362D(3)” substitute “determination period (see section 362D(3))”.

## **50 Power to extend period for which interim freezing order has effect: Scotland**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 396D (effect of order: cases of compliance or purported compliance)—
  - (a) in subsection (4), at the end insert “, or that period as it may be extended by virtue of section 396DA or 396DB (the “determination period”);”;
  - (b) in subsection (5), for “60 day period mentioned in subsection (3)” substitute “determination period”.
- (3) After that section insert—

### **“396DA Extension of period for making determination where interim freezing order has been made**

- (1) The Court of Session may, on an application made by the Scottish Ministers or the Lord Advocate, extend the determination period if satisfied that—
  - (a) the applicant is working diligently and expeditiously towards making a determination under section 396D(2)(b) or (3) (as the case may be),
  - (b) further time is needed to make that determination, and
  - (c) it is reasonable in all the circumstances for the period to be extended.



- (2) The application must be made before the determination period would otherwise end.
- (3) An extension of the determination period must end no later than the end of the period of 63 days beginning with the day after that on which the period would otherwise end.
- (4) Where the period is extended under subsection (1), it may be further extended by the Court of Session (and subsections (2) and (3) apply in relation to any further extension as they apply in relation to the first one).
- (5) But the determination period as extended must not exceed the period of 186 days starting with the day of compliance (within the meaning given by section 396D(8)(b)).

### **396DB Extension of period pending determination of proceedings etc**

- (1) Subsection (2) applies where—
  - (a) an application is made to the Court of Session under section 396DA for the extension (or further extension) of the determination 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 determination period is extended from the time when it would otherwise end until—
  - (a) the Court determines the application or it is otherwise disposed of, or
  - (b) if earlier, the end of the period of 31 days beginning with the day after that on which the period would otherwise have ended.
- (3) Subsection (4) applies where—
  - (a) proceedings on an appeal in respect of a decision on an application under section 396DA have been brought, and
  - (b) the determination period would (apart from that subsection) end before the proceedings are finally determined or otherwise disposed of.
- (4) The determination period is extended from the time when it would otherwise end until—
  - (a) the proceedings are finally determined or otherwise disposed of, or
  - (b) if earlier, the end of the period mentioned in subsection (2)(b).
- (5) Subsection (6) applies where—
  - (a) an application is made to the Court under section 396DA for an extension of the determination 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.
- (6) The determination period is extended from the time when it would otherwise end until—
  - (a) the end of the 5 day period, or

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- (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.
- (7) The “5 day period” is the period of 5 working days beginning with the day on which the Court refuses to grant the application; and for these purposes “working day” means a day other than—
  - (a) a Saturday or a Sunday, or
  - (b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.
- (8) The restriction on the overall extension of the determination period mentioned in section 396DA(5) applies to an extension of the period in accordance with any provision of this section as it applies to an extension under an order of the Court.”
- (4) In section 396K(6)(a) (variation and recall of interim freezing order), for “60 day period mentioned in section 396D(4)” substitute “determination period (see section 396D(4))”.

## **51 Annual reports on use of unexplained wealth orders: England and Wales**

After section 362I of the Proceeds of Crime Act 2002 insert—

### **“362IA Annual reports**

- (1) The Secretary of State must prepare and publish a report in respect of each relevant period setting out—
  - (a) the number of unexplained wealth orders made by the High Court in England and Wales during that period, and
  - (b) the number of applications made to that Court by enforcement authorities for such an order during that period.
- (2) Each of the following is a “relevant period”—
  - (a) the period of 12 months beginning with the day on which section 51 of the Economic Crime (Transparency and Enforcement) Act 2022 comes into force;
  - (b) each subsequent period of 12 months.
- (3) A report under this section must be prepared and published within the period of 4 months beginning with the end of the relevant period to which the report relates.
- (4) The Secretary of State must lay a copy of each report prepared under this section before Parliament.”

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

After section 362T of the Proceeds of Crime Act 2002 insert—

*“Unexplained wealth orders: costs of proceedings*

**362U Costs orders**

- (1) This section applies in the following cases—
- (a) an enforcement authority has made an application for an unexplained wealth order under section 362A;
  - (b) an enforcement authority has made an application for the determination period to be extended under section 362DA;
  - (c) an application has been made to discharge or vary an unexplained wealth order;
  - (d) an enforcement authority has made an application for an interim freezing order under section 362J;
  - (e) an application has been made to discharge or vary an interim freezing order;
  - (f) an application has been made in the circumstances referred to in section 362M to—
    - (i) stay an action, execution or other legal process,
    - (ii) grant leave to levy distress or use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods),
    - (iii) stay proceedings in respect of property or allow them to continue, or
    - (iv) grant leave to exercise a right of forfeiture in relation to a tenancy;
  - (g) an enforcement authority has made an application for an order for the appointment of a receiver under section 362N;
  - (h) an enforcement authority has made an application for an order under section 362O (powers of receiver);
  - (i) an application has been made for directions to a receiver under section 362P;
  - (j) an application has been made to discharge or vary—
    - (i) the appointment of a receiver under section 362N,
    - (ii) an order under section 362O, or
    - (iii) directions under section 362P;
  - (k) an application has been made for compensation under section 362R;
  - (l) the High Court has of its own motion exercised a power to do anything an application mentioned in paragraphs (a) to (k) may be made for;
  - (m) an application has been made for permission to appeal in relation to anything mentioned in paragraphs (a) to (l).
- (2) The court may not make an order that any costs of proceedings relating to a case to which this section applies (including appeal proceedings) are payable by an enforcement authority to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless—

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- (a) the authority acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate, or
- (b) the authority acted dishonestly or improperly in the course of the proceedings.”

### 53 Limits on expenses orders in relation to unexplained wealth orders: Scotland

After section 396U of the Proceeds of Crime Act 2002 insert—

*“Unexplained wealth orders: expenses of proceedings*

#### **396V Expenses orders**

- (1) This section applies in the following cases—
- (a) the Scottish Ministers have made an application for an unexplained wealth order under section 396A;
  - (b) an application has been made for the determination period to be extended under section 396DA;
  - (c) an application has been made to discharge or vary an unexplained wealth order;
  - (d) the Scottish Ministers have made an application for an interim freezing order under section 396J;
  - (e) an application has been made to vary or recall an interim freezing order;
  - (f) an application has been made in the circumstances referred to in section 396M to—
    - (i) sist an action, execution or other legal process, or
    - (ii) sist proceedings in respect of property or allow them to continue;
  - (g) the Scottish Ministers have made an application under section 396N (arrestment of property affected by interim freezing order);
  - (h) the Scottish Ministers have made an application under section 396O (inhibition of property affected by interim freezing order);
  - (i) the Scottish Ministers have made an application for an order for the appointment of a receiver under section 396P;
  - (j) the Scottish Ministers have made an application for an order under section 396Q (powers of receiver);
  - (k) an application has been made for directions to a receiver under section 396R;
  - (l) an application has been made to vary or recall—
    - (i) the appointment of a receiver under section 396P,
    - (ii) an order under section 396Q or
    - (iii) directions under section 396R;
  - (m) an application has been made for compensation under section 396S;
  - (n) the Court of Session has of its own motion exercised a power to do anything an application mentioned in paragraphs (a) to (m) may be made for;

- (o) an application has been made for permission to appeal in relation to anything mentioned in paragraphs (a) to (n).
- (2) The court may not make an order that any expenses of proceedings relating to a case to which this section applies (including appeal proceedings) are payable by the Scottish Ministers or the Lord Advocate to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless—
- (a) the Scottish Ministers or the Lord Advocate acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate, or
  - (b) the Scottish Ministers or the Lord Advocate acted dishonestly or improperly in the course of the proceedings.”

### PART 3

#### SANCTIONS

### CHAPTER 1

#### MONETARY PENALTIES

#### 54 Imposition of monetary penalties

- (1) Section 146 of the Policing and Crime Act 2017 (power to impose monetary penalties for breaching financial sanctions) is amended as follows.
- (2) In subsection (1) omit paragraph (b) (together with “and” preceding it).
- (3) After subsection (1) insert—

“(1A) In determining for the purposes of subsection (1) whether a person has breached a prohibition, or failed to comply with an obligation, imposed by or under financial sanctions legislation, any requirement imposed by or under that legislation for the person to have known, suspected or believed any matter is to be ignored.”

#### 55 Procedural rights

In section 147 of the Policing and Crime Act 2017 (monetary penalties: procedural rights), omit subsection (5) (personal review by Minister).

#### 56 Reporting on breach of financial sanctions

In section 149 of the Policing and Crime Act 2017 (monetary penalties: supplementary), after subsection (2) insert—

- “(3) The Treasury may also publish reports at such intervals as it considers appropriate in cases where—
  - (a) a monetary penalty has not been imposed under section 146 or 148, but

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- (b) the Treasury is satisfied, on the balance of probabilities, that a person has breached a prohibition, or failed to comply with an obligation, that is imposed by or under financial sanctions legislation.”

