



# Economic Crime and Corporate Transparency Act 2023

## 2023 CHAPTER 56

### PART 5

#### MISCELLANEOUS

##### *Money laundering and terrorist financing*

#### **182 Money laundering: exiting and paying away exemptions**

(1) The Proceeds of Crime Act 2002 is amended as follows.

(2) In section 327 (concealing etc), after subsection (2C) insert—

“(2D) A person (“P”) who does an act mentioned in paragraph (c) or (d) of subsection (1) does not commit an offence under that subsection if—

- (a) P is carrying on business in the regulated sector that is not excluded business,
- (b) P does the act, in the course of that business—
  - (i) in transferring or handing over to a customer or client money or other property of, or owing to, the customer or client, and
  - (ii) for the purposes of the termination of P’s business relationship with the customer or client,
- (c) the total value of the criminal property so transferred or handed over to the customer or client by P for those purposes is less than the threshold amount determined under section 339A for the act, and
- (d) before the act is done, P has complied with the customer due diligence duties.

(2E) For the purposes of subsection (2D)—

- (a) business is “excluded” if it is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph;

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- (b) a reference to property being transferred or handed over to the customer or client includes a reference to property being transferred or handed over to another person at the direction of the customer or client;
  - (c) “customer due diligence duties” means all duties imposed on P in relation to the customer or client by regulation 28(2), (3), (3A), (4), (8) or (10) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) (customer due diligence measures).”
- (3) In section 328 (arrangements), after subsection (5) insert—
- “(6) A person (“P”) who does an act mentioned in subsection (1) does not commit an offence under that subsection if—
- (a) P is carrying on business in the regulated sector that is not excluded business,
  - (b) P does the act, in the course of that business—
    - (i) in transferring or handing over to a customer or client money or other property of, or owing to, the customer or client, and
    - (ii) for the purposes of the termination of P’s business relationship with the customer or client,
  - (c) the total value of the criminal property so transferred or handed over to the customer or client by P for those purposes is less than the threshold amount determined under section 339A for the act, and
  - (d) before the act is done, P has complied with the customer due diligence duties.
- (7) For the purposes of subsection (6)—
- (a) business is “excluded” if it is of a description specified in regulations made by the Secretary of State for the purposes of this subsection;
  - (b) a reference to property being transferred or handed over to the customer or client includes a reference to property being transferred or handed over to another person at the direction of the customer or client;
  - (c) “customer due diligence duties” means all duties imposed on P in relation to the customer or client by regulation 28(2), (3), (3A), (4), (8) or (10) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) (customer due diligence measures).”
- (4) In section 329 (acquisition, use and possession), after subsection (2C) insert—
- “(2D) A person (“P”) who does an act mentioned in subsection (1) does not commit an offence under that subsection if—
- (a) P is carrying on business in the regulated sector that is not excluded business,
  - (b) P does the act, in the course of that business—
    - (i) in transferring or handing over to the customer or client property of, or owing to, a customer or client, and
    - (ii) for the purposes of the termination of P’s business relationship with the customer or client,