## CHAPTER 2

### IMPOSITION OF SANCTIONS ETC

#### *Sanctions regulations*

#### **57 Streamlining process of making sanctions regulations**

- (1) The Sanctions and Anti-Money Laundering Act 2018 (referred to in this Chapter as the “2018 Act”) is amended as follows.
- (2) In section 1 (power to make sanctions regulations) omit subsection (4).
- (3) Omit section 2 (additional requirements for regulations for a purpose within section 1(2)).
- (4) In section 45 (revocation and amendment of regulations under section 1)—
  - (a) in subsection (2)—
    - (i) omit the “and” at the end of paragraph (a);
    - (ii) omit paragraph (b);
  - (b) omit subsections (3) to (5);
  - (c) in subsection (6) omit “, section 2”.

#### *Designation*

#### **58 Urgent designation of persons by name**

- (1) Section 11 of the 2018 Act (designation of a person by name under a designation power) is amended in accordance with subsections (2) to (6).
- (2) After subsection (1) insert—
 

“(1A) The regulations must contain provision for the Minister to be able to choose whether to designate a person under—

  - (a) the standard procedure, or
  - (b) the urgent procedure.”
- (3) For subsection (2) substitute—
 

“(2) The regulations must provide that under the standard procedure the Minister is prohibited from designating a person by name except where condition A is met.

(2A) Condition A is that the Minister has reasonable grounds to suspect that that person is an involved person (see subsection (3)).

(2B) The regulations must provide that under the urgent procedure—

- (a) the Minister may designate a person by name where condition A is not met, but conditions B and C are met, and
  - (b) the designation ceases to have effect at the end of the period of 56 days beginning with the day following the designation unless, within that period, the Minister certifies that—
    - (i) condition A is met, or
    - (ii) conditions B and C continue to be met.
- (2C) The regulations must provide that, under the urgent procedure, in a case where the Minister makes a certification under subsection (2B)(b)(ii), the designation ceases to have effect at the end of the period of 56 days beginning with the day immediately following the period mentioned in subsection (2B)(b), unless within that period the Minister certifies that condition A is met.
- (2D) Condition B is that relevant provision (whenever made) applies to, or in relation to, the person under the law of—
- (a) the United States of America;
  - (b) the European Union;
  - (c) Australia;
  - (d) Canada;
  - (e) any other country specified for the purposes of this paragraph in regulations made by an appropriate Minister.
- (2E) Condition C is that the Minister considers that it is in the public interest to make designations under the urgent procedure.
- (2F) For the purposes of condition B, relevant provision is provision that the Minister considers—
- (a) corresponds, or is similar, to the type of sanction or sanctions in the regulations under section 1, or
  - (b) is made for purposes corresponding, or similar, to any purpose of any type of sanction or sanctions in the regulations under section 1.”
- (4) In subsection (7), after “by name” insert “under the standard procedure”.
- (5) After subsection (7) insert—
- “(7A) The regulations must, in relation to any case where the Minister designates a person by name under the urgent procedure, require the information given under the provision made under section 10(3) to include a statement—
- (a) that the designation is made under the urgent procedure,
  - (b) identifying the relevant provision by reference to which the Minister considers that condition B is met in relation to the person, and
  - (c) setting out why the Minister considers that condition C is met.
- (7B) The regulations must also provide that, in relation to any case where the Minister designates a person by name under the urgent procedure, the Minister must, after the end of the period mentioned in subsection (2B)(b), or if the Minister has made a certification under subsection (2B)(b)(ii) the period mentioned in subsection (2C), but otherwise without delay—
- (a) in a case where the designation ceases to have effect, take such steps as are reasonably practicable to inform the person that the designation has ceased to have effect, or

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- (b) in any other case, take such steps as are reasonably practicable to give the designated person a statement of reasons.”
- (6) In subsection (8)—
  - (a) for “subsection (7)” substitute “subsections (7) and (7A)”;
  - (b) for “which have led the Minister to make the designation” substitute “—
    - (a) in the case of a designation under the standard procedure, which have led the Minister to make the designation, and
    - (b) in the case of a designation under the urgent procedure, as a result of which the designation does not cease to have effect at the end of the period mentioned in subsection (2B)(b) or (2C) (as the case may be).”
- (7) In section 22 of the 2018 Act (power to vary or revoke designation made under regulations), in subsection (4), in paragraph (a)—
  - (a) for “11(2)” substitute “11”;
  - (b) omit the words in brackets.

## 59 Urgent designation of persons by description

- (1) Section 12 of the 2018 Act (designation by persons by description under a designation power) is amended in accordance with subsections (2) to (9).
- (2) After subsection (1) insert—
 

“(1A) The regulations must contain provision for the Minister to be able to choose whether to provide that persons of a specified description are designated persons under either—

  - (a) the standard procedure, or
  - (b) the urgent procedure.”
- (3) For subsection (2) substitute—
 

“(2) The regulations must contain provision which prohibits the exercise of that power under the standard procedure except where conditions A and C are met.”
- (4) Omit subsection (4).
- (5) In subsection (5) omit paragraph (b) (and the “and” before it).
- (6) After subsection (5) insert—
 

“(5A) The regulations must provide that under the urgent procedure—

  - (a) the Minister may provide that persons of a specified description are designated persons where condition C is not met, but conditions A, D and E are met, and
  - (b) the persons cease to be designated persons at the end of the period of 56 days beginning with the day following the day on which the persons became designated persons unless, within that period, the Minister certifies that—
    - (i) conditions A and C are met, or
    - (ii) conditions A, D and E continue to be met.



- (5B) The regulations must also provide that, under the urgent procedure, in a case where the Minister makes a certification under subsection (5A)(b)(ii), the designation ceases to have effect at the end of the period of 56 days beginning with the day immediately following the period mentioned in subsection (5A)(b), unless within that period the Minister certifies that conditions A and C are met.
- (5C) Condition D is that the description of persons specified is of persons (or some persons) to which, or in relation to which, relevant provision (whenever made) applies under the law of—
- (a) the United States of America;
  - (b) the European Union;
  - (c) Australia;
  - (d) Canada;
  - (e) any other country specified for the purposes of this paragraph in regulations made by an appropriate Minister.
- (5D) Condition E is that the Minister considers that it is in the public interest to provide that persons of a specified description are designated persons under the urgent procedure.
- (5E) For the purposes of condition D, relevant provision is provision that the Minister considers—
- (a) corresponds, or is similar, to the type of sanction or sanctions in the regulations under section 1, or
  - (b) is made for purposes corresponding, or similar, to any purpose of any type of sanction or sanctions in the regulations under section 1.”
- (7) In subsection (7), after “designated persons” insert “under the standard procedure”.
- (8) After subsection (7) insert—
- “(7A) The regulations must, in relation to any case where the Minister provides that persons of a specified description are designated persons under the urgent procedure, require the information given under the provision made under section 10(3) to include a statement—
- (a) that the provision is made under the urgent procedure,
  - (b) identifying the relevant provision by reference to which the Minister considers that condition D is met in relation to persons of the specified description, and
  - (c) setting out why the Minister considers that condition E is met.
- (7B) The regulations must provide that, in relation to any case where the Minister provides that persons of a specified description are designated persons under the urgent procedure, the Minister must, after the end of the period mentioned in subsection (5A)(b), or if the Minister has made a certification under subsection (5A)(b)(ii) the period mentioned in subsection (5B), but otherwise without delay—
- (a) in a case where the persons cease to be designated persons, take such steps as are reasonably practicable to inform the persons that they have ceased to be designated persons, or

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- (b) in any other case, take such steps as are reasonably practicable to give each designated person a statement of reasons.”
- (9) In subsection (8)—
  - (a) for “subsection (7)” substitute “subsections (7) and (7A)”;
  - (b) for the words from “which have led” to the end substitute “—
    - (a) in the case of a designation under the standard procedure, which have led the Minister to make the provision designating persons of that description, and
    - (b) in the case of a designation under the urgent procedure, as a result of which the persons do not cease to be designated persons at the end of the period mentioned in subsection (5A) (b) or (5B) (as the case may be).”
- (10) In section 22 of the 2018 Act (power to vary or revoke designation made under regulations), in subsection (4), in paragraph (b)—
  - (a) for “12(2)” substitute “12”;
  - (b) omit the words in brackets.

## **60 Specified ships**

In section 14 of the 2018 Act (“specified ships”), in subsection (6), omit paragraph (b) (and the “and” before it).

## **61 Existing sanctions regulations**

- (1) Any pre-commencement regulations which authorise an appropriate Minister to designate persons by name (see section 11 of the 2018 Act) have effect, and for the purposes of anything done on or after the day on which this Act is passed are deemed to have always had effect, as if the regulations contain the provision required to be included as a result of the amendments made by section 58.
- (2) Any pre-commencement regulations which grant a power to an appropriate Minister to provide that persons of a specified description are designated persons (see section 12 of the 2018 Act) have effect, and for the purposes of anything done on or after the day on which this Act is passed are deemed to have always had effect, as if the regulations contain the provision required to be included as a result of the amendments made by section 59.
- (3) Pre-commencement regulations have effect, and for the purposes of anything done on or after the day on which this Act is passed are deemed to have always had effect, as if the regulations do not include any provision required to be included by the following provisions—
  - (a) section 11(2)(b) of the 2018 Act (which is now omitted by virtue of the amendment made by section 58(3));
  - (b) section 12(2) of the 2018 Act to the extent that that subsection related to provisions repealed by section 59(4) or (5);
  - (c) provision repealed by section 60.
- (4) In this section, “pre-commencement regulations” means regulations under Part 1 of the 2018 Act made before the day on which this Act is passed.

### *Reviews and reports*

#### **62 Removal of reviews**

- (1) Omit the following provisions of the 2018 Act—
  - (a) section 24 (periodic review of certain designations);
  - (b) section 28 (periodic review where ships are specified);
  - (c) section 30 (review of regulations under section 1).
- (2) In section 33 of the 2018 Act (procedure for requests to, and reviews by, appropriate Minister)—
  - (a) in the heading, omit “, and reviews by,”;
  - (b) in subsection (1) omit “or a review under section 24, 28 or 30”.
- (3) In section 45 of the 2018 Act (revocation and amendment of regulations under section 1), in subsection (6) omit “and section 30”.

#### **63 Removal of reporting requirements**

- (1) Omit the following provisions of the 2018 Act—
  - (a) section 18 (report in respect of offences in regulations);
  - (b) section 32 (periodic reports on exercise of power to make regulations under section 1);
  - (c) section 46 (report where regulations for a purpose within section 1(2) are amended).
- (2) In section 57 of the 2018 Act (duties to lay certain reports before Parliament: further provision)—
  - (a) omit subsections (1) and (2);
  - (b) in subsection (3), for “a reporting provision” substitute “paragraph 21(2) of Schedule 2 (duty to lay report)”;
  - (c) in subsection (4), for “a reporting provision” substitute “paragraph 21(2) of Schedule 2”;
  - (d) in subsection (5), for “the reporting provision in question” substitute “paragraph 21(2) of Schedule 2”.

#### **64 Court reviews: restrictions regarding damages**

- (1) In section 39 of the 2018 Act (court reviews: further provision)—
  - (a) in subsection (2) omit paragraph (a) (and the “or” after it);
  - (b) after subsection (2) insert—

“(2A) Damages permitted by subsection (2) must not exceed such amount as may be specified in, or calculated in accordance with, regulations made by an appropriate Minister for the purposes of this subsection.”
- (2) In section 55 (regulations: procedure), in subsection (5), after paragraph (a) insert—

“(aa) section 39(2A),”.
- (3) The amendments made by this section apply in relation to proceedings to which section 39(2) of the 2018 Act applies that are commenced on or after 4 March 2022.

### *Miscellaneous*

#### **65 Sharing of information**

In section 16 of the 2018 Act (sanctions regulations: information), in subsection (1) (a) after “requiring” insert “or authorising”.

#### **66 Consequential provision**

- (1) An appropriate Minister (within the meaning of the 2018 Act) may by regulations make provision that the Minister considers to be consequential on this Chapter amending—
  - (a) Part 1 or 3 of the 2018 Act, or
  - (b) regulations made under Part 1 of that Act.
- (2) A statutory instrument containing (whether alone or with other provision) regulations under this section that amend or repeal any provision of Part 1 or 3 of the 2018 Act is subject to the affirmative resolution procedure.
- (3) Any other statutory instrument containing regulations under this section is subject to the negative resolution procedure.

## **PART 4**

### **GENERAL**

#### **67 Regulations**

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) Regulations under this Act may make different provision for different purposes.
- (3) Regulations under this Act may—
  - (a) include supplementary, incidental and consequential provision;
  - (b) make transitional provision and savings.
- (4) Where regulations under this Act are subject to “the affirmative resolution procedure”, the regulations may not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament.
- (5) Where regulations under this Act are subject to “the negative resolution procedure”, the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Any provision that may be made by regulations under this Act subject to the negative resolution procedure may be made by regulations subject to the affirmative resolution procedure.
- (7) This section does not apply to regulations under section 69.

#### **68 Extent**

- (1) Except as mentioned in subsections (2) to (4), this Act extends to—

- (a) England and Wales,
  - (b) Scotland, and
  - (c) Northern Ireland.
- (2) In Part 1—
- (a) section 33(1) and Schedule 3 extend to England and Wales only;
  - (b) section 33(2) and Parts 1 and 2 of Schedule 4 extend to Scotland only;
  - (c) section 33(3) to (7) and Schedule 5 extend to Northern Ireland only.
- (3) In Part 2, section 51 extends to England and Wales only.
- (4) The amendments made by the rest of Part 2 and by Part 3 have the same extent as the provisions amended.

## **69 Commencement**

- (1) Parts 1 and 2 come into force on such day as the Secretary of State may by regulations appoint.
- (2) Chapter 1 of Part 3 comes into force on such day as the Treasury may by regulations appoint.
- (3) Chapter 2 of Part 3 and this Part come into force on the day on which this Act is passed.
- (4) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of Parts 1 and 2 or this Part.
- (5) The Secretary of State or the Treasury may by regulations make transitional or saving provision in connection with the coming into force of any provision of Part 3.
- (6) Regulations under this section may make different provision for different purposes.
- (7) A power to make regulations under this section is exercisable by statutory instrument.

## **70 Short title**

This Act may be cited as the Economic Crime (Transparency and Enforcement) Act 2022.

# SCHEDULES

## SCHEDULE 1

Sections 4, 7 and 9

### APPLICATIONS: REQUIRED INFORMATION

#### PART 1

##### INTRODUCTION

- 1 This Schedule sets out the required information for the purposes of sections 4, 7 and 9.

#### PART 2

##### OVERSEAS ENTITIES

- 2 (1) The required information about an overseas entity is—
- (a) name;
  - (b) country of incorporation or formation;
  - (c) registered or principal office;
  - (d) a service address;
  - (e) an email address;
  - (f) the legal form of the entity and the law by which it is governed;
  - (g) any public register in which it is entered and, if applicable, its registration number in that register.
- (2) In sub-paragraph (1)(g) “public register” means a register kept by a government or public authority in the country in which the overseas entity was incorporated or formed.

#### PART 3

##### REGISTRABLE BENEFICIAL OWNERS

##### *Individuals*

- 3 (1) Where a registrable beneficial owner is an individual, the required information about the owner is—
- (a) name, date of birth and nationality;
  - (b) usual residential address;
  - (c) a service address;
  - (d) the date on which the individual became a registrable beneficial owner in relation to the overseas entity;

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- (e) which of the conditions in paragraph 6 of Schedule 2 is met in relation to the registrable beneficial owner and a statement as to why that condition is met;
  - (f) whether the individual meets that condition by virtue of being a trustee;
  - (g) whether the individual is a designated person (within the meaning of section 9(2) of the Sanctions and Anti-Money Laundering Act 2018), where that information is publicly available.
- (2) For the purposes of sub-paragraph (1)(a), “name” means a person’s first name (or other forename) and surname, except that in the case of—
- (a) a peer, or
  - (b) an individual usually known by a title,
- the title may be stated instead of the person’s first name (or other forename) and surname or in addition to either or both of them.

#### *Governments and public authorities*

- 4 Where a registrable beneficial owner is a government or public authority, the required information about the owner is—
- (a) name;
  - (b) principal office;
  - (c) a service address;
  - (d) its legal form and the law by which it is governed;
  - (e) the date on which the entity became a registrable beneficial owner in relation to the overseas entity;
  - (f) which of the conditions in paragraph 6 of Schedule 2 is met in relation to the registrable beneficial owner and a statement as to why that condition is met;
  - (g) whether the entity is a designated person (within the meaning of section 9(2) of the Sanctions and Anti-Money Laundering Act 2018), where that information is publicly available.

#### *Other legal entities*

- 5 (1) Where the registrable beneficial owner is a legal entity other than a government or public authority, the required information about the owner is—
- (a) name;
  - (b) registered or principal office;
  - (c) a service address;
  - (d) the legal form of the entity and the law by which it is governed;
  - (e) any public register in which it is entered and, if applicable, its registration number in that register;
  - (f) the date on which the entity became a registrable beneficial owner in relation to the overseas entity;
  - (g) which of the conditions in paragraph 6 of Schedule 2 is met in relation to the registrable beneficial owner and a statement as to why that condition is met;
  - (h) whether the entity meets that condition by virtue of being a trustee;
  - (i) whether the entity is a designated person (within the meaning of section 9(2) of the Sanctions and Anti-Money Laundering Act 2018), where that information is publicly available.

- (2) In sub-paragraph (1)(e) “public register” has the meaning given by paragraph 2(2).

## PART 4

### MANAGING OFFICERS

#### *Individuals*

- 6 (1) Where a managing officer is an individual, the required information about the officer is—
- (a) name, date of birth and nationality;
  - (b) any former name (unless sub-paragraph (2) applies);
  - (c) usual residential address;
  - (d) a service address (which may be stated as the entity’s registered or principal office);
  - (e) business occupation (if any);
  - (f) a description of the officer’s roles and responsibilities in relation to the entity.
- (2) This sub-paragraph applies in the following cases—
- (a) in the case of a peer or an individual normally known by a British title, where the name is one by which the person was known previous to the adoption of or succession to the title;
  - (b) in the case of any person, where the former name—
    - (i) was changed or disused before the person attained the age of 16 years, or
    - (ii) has been changed or disused for 20 years or more.
- (3) In sub-paragraph (1)(a), “name” has the meaning given by paragraph 3(2).
- (4) For the purposes of sub-paragraph (1)(b), “former name” means a name by which the individual was formerly known for business purposes.

Where a person is or was formerly known by more than one such name, each of them must be stated.

#### *Persons other than individuals*

- 7 (1) Where a managing officer is not an individual, the required information about the officer is—
- (a) name;
  - (b) registered or principal office;
  - (c) a service address;
  - (d) the legal form of the entity and the law by which it is governed;
  - (e) any public register in which it is entered and, if applicable, its registration number in that register;
  - (f) a description of the officer’s roles and responsibilities in relation to the entity;
  - (g) the name and contact details of an individual who may be contacted about the managing officer.
- (2) In sub-paragraph (1)(e) “public register” has the meaning given by paragraph 2(2).



- (3) In sub-paragraph (1)(g), “name” has the meaning given by paragraph 3(2).

## PART 5

### TRUSTS

- 8 (1) The required information about a trust is—
- (a) the name of the trust or, if it does not have a name, a description by which it may be identified;
  - (b) the date on which the trust was created;
  - (c) in relation to each person who has at any time been a registrable beneficial owner in relation to the overseas entity by virtue of being a trustee of the trust—
    - (i) the person’s name,
    - (ii) the date on which the person became a registrable beneficial owner in that capacity, and
    - (iii) if relevant, the date on which the person ceased to be a registrable beneficial owner in that capacity;
  - (d) in relation to each beneficiary under the trust, the information that would be required under paragraph 3(1)(a) to (c) or 5(1)(a) to (e) if the beneficiary were a registrable beneficial owner in relation to the overseas entity;
  - (e) in relation to each settlor or grantor, the information that would be required under paragraph 3(1)(a) to (c) or 5(1)(a) to (e) if the settlor or grantor were a registrable beneficial owner in relation to the overseas entity;
  - (f) in relation to any interested person (see sub-paragraph (3))—
    - (i) the information that would be required under paragraph 3(1)(a) to (c) or 5(1)(a) to (e) if the interested person were a registrable beneficial owner in relation to the overseas entity, and
    - (ii) the date on which the person became an interested person.
- (2) In sub-paragraph (1)(c), “name”, in relation to an individual, has the meaning given by paragraph 3(2).
- (3) In sub-paragraph (1)(f), “interested person”, in relation to a trust, means any person who, under the terms of the trust, has rights in respect of—
- (a) the appointment or removal of trustees, or
  - (b) the exercise by the trustees of their functions.

## PART 6

### POWERS TO MAKE FURTHER PROVISION UNDER THIS SCHEDULE

- 9 (1) The Secretary of State may by regulations make further provision about the information required by paragraphs 2 to 8.
- (2) Regulations under this paragraph are subject to the negative resolution procedure.
- 10 (1) The Secretary of State may by regulations amend this Schedule so as to add to or remove from any list of information in this Schedule.
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.

## SCHEDULE 2

Section 4

## REGISTRABLE BENEFICIAL OWNERS

**PART 1**

## MEANING OF “REGISTRABLE BENEFICIAL OWNER”

*Introduction*

- 1 (1) This Part defines “registrable beneficial owner” for the purposes of this Part of this Act.
- (2) A registrable beneficial owner may be—
- (a) an individual (see paragraph 2),
  - (b) a legal entity (see paragraph 3), or
  - (c) a government or public authority (see paragraph 4).

*Registrable beneficial owners: individuals*

- 2 An individual is a “registrable beneficial owner” in relation to an overseas entity if the individual —
- (a) is a beneficial owner of the overseas entity (see Part 2), and
  - (b) is not exempt from being registered (see Part 4).

*Registrable beneficial owners: legal entities*

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

*Registrable beneficial owners: government or public authority*

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

**PART 2**

## MEANING OF “BENEFICIAL OWNER”

*Introduction*

- 5 This Part defines “beneficial owner” for the purposes of this Part of this Act.

*Beneficial owners*

- 6 A person (“X”) is a “beneficial owner” of an overseas entity or other legal entity (“Y”) if one or more of the following conditions are met.

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*Ownership of shares*

Condition 1 is that X holds, directly or indirectly, more than 25% of the shares in Y.

*Voting rights*

Condition 2 is that X holds, directly or indirectly, more than 25% of the voting rights in Y.

*Right to appoint or remove directors*

Condition 3 is that X holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of Y.

*Significant influence or control*

Condition 4 is that X has the right to exercise, or actually exercises, significant influence or control over Y.

*Trusts, partnerships, etc*

Condition 5 is that—

- (a) the trustees of a trust, or the members of a partnership, unincorporated association or other entity, that is not a legal person under the law by which it is governed meet any of the conditions specified above (in their capacity as such) in relation to Y, and
- (b) X has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or entity.

### PART 3

#### MEANING OF “SUBJECT TO ITS OWN DISCLOSURE REQUIREMENTS”

- 7 (1) For the purposes of this Schedule a legal entity is “subject to its own disclosure requirements” if—
- (a) Part 21A of the Companies Act 2006 applies to it (whether by virtue of section 790B of that Act or another enactment that extends the application of that Part),
  - (b) it is a company to which section 790C(7)(b) of that Act applies (companies with voting shares traded on UK or EU regulated markets),
  - (c) it is of a description specified in regulations under section 790B(1)(b) or 790C(7)(d) of that Act (or under either of those sections as extended),
  - (d) it is an eligible Scottish partnership within the meaning of regulation 3 of the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694),
  - (e) it is registered in the register of overseas entities under this Part of this Act, or
  - (f) it is of a description specified by the Secretary of State in regulations under this paragraph.
- (2) Regulations under sub-paragraph (1)(f) are subject to the affirmative resolution procedure.

**PART 4**

## BENEFICIAL OWNERS EXEMPT FROM REGISTRATION

*“Exempt from being registered”*

- 8 For the purposes of paragraphs 2(b) and 3(c) a person who is a beneficial owner of an overseas entity is “exempt from being registered” if—
- (a) the person does not hold any interest in the overseas entity other than through one or more legal entities (see paragraph 9),
  - (b) the person is a beneficial owner of every legal entity through which the person holds such an interest (see paragraph 9),
  - (c) as respects any shares or right in the overseas entity which the person holds indirectly as described in paragraph 9(3)(b)(i), the legal entity through which the shares or right are held is a beneficial owner of the overseas entity and is subject to its own disclosure requirements, and
  - (d) as respects any shares or right in the overseas entity which the person holds indirectly as described in paragraph 9(3)(b)(ii), at least one of the legal entities in the chain is a beneficial owner of the overseas entity and is subject to its own disclosure requirements.

*Holding an interest in an overseas entity etc*

- 9 (1) This paragraph specifies the circumstances in which, for the purposes of paragraph 8—
- (a) a person (“V”) is to be regarded as holding an interest in an overseas entity (“entity W”);
  - (b) an interest held by V in entity W is to be regarded as held through a legal entity.
- (2) V holds an interest in entity W if—
- (a) V holds, directly or indirectly, shares in entity W,
  - (b) V holds, directly or indirectly, voting rights in entity W,
  - (c) V holds, directly or indirectly, the right to appoint or remove any member of the board of directors of entity W,
  - (d) V has the right to exercise, or actually exercises, significant influence or control over entity W, or
  - (e) the following conditions are both satisfied—
    - (i) the trustees of a trust, or the members of a partnership, unincorporated association or other entity, that is not a legal person under the law by which it is governed hold an interest in entity W in a way mentioned in any of paragraphs (a) to (d);
    - (ii) V has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or entity.
- (3) Where V—
- (a) holds an interest in entity W by virtue of indirectly holding shares or a right, and
  - (b) does so by virtue of having a majority stake (see paragraph 18) in—
    - (i) a legal entity (“L”) which holds the shares or right directly, or

(ii) a legal entity that is part of a chain of legal entities such as is described in paragraph 18(1)(b) or (2)(b) that includes L, V holds the interest in entity W through L and, where relevant, through each other legal entity in the chain.

## **PART 5**

### SUPPLEMENTARY PROVISION ABOUT INTERPRETATION OF SCHEDULE

#### *Introduction*

10 This Part sets out further rules for the interpretation of this Schedule.

#### *Joint interests*

11 If two or more persons hold a share or right jointly, each of them is treated for the purposes of this Schedule as holding that share or right.

#### *Joint arrangements*

- 12 (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated for the purposes of this Schedule as holding the combined shares or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of shares (or rights) that they will exercise all or substantially all the rights conferred by their respective shares (or rights) jointly in a way that is pre-determined by the arrangement.
- (3) “Arrangement” includes—
- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
  - (b) any convention, custom or practice of any kind.
- (4) But something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, or the time it has been in existence, or otherwise).

#### *Calculating shareholdings*

- 13 (1) In relation to a legal entity that has a share capital, a reference to holding “more than 25% of the shares” in that entity is a reference to holding shares comprised in the issued share capital of that entity of a nominal value exceeding (in aggregate) 25% of that share capital.
- (2) In relation to a legal entity that does not have a share capital—
- (a) a reference to holding shares in that entity is a reference to holding a right to share in the capital or, as the case may be, profits of that entity;
  - (b) a reference to holding “more than 25% of the shares” in that entity is a reference to holding a right or rights to share in more than 25% of the capital or, as the case may be, profits of that entity.

*Voting rights*

- 14 (1) A reference to the voting rights in a legal entity is to the rights conferred on shareholders in respect of their shares (or, in the case of an entity not having a share capital, on members) to vote at general meetings of the entity on all or substantially all matters.
- (2) In relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights—
- (a) a reference to exercising voting rights in the entity is to be read as a reference to exercising rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a company registered under the Companies Act 2006;
  - (b) a reference to exercising more than 25% of the voting rights in the entity is to be read as a reference to exercising the right under the constitution of the entity to block changes to the overall policy of the entity or to the terms of its constitution.
- 15 In applying this Schedule, the voting rights in a legal entity are to be reduced by any rights held by the entity itself.

*Rights to appoint or remove members of the board*

- 16 A reference to the right to appoint or remove a majority of the board of directors of a legal entity is a reference to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.
- 17 References to a board of directors, in the case of an entity that does not have such a board, are to be read as references to the equivalent management body of that entity.

*Shares or rights held “indirectly”*

- 18 (1) A person holds a share “indirectly” if the person has a majority stake in a legal entity and that entity—
- (a) holds the share in question, or
  - (b) is part of a chain of legal entities—
    - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain, and
    - (ii) the last of which holds the share.
- (2) A person holds a right “indirectly” if the person has a majority stake in a legal entity and that entity—
- (a) holds that right, or
  - (b) is part of a chain of legal entities—
    - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain, and
    - (ii) the last of which holds that right.
- (3) For these purposes, A has a “majority stake” in B if—
- (a) A holds a majority of the voting rights in B,
  - (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,

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- (c) A is a member of B and controls alone, or pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
  - (d) A has the right to exercise, or actually exercises, dominant influence or control over B.
- (4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a legal entity is to be treated as having the right to appoint a director if—
- (a) a person’s appointment as director follows necessarily from that person’s appointment as director of the legal entity, or
  - (b) the directorship is held by the legal entity itself.

*Shares held by nominees*

- 19 A share held by a person as nominee for another is to be treated for the purposes of this Schedule as held by the other (and not by the nominee).

*Rights treated as held by a person who controls their exercise*

- 20 (1) Where a person controls a right, the right is to be treated for the purposes of this Schedule as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—
- (a) by that person,
  - (b) in accordance with that person’s directions or instructions, or
  - (c) with that person’s consent or concurrence.
- (3) “Arrangement” has the meaning given in paragraph 12(3) and (4).

*Rights exercisable only in certain circumstances etc*

- 21 (1) Rights that are exercisable only in certain circumstances are to be taken into account only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights.
- (2) But rights that are exercisable by an administrator or by creditors while a legal entity is in relevant insolvency proceedings are not to be taken into account even while the entity is in those proceedings.
- (3) “Relevant insolvency proceedings” means—
- (a) administration within the meaning of the Insolvency Act 1986,
  - (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
  - (c) proceedings under the insolvency law of a country or territory outside the United Kingdom during which an entity’s assets and affairs are subject to the control or supervision of a third party or creditor.
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

*Rights attached to shares held by way of security*

- 22 Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person’s interests.

*Limited partnerships*

- 23 (1) A person does not meet Condition 1, 2 or 3 of paragraph 6 in relation to an overseas entity by virtue only of being a limited partner.
- (2) A person does not meet Condition 1, 2 or 3 of paragraph 6 in relation to an overseas entity by virtue only of, directly or indirectly—
- (a) holding shares, or
  - (b) holding a right,
- in or in relation to a limited partner.
- (3) Sub-paragraphs (1) and (2) do not apply for the purposes of determining whether the requirement set out in Condition 5(a) of paragraph 6 is met.
- (4) In this paragraph “limited partner” means—
- (a) a limited partner in a limited partnership registered under the Limited Partnerships Act 1907 (other than one who takes part in the management of the partnership business), or
  - (b) a foreign limited partner.
- (5) In this paragraph “foreign limited partner” means an individual who—
- (a) participates in arrangements established under the law of a country or territory outside the United Kingdom, and
  - (b) has the characteristics prescribed by regulations made by the Secretary of State.
- (6) Regulations under this paragraph may, among other things, prescribe characteristics by reference to—
- (a) the nature of arrangements;
  - (b) the nature of an individual’s participation in the arrangements.
- (7) Regulations under this paragraph are subject to the affirmative resolution procedure.

*Meaning of “director”*

- 24 In this Schedule “director” includes any person occupying the position of director, by whatever name called.



*Status: This is the original version (as it was originally enacted).*

## PART 6

### POWER TO AMEND THRESHOLDS ETC

- 25 (1) The Secretary of State may by regulations amend this Schedule for a permitted purpose.
- (2) The permitted purposes are—
- (a) to replace any or all references in this Schedule to a percentage figure with references to some other (larger or smaller) percentage figure;
  - (b) to change or supplement the conditions in paragraph 6 so as to include circumstances (for example, circumstances involving more complex structures) that give individuals a level of control over entity Y broadly similar to the level of control given by the other conditions in that paragraph;
  - (c) in consequence of any provision made by virtue of paragraph (b), to change or supplement paragraph 9 so that the circumstances specified in that paragraph in which a person is to be regarded as holding an interest in an overseas entity correspond to any of the conditions in paragraph 6, or would do so but for the extent of the interest.
- (3) Regulations under this paragraph are subject to the affirmative resolution procedure.

## SCHEDULE 3

Section 33(1)

### LAND OWNERSHIP AND TRANSACTIONS: ENGLAND AND WALES

## PART 1

### AMENDMENTS TO LAND REGISTRATION ACT 2002

- 1 The Land Registration Act 2002 is amended as follows.
- 2 After section 85 insert—

#### *“Overseas entities*

#### **85A Overseas entities**

Schedule 4A is about the ownership of registered land by overseas entities and about registrable dispositions made by them.”

- 3 After Schedule 4 insert—

#### “SCHEDULE 4A

Section 85A

### OVERSEAS ENTITIES

#### **Meaning of “qualifying estate”**

- 1 In this Schedule “qualifying estate” means—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a freehold estate in land, or
- (b) a leasehold estate in land granted for a term of more than seven years from the date of grant.

### **Registration**

- 2 No application may be made to register an overseas entity as the proprietor of a qualifying estate unless, at the time of the application, the entity—
- (a) is a registered overseas entity, or
  - (b) is an exempt overseas entity.

### **Restrictions on disposal**

- 3 (1) The registrar must enter a restriction in the register in relation to a qualifying estate if satisfied that—
- (a) an overseas entity is registered as the proprietor of the estate, and
  - (b) the entity became registered as the proprietor in pursuance of an application made on or after 1 January 1999.
- (2) The restriction must prohibit the registration of any disposition within section 27(2)(a), (b)(i) or (f) unless—
- (a) the entity is a registered overseas entity, or is an exempt overseas entity, at the time of the disposition,
  - (b) the disposition is made in pursuance of a statutory obligation or court order, or occurs by operation of law,
  - (c) the disposition is made in pursuance of a contract made before the restriction is entered in the register,
  - (d) the disposition is made in the exercise of a power of sale or leasing conferred on the proprietor of a registered charge or a receiver appointed by such a proprietor,
  - (e) the Secretary of State gives consent under paragraph 5 to the registration of the disposition, or
  - (f) the disposition is made by a specified insolvency practitioner in specified circumstances.

- (3) In sub-paragraph (2), in paragraph (f)—

“specified circumstances” means circumstances specified in regulations made by the Secretary of State for the purposes of that paragraph;

“specified insolvency practitioner” means an insolvency practitioner of a description specified in regulations made by the Secretary of State for the purposes of that paragraph.

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

- 4 (1) This paragraph applies where—
- (a) an overseas entity is entitled to be registered as the proprietor of a qualifying estate,

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*Status: This is the original version (as it was originally enacted).*

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- (b) the overseas entity became entitled to be registered as the proprietor of that estate on or after the day on which this paragraph comes into force, and
  - (c) the entity makes a registrable disposition within section 27(2)(a), (b)(i) or (f).
- (2) The disposition must not be registered unless—
- (a) the entity is a registered overseas entity, or is an exempt overseas entity, at the time of the disposition,
  - (b) the disposition is made in pursuance of a statutory obligation or court order, or occurs by operation of law,
  - (c) the disposition is made in pursuance of a contract made before the overseas entity became entitled to be registered,
  - (d) the disposition is made in the exercise of a power of sale or leasing conferred on the proprietor of a registered charge or a receiver appointed by such a proprietor,
  - (e) the Secretary of State gives consent under paragraph 5 to the registration of the disposition, or
  - (f) the disposition is made by a specified insolvency practitioner in specified circumstances.
- (3) In sub-paragraph (2)(f) “specified circumstances” and “specified insolvency practitioner” have the meanings given by paragraph 3(3).

### **Consent to registration of dispositions that cannot otherwise be registered**

- 5
- (1) The Secretary of State may consent to the registration of a disposition that would otherwise be prohibited by a restriction entered under paragraph 3, or by paragraph 4, if satisfied—
    - (a) that at the time of the disposition the person to whom it was made did not know, and could not reasonably have been expected to know, of the prohibition, and
    - (b) that in all the circumstances it would be unjust for the disposition not to be registered.
  - (2) The Secretary of State may by regulations make provision in connection with applications for consent, and the giving of consent, under sub-paragraph (1).
  - (3) The regulations may, for example, make provision about—
    - (a) who may apply;
    - (b) evidence;
    - (c) time limits.

### **Making dispositions that cannot be registered**

- 6
- (1) An overseas entity must not make a registrable disposition of a qualifying estate if, disregarding the possibility of consent under paragraph 5, the registration of the disposition is prohibited by—
    - (a) a restriction entered under paragraph 3, or
    - (b) paragraph 4.

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- (2) If an overseas entity breaches sub-paragraph (1) an offence is committed by—
  - (a) the entity, and
  - (b) every officer of the entity who is in default.
- (3) Nothing in this paragraph affects the validity of a disposition made in breach of sub-paragraph (1).
- (4) Sections 1121 to 1123 of the Companies Act 2006 (liability of officers in default: interpretation etc.) apply for the purposes of this paragraph as they apply for the purposes of provisions of the Companies Acts.
- (5) In those sections as applied, a reference to an officer includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of an overseas entity are accustomed to act.
- (6) A person is not to be regarded as falling within sub-paragraph (5) by reason only that the board of directors or equivalent management body acts on advice given by the person in a professional capacity.
- (7) A person guilty of an offence under this paragraph is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (8) In sub-paragraph (7)(a) “the maximum summary term for either-way offences” means—
  - (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
  - (b) in relation to an offence committed after that time, 12 months.
- (9) Proceedings for an offence under this may only be brought by or with the consent the Secretary of State or the Director of Public Prosecutions.

### **Interpretation etc.**

7 In this Schedule—

“exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6) of the Economic Crime (Transparency and Enforcement) Act 2022;

“overseas entity” has the meaning given by section 2 of the Economic Crime (Transparency and Enforcement) Act 2022;

“qualifying estate” has the meaning given by paragraph 1;

“register of overseas entities” means the register kept under section 3 of the Economic Crime (Transparency and Enforcement) Act 2022;

“registered overseas entity” means an overseas entity that is registered in the register of overseas entities (but see paragraph 8).

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- 8 (1) For the purpose of this Schedule, an overseas entity that fails to comply with the duty in section 7 of the Economic Crime (Transparency and Enforcement) Act 2022 (updating duty) is not to be treated as being a “registered overseas entity” until it remedies the failure.
- (2) For the purpose of sub-paragraph (1), an overseas entity “remedies” the failure when it delivers the statements and information mentioned in section 7(1)(a), (b) and (c) of the 2022 Act.”
- 4 In section 128 (regulations), in subsection (4)—
- (a) omit the “or” at the end of paragraph (b);
  - (b) at the end of paragraph (d) insert “, or
  - (e) regulations under paragraph 3(3) or 5(2) of Schedule 4A.”

## PART 2

### TRANSITION: QUALIFYING ESTATES REGISTERED PRE-COMMENCEMENT

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

- 5 (1) An overseas entity, and every officer of the entity who is in default, commits an offence if—
- (a) at the end of the transitional period, the entity—
    - (i) is the registered proprietor of a qualifying estate, but
    - (ii) the entity is not registered as an overseas entity, has not made an application for registration as an overseas entity that is pending and is not an exempt overseas entity, and
  - (b) the entity became the registered proprietor of that qualifying estate in pursuance of an application made on or after 1 January 1999 but before the commencement date.
- (2) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (3) In sub-paragraph (2)(a) “the maximum summary term for either-way offences” means—
- (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
  - (b) in relation to an offence committed after that time, 12 months.
- (4) In this paragraph “exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6).
- (5) Nothing in this paragraph limits the power to give a notice under section 34 at any time.

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

- 6 (1) This paragraph applies where the Chief Land Registrar is satisfied that—

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- (a) an overseas entity is the registered proprietor of a qualifying estate, and
  - (b) the entity became the registered proprietor of that estate in pursuance of an application made before the commencement date.
- (2) The Chief Land Registrar must comply with the duty to enter a restriction under paragraph 3 of Schedule 4A to the Land Registration Act 2002 (inserted by Part 1 of this Schedule) in relation to the estate as soon as reasonably practicable and in any event before the end of the transitional period.
- (3) But the restriction does not take effect until the end of the transitional period.

### *Interpretation*

- 7 In this Part of this Schedule—
- “the commencement date” means the day on which section 3(1) comes fully into force;
  - “registered proprietor”, in relation to a qualifying estate, means the person entered as proprietor of the estate in the register of title kept by the Chief Land Registrar;
  - “qualifying estate” has the meaning given by paragraph 1 of Schedule 4A to the Land Registration Act 2002;
  - “the transitional period” has the meaning given by section 41(10).

## SCHEDULE 4

Section 33(2)

### LAND OWNERSHIP AND TRANSACTIONS: SCOTLAND

#### **PART 1**

#### AMENDMENTS

#### *Conveyancing (Scotland) Act 1924*

- 1 (1) Section 4A of the Conveyancing (Scotland) Act 1924 (completion of title by registration of notice of title in Land Register of Scotland) is amended as follows.
- (2) The existing text becomes subsection (1).
- (3) After that subsection insert—
- “(2) Subsection (1) is subject to paragraphs 3 and 4 of schedule 1A to the Land Registration etc. (Scotland) Act 2012.”

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

- 2 The Land Registration etc. (Scotland) Act 2012 is amended as follows.
- 3 In section 21 (application for registration of deed)—
- (a) in subsection (4), after “45(5)” insert “and paragraphs 1 to 5 of schedule 1A”, and
  - (b) after that subsection insert—

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- “(5) Schedule 1A makes provision about certain land transactions involving overseas entities.”
- 4 In section 27 (application for voluntary registration), after subsection (4) insert—
- “(4A) Subsection (3) is subject to paragraph 6 of schedule 1A.”
- 5 In section 46 (the title of which becomes “Meaning of “disposition” in certain provisions”)—
- (a) after “48” insert “and schedule 1A”, and
- (b) after “sections” insert “or that schedule”.
- 6 The italic heading before section 112 becomes “Offences”.
- 7 After section 112 insert—

#### “112A Offence by overseas entity

- (1) An overseas entity must not deliver to a person a qualifying registrable deed granted by the overseas entity if (disregarding the possibility of consent under paragraph 7(2) of schedule 1A) by virtue of paragraph 2 of schedule 1A the Keeper would be required to reject an application under section 21 for registration of the deed.
- (2) A qualifying registrable deed is to be treated as having been granted for the purposes of subsection (1) even if at the time when it is delivered it has been executed by the overseas entity only.
- (3) If an overseas entity breaches subsection (1), an offence is committed by—
- (a) the entity, and
- (b) every officer of the entity who is in default.
- (4) Nothing in this section affects the validity of a qualifying registrable deed delivered in breach of subsection (1).
- (5) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (6) Sections 1121 to 1123 of the Companies Act 2006 (liability of officers in default: interpretation etc.) apply for the purposes of this section as they apply for the purposes of provisions of the Companies Acts.
- (7) In those sections as applied, a reference to an officer includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of an overseas entity are accustomed to act.
- (8) A person is not to be regarded as falling within subsection (7) by reason only that the board of directors or equivalent management body acts on advice given by the person in a professional capacity.
- (9) In this section—
- “overseas entity” has the meaning given by section 2 of the Economic Crime (Transparency and Enforcement) Act 2022;

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“qualifying registrable deed” means a registrable deed which is—

- (a) a disposition;
- (b) a standard security;
- (c) a lease;
- (d) an assignation of a lease.”

- 8 In section 116(2) (orders and regulations subject to the negative procedure)—
- (a) for “sections”, in the first place it occurs, substitute “provisions”, and
  - (b) after paragraph (h) insert—
    - “(i) paragraph 2(5) or 7(5) of schedule 1A.”

- 9 After schedule 1 insert—

“SCHEDULE  
1A

Section 21

LAND TRANSACTIONS: OVERSEAS ENTITIES

**Cases where Keeper must reject application under section 21**

- 1 (1) This paragraph applies where—
- (a) a person applies under section 21 for registration of a qualifying registrable deed, and
  - (b) if the application is accepted by the Keeper—
    - (i) the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land, or
    - (ii) an overseas entity would be the tenant under a registered lease.
- (2) The Keeper must reject the application unless the overseas entity is—
- (a) a registered overseas entity, or
  - (b) an exempt overseas entity.
- (3) Sub-paragraph (2) does not apply where—
- (a) the application is made by a person other than the overseas entity referred to in sub-paragraph (1)(b)(i), and
  - (b) the deed in respect of which the application is made is a lease or an assignation of a lease the subjects of which consist of or form part of an unregistered plot of land of which that overseas entity is the proprietor.
- 2 (1) This paragraph applies where—
- (a) a person applies under section 21 for registration of a qualifying registrable deed or a registrable deed which is a standard security,
  - (b) the grantor of the deed is an overseas entity whose interest is registered, having been so registered on or after 8 December 2014, and
  - (c) as at the date of delivery of the deed, the entity was not a registered overseas entity or an exempt overseas entity.



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- (2) The Keeper must reject the application unless one of the following conditions is met—
- (a) the application is made—
    - (i) in pursuance of a statutory obligation or court order, or
    - (ii) in respect of a transfer of ownership or other event that occurs by operation of law,
  - (b) the application is made in pursuance of a contract entered into before the later of the dates mentioned in sub-paragraph (3);
  - (c) the application is made in pursuance of the exercise of a power of sale or lease by the creditor in a standard security that was registered on or after 8 December 2014;
  - (d) the application is made in pursuance of the exercise of a right conferred on a body by relevant legislation to buy land or the interest of a tenant under a lease;
  - (e) the Scottish Ministers give consent under paragraph 7(2) to the registration of the deed;
  - (f) the deed is granted by a specified insolvency practitioner in specified circumstances.
- (3) The dates are—
- (a) the date on which the granter’s interest was registered;
  - (b) the commencement date.
- (4) In sub-paragraph (2)(d), “relevant legislation” means Part 2, 3 or 3A of the Land Reform (Scotland) Act 2003 or Part 5 of the Land Reform (Scotland) Act 2016 (being provisions which confer on certain community bodies etc. the right to buy certain types of land or the interest of a tenant under a lease of certain types of land).
- (5) In sub-paragraph (2), in paragraph (f)—
- “specified circumstances” means circumstances specified in regulations made by the Scottish Ministers for the purposes of that paragraph;
  - “specified insolvency practitioner” means an insolvency practitioner of a description specified in regulations made by the Scottish Ministers for the purposes of that paragraph.

### **Cases where Keeper must reject application to register notice of title**

- 3 (1) This paragraph applies where—
- (a) by virtue of section 4A of the Conveyancing (Scotland) Act 1924, a person makes an application under section 21 for registration of a notice of title completing title in respect of a qualifying registrable deed, and
  - (b) if the application is accepted by the Keeper—
    - (i) the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land, or
    - (ii) an overseas entity would be the tenant under a registered lease.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The Keeper must reject the application unless the overseas entity is—
    - (a) a registered overseas entity, or
    - (b) an exempt overseas entity.
  - (3) Sub-paragraph (2) does not apply where—
    - (a) the application is made by a person other than the overseas entity referred to in sub-paragraph (1)(b)(i), and
    - (b) the deed in respect of which title is being completed is a lease or an assignation of a lease the subjects of which consist of or form part of an unregistered plot of land of which that overseas entity is the proprietor.
- 4
- (1) This paragraph applies where—
    - (a) by virtue of section 4A of the Conveyancing (Scotland) Act 1924, a person makes an application under section 21 for registration of a notice of title completing title in respect of—
      - (i) a qualifying registrable deed, or
      - (ii) a registrable deed which is a standard security,
    - (b) the granter of the deed is an overseas entity whose interest is registered, having been so registered on or after 8 December 2014, and
    - (c) as at the date on which the application for registration of the notice of title was made, the entity was not a registered overseas entity or an exempt overseas entity.
  - (2) The Keeper must reject the application unless one of the following conditions is met—
    - (a) the application is made—
      - (i) in pursuance of a statutory obligation or court order, or
      - (ii) in respect of a transfer of ownership or other event that occurs by operation of law,
    - (b) the application is made in pursuance of a contract entered into before the later of the dates mentioned in sub-paragraph (3);
    - (c) the application is made in pursuance of the exercise of a power of sale or lease by the creditor in a standard security that was registered on or after 8 December 2014;
    - (d) the application is made in pursuance of the exercise of a right conferred on a body by relevant legislation to buy land or the interest of a tenant under a lease;
    - (e) the Scottish Ministers give consent under paragraph 7(4) to the registration of the notice of title;
    - (f) the deed in respect of which title is being completed is granted by a specified insolvency practitioner in specified circumstances.
  - (3) The dates are—
    - (a) the date on which the granter’s interest was registered;
    - (b) the commencement date.
  - (4) In sub-paragraph (2)(d), “relevant legislation” means Part 2, 3 or 3A of the Land Reform (Scotland) Act 2003 or Part 5 of the Land

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Reform (Scotland) Act 2016 (being provisions which confer on certain community bodies etc. the right to buy certain types of land or the interest of a tenant under a lease of certain types of land).

- (5) In sub-paragraph (2)(f) “specified circumstances” and “specified insolvency practitioner” have the meanings given by paragraph 2(5).

#### **Case where Keeper must reject prescriptive application**

- 5 (1) This paragraph applies where—
- (a) an application under section 21 is received by the Keeper by virtue of section 43(1) or (5), and
  - (b) if the application is accepted by the Keeper—
    - (i) the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land, and
    - (ii) that entry would be marked as provisional under section 44(1).
- (2) The Keeper must reject the application unless the overseas entity is—
- (a) a registered overseas entity, or
  - (b) an exempt overseas entity.

#### **Case where Keeper must reject voluntary application**

- 6 (1) This paragraph applies where—
- (a) an application is made under section 27, and
  - (b) if the application is accepted by the Keeper, the name of an overseas entity would be entered as proprietor in the proprietorship section of the title sheet of a registered plot of land.
- (2) The Keeper must reject the application unless the overseas entity is—
- (a) a registered overseas entity, or
  - (b) an exempt overseas entity.

#### **Consent to registration of certain deeds that cannot otherwise be registered**

- 7 (1) Sub-paragraph (2) applies where the Keeper would be required by paragraph 2(2) to reject an application for registration of a qualifying registrable deed or a registrable deed which is a standard security.
- (2) The Scottish Ministers may consent to registration of the deed if satisfied—
- (a) that at the time of delivery of the deed the person in whose favour it was granted did not know, and could not reasonably have been expected to know, of the duty imposed on the Keeper by paragraph 2(2), and
  - (b) that in all the circumstances it would be unjust for the deed not to be registered.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Sub-paragraph (4) applies where the Keeper would be required by paragraph 4(2) to reject an application for registration of a notice of title in respect of a qualifying registrable deed or a registrable deed which is a standard security.
- (4) The Scottish Ministers may consent to registration of the notice of title if satisfied—
- (a) that at the time of delivery of the qualifying registrable deed or (as the case may be) registrable deed which is a standard security the person in whose favour the deed was granted did not know, and could not reasonably have been expected to know, of the duty imposed on the Keeper by paragraph 4(2), and
  - (b) that in all the circumstances it would be unjust for the notice of title not to be registered.
- (5) The Scottish Ministers may by regulations make provision in connection with applications for consent, and the giving of consent, under sub-paragraphs (2) and (4).
- (6) The regulations may, for example, make provision about—
- (a) who may apply;
  - (b) evidence;
  - (c) time limits.

### **Partially executed deeds**

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

### **Interpretation**

- 9 (1) In this schedule—
- “the commencement date” means the day on which Part 1 of Schedule 4 to the Economic Crime (Transparency and Enforcement) Act 2022 comes into force;
- “exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6) of the Economic Crime (Transparency and Enforcement) Act 2022;
- “overseas entity” has the meaning given by section 2 of the Economic Crime (Transparency and Enforcement) Act 2022;
- “qualifying registrable deed” means a registrable deed which is—
- (a) a disposition;
  - (b) a lease;
  - (c) an assignation of a lease;
- “register of overseas entities” means the register kept under section 3 of the Economic Crime (Transparency and Enforcement) Act 2022;

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*Status: This is the original version (as it was originally enacted).*

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“registered overseas entity” means an overseas entity that is registered in the register of overseas entities (but see sub-paragraphs (2) and (3)).

- (2) For the purposes of this Schedule, an overseas entity that fails to comply with the duty in section 7 of the Economic Crime (Transparency and Enforcement) Act 2022 (updating duty) is not to be treated as being a “registered overseas entity” until it remedies the failure.
- (3) For the purpose of sub-paragraph (2), an overseas entity “remedies” the failure when it delivers the statements and information mentioned in section 7(1)(a), (b) and (c) of the 2022 Act.”

## PART 2

### TRANSITION: DEEDS REGISTERED PRE-COMMENCEMENT

#### *Duty to register as an overseas entity within transitional period*

- 10 (1) This paragraph applies where—
- (a) an overseas entity is entered as proprietor in the proprietorship section of the title sheet for a plot of land that is registered in the Land Register of Scotland, having been so entered during the pre-commencement period,
  - (b) in relation to a lease that was recorded in the General Register of Sasines or registered in the Land Register of Scotland before 8 December 2014, an overseas entity is, by virtue of an assignation of the lease registered in the Land Register of Scotland during the pre-commencement period, the tenant under the lease, or
  - (c) an overseas entity is the tenant under a lease that was registered in the Land Register of Scotland during the pre-commencement period.
- (2) An overseas entity, and every officer of the entity who is in default, commits an offence if—
- (a) on the expiry of the transitional period, the paragraph of sub-paragraph (1) that applied in relation to the overseas entity immediately before the beginning of the transitional period continues to apply in relation to the overseas entity, and
  - (b) the entity is not registered as an overseas entity, has not made an application for registration as an overseas entity that is pending and is not an exempt overseas entity.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4) Nothing in this paragraph limits the power to give a notice under section 34 at any time.

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*Status: This is the original version (as it was originally enacted).*

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*Disapplication of certain provisions during transitional period*

- 11 (1) This paragraph applies where—
- (a) an overseas entity is entered as proprietor in the proprietorship section of the title sheet for a plot of land that is registered in the Land Register of Scotland, having been so entered during the pre-commencement period,
  - (b) in relation to a lease that was recorded in the General Register of Sasines or registered in the Land Register of Scotland before 8 December 2014, an overseas entity is, by virtue of an assignation of the lease registered in the Land Register of Scotland during the pre-commencement period, the tenant under the lease, or
  - (c) an overseas entity is the tenant under a lease that was registered in the Land Register of Scotland during the pre-commencement period.
- (2) During any part of the transitional period in which the paragraph of sub-paragraph (1) that applied in relation to the overseas entity during the pre-commencement period continues to apply in relation to the overseas entity, the Land Registration etc. (Scotland) Act 2012 (asp 5) (“the 2012 Act”) applies subject to the following modifications.
- (3) Section 112A of the 2012 Act does not apply in relation to the entity or an officer of the entity as regards the plot of land or, as the case may be, lease.
- (4) Paragraphs 2 and 4 of schedule 1A to the 2012 Act do not apply in relation to the entity as regards the plot of land or, as the case may be, lease.

*Interpretation*

- 12 In this Part of this Schedule—
- “the commencement date” means the day on which section 3(1) comes fully into force;
- “exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6);
- “lease” has the meaning given by section 113(1) of the Land Registration etc. (Scotland) Act 2012;
- “plot of land” has the meaning given by section 113(1) of the Land Registration etc. (Scotland) Act 2012;
- “pre-commencement period” means the period beginning with 8 December 2014 and ending immediately before the commencement date;
- “proprietor” has the meaning given by section 113(1) of the Land Registration etc. (Scotland) Act 2012;
- “transitional period” has the meaning given by section 41(10).
- 13 For the purposes of paragraphs 10(1)(a) and 11(1)(a)—
- (a) references to an overseas entity’s being entered as proprietor in the proprietorship section of a title sheet are references to the name of the entity being so entered, and
  - (b) the date on which an overseas entity was entered as proprietor in the proprietorship section of a title sheet is, where the entry was made by virtue of an application for registration, the date of registration as determined under section 37 of the Land Registration etc. (Scotland) Act 2012 (date and time of registration).

### PART 3

#### POWER TO MAKE FURTHER PROVISION

- 14 (1) The Secretary of State may by regulations make further or alternative provision for the purpose of requiring or encouraging an overseas entity that owns or holds a right or interest in or over land in Scotland, or enters into land transactions in Scotland, to register as an overseas entity.
- (2) No regulations may be made under this paragraph after the end of the transitional period (within the meaning given by section 41(10)).
- (3) Regulations under this paragraph may amend, repeal or revoke provision made by this Schedule, or any provision made by or under any other Act or Act of the Scottish Parliament, made—
- (a) before this Act, or
  - (b) later in the same session of Parliament as this Act.
- (4) The provision which may be made by regulations under this paragraph by virtue of section 67(3) includes (in addition to provision of the kind mentioned in subparagraph (3)) provision amending any other provision of this Part of this Act.
- (5) The Secretary of State must consult the Scottish Ministers before making regulations under this paragraph that contain provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (6) Regulations under this paragraph are subject to the affirmative resolution procedure.

### SCHEDULE 5

Section 33(3)

#### LAND OWNERSHIP AND TRANSACTIONS: NORTHERN IRELAND

- 1 The Land Registration Act (Northern Ireland) 1970 is amended as follows.
- 2 After section 61 insert—

**“61A Overseas entities**

Schedule 8A is about the ownership of registered land by overseas entities and about registrable dispositions made by them.”

- 3 After Schedule 8 insert—

“SCHEDULE  
8A

Section 61A

## OVERSEAS ENTITIES

**PART 1**

## REGISTRATION AND DISPOSITIONS

**Meaning of “qualifying estate”**

- 1 In this Schedule “qualifying estate” means—
- (a) a freehold estate in land, or
  - (b) a leasehold estate in land granted for a term of more than 21 years from the date of grant.

**Registration**

- 2 No application may be made to register an overseas entity as the owner of a qualifying estate unless, at the time of the application, the entity—
- (a) is a registered overseas entity, or
  - (b) is an exempt overseas entity.

**Restrictions on disposal**

- 3 (1) The Registrar must enter an inhibition (“an overseas entity inhibition”) against the title of the registered owner of a qualifying estate if satisfied that—
- (a) the registered owner is an overseas entity, and
  - (b) the entity became registered as the owner in pursuance of an application made on or after the date on which paragraph 2 comes into force.
- (2) No fee is to be charged for the entry of an overseas entity inhibition.
- (3) From and after the entry of an overseas entity inhibition, none of the dispositions mentioned in sub-paragraph (4) affecting the land in question are to be entered on the title register, unless one of the conditions in sub-paragraph (5) is met.
- (4) The dispositions are—
- (a) a transfer of the owner’s estate,
  - (b) a grant of a leasehold estate where the term granted exceeds 21 years, and
  - (c) the creation of a charge on the land.
- (5) The conditions are that—
- (a) the entity is a registered overseas entity, or is an exempt overseas entity, at the time of the disposition,



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- (b) the disposition is made in pursuance of a statutory obligation or court order, or occurs by operation of law,
  - (c) the disposition is made in pursuance of a contract made before the inhibition is entered in the register,
  - (d) the disposition is made in the exercise of a power of sale or leasing conferred on the owner of a registered charge or a receiver appointed by such an owner, or
  - (e) the disposition is made by a specified insolvency practitioner in specified circumstances.
- (6) In sub-paragraph (5), in paragraph (e)—
- “specified circumstances” means circumstances specified in regulations made by the Department of Finance for the purposes of that paragraph;
  - “specified insolvency practitioner” means an insolvency practitioner of a description specified in regulations made by the Department of Finance for the purposes of that paragraph.
- (7) Regulations made under sub-paragraph (6) are subject to the negative resolution.

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

- 4 (1) This paragraph applies where—
- (a) an overseas entity is entitled to be registered as the owner of a qualifying estate,
  - (b) the overseas entity became entitled to be registered as the owner of that estate on or after the day on which this paragraph comes into force, and
  - (c) the entity makes a disposition mentioned in subparagraph (2).
- (2) The dispositions are—
- (a) a transfer of the owner’s estate,
  - (b) a grant of a leasehold estate where the term granted exceeds 21 years, and
  - (c) the creation of a charge on the land.
- (3) The disposition must not be registered unless—
- (a) the entity is a registered overseas entity, or is an exempt overseas entity, at the time of the disposition,
  - (b) the disposition is made in pursuance of a statutory obligation or court order, or occurs by operation of law,
  - (c) the disposition is made in pursuance of a contract made before the overseas entity became entitled to be registered,
  - (d) the disposition is made in the exercise of a power of sale or leasing conferred on the owner of a registered charge or a receiver appointed by such an owner, or
  - (e) the disposition is made by a specified insolvency practitioner in specified circumstances.

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- (4) In sub-paragraph (3)(e) “specified circumstances” and “specified insolvency practitioner” have the meanings given by paragraph 3(6).

### **Making dispositions that cannot be registered**

- 5 (1) An overseas entity must not make a registrable disposition of a qualifying estate if the registration of the disposition is prohibited by—
- (a) an inhibition entered under paragraph 3, or
  - (b) paragraph 4.
- (2) If an overseas entity breaches sub-paragraph (1) an offence is committed by—
- (a) the entity, and
  - (b) every officer of the entity who is in default.
- (3) Nothing in this paragraph affects the validity of a disposition made in breach of sub-paragraph (1).
- (4) Sections 1121 to 1123 of the Companies Act 2006 (liability of officers in default: interpretation etc) apply for the purposes of this paragraph as they apply for the purposes of provisions of the Companies Acts.
- (5) In those sections as applied, a reference to an officer includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of an overseas entity are accustomed to act.
- (6) A person is not to be regarded as falling within sub-paragraph (5) by reason only that the board of directors or equivalent management body acts on advice given by the person in a professional capacity.
- (7) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (8) Proceedings for an offence under this paragraph may only be brought by or with the consent the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

### **Interpretation etc**

- 6 In this Schedule—
- “exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6) of the Economic Crime (Transparency and Enforcement) Act 2022;
- “overseas entity” has the meaning given by section 2 of the Economic Crime (Transparency and Enforcement) Act 2022;
- “qualifying estate” has the meaning given by paragraph 1;

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“register of overseas entities” means the register kept under section 3 of the Economic Crime (Transparency and Enforcement) Act 2022;

“registered overseas entity” means an overseas entity that is registered in the register of overseas entities (but see paragraph 7).

- 7 (1) For the purpose of this Schedule, an overseas entity that fails to comply with the duty in section 7 of the Economic Crime (Transparency and Enforcement) Act 2022 (updating duty) is not to be treated as being a “registered overseas entity” until it remedies the failure.
- (2) For the purpose of sub-paragraph (1), an overseas entity “remedies” the failure when it delivers the statements and information mentioned in section 7(1)(a), (b) and (c) of the 2022 Act.”