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- (c) the total value of the criminal property so transferred or handed over to the customer or client by P for those purposes is less than the threshold amount determined under section 339A for the act, and
    - (d) before the act is done, P has complied with the customer due diligence duties.
  - (2E) For the purposes of subsection (2D)—
    - (a) business is “excluded” if it is of a description specified in regulations made by the Secretary of State for the purposes of this subsection;
    - (b) a reference to property being transferred or handed over to the customer or client includes a reference to property being transferred or handed over to another person at the direction of the customer or client;
    - (c) “customer due diligence duties” means all duties imposed on P in relation to the customer or client by regulation 28(2), (3), (3A), (4), (8) or (10) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) (customer due diligence measures).”
- (5) In section 339A (threshold amounts)—
  - (a) for subsection (1) substitute—
    - “(1) In this section—
      - (a) subsections (2) to (6) apply for the purposes of sections 327(2C), 328(5) and 329(2C), and
      - (b) subsection (6A) applies for the purposes of sections 327(2D), 328(6) and 329(2D).”;
    - (b) after subsection (6) insert—
      - “(6A) The threshold amount for acts done by a person carrying on business in the regulated sector, for the purposes of the termination of a business relationship with a customer or client, is £1000.”;
    - (c) in subsection (7), after “subsection (2)” insert “or (6A)”.
- (6) In section 340 (interpretation of Part 7), after subsection (16) insert—
  - “(17) “Business relationship” means a business, professional or commercial relationship between a person carrying on business in the regulated sector and a customer or client, where the relationship—
    - (a) arises out of the business of that person, and
    - (b) is expected by that person, at the time when contact is established, to have an element of duration.”
- (7) In section 459 (orders and regulations)—
  - (a) in subsection (4), after paragraph (aza) insert—
    - “(azaa) regulations under section 327(2E)(a), 328(7)(a) or 329(2E)(a).”;
  - (b) after subsection (6ZB) insert—
    - “(6ZBA) No regulations may be made by the Secretary of State under section 327(2E)(a), 328(7)(a) or 329(2E)(a) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”

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### Commencement Information

**II** S. 182 in force at Royal Assent, see [s. 219\(2\)\(f\)](#)

## 183 Money laundering: exemptions for mixed-property transactions

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 327 (concealing etc), after subsection (2E) (inserted by section 182) insert—
- “(2F) A person (“P”) who does an act mentioned in paragraph (c), (d) or (e) of subsection (1) does not commit an offence under that subsection if—
- (a) P is carrying on business in the regulated sector,
  - (b) P does the act in the course of that business, on behalf of a customer or client, in operating an account or accounts maintained with P or in connection with holding any property for the customer or client,
  - (c) at the time of the act, P knows or suspects that part but not all of the funds in the account or accounts, or of the property so held, is criminal property (“the relevant criminal property”),
  - (d) it is not possible, at the time the act takes place, to identify the part of the funds or property that is the relevant criminal property, and
  - (e) the value of the funds in the account or accounts, or of the property so held, is not, as a direct or indirect result of the act, less than the value of the relevant criminal property at the time of the act.
- (2G) Where subsection (2F) applies—
- (a) if P does the act in operating an account or accounts, the funds in the account or accounts immediately after the act are assumed to include the relevant criminal property, and
  - (b) if P does the act in connection with holding any property for the customer or client, such of that property as is held by P immediately after the act is assumed to include the relevant criminal property.”
- (3) In section 328 (arrangements), after subsection (7) (inserted by section 182) insert—
- “(8) A person (“P”) who does an act mentioned in subsection (1) does not commit an offence under that subsection if—
- (a) P is carrying on business in the regulated sector,
  - (b) P does the act in the course of that business, on behalf of a customer or client, in operating an account or accounts maintained with P or in connection with holding any property for the customer or client,
  - (c) at the time of the act, P knows or suspects that part but not all of the funds in the account or accounts, or of the property so held, is criminal property (“the relevant criminal property”),
  - (d) it is not possible, at the time the act takes place, to identify the part of the funds or property that is the relevant criminal property, and
  - (e) the value of the funds in the account or accounts, or of the property so held, is not, as a direct or indirect result of the act, less than the value of the relevant criminal property at the time of the act.
- (9) Where subsection (8) applies—

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- (a) if P does the act in operating an account or accounts, the funds in the account or accounts immediately after the act are assumed to include the relevant criminal property, and
  - (b) if P does the act in connection with holding any property for the customer or client, such of that property as is held by P immediately after the act is assumed to include the relevant criminal property.”
- (4) In section 329 (acquisition, use and possession), after subsection (2E) (inserted by section 182), insert—

“(2F) A person (“P”) who does an act mentioned in subsection (1) does not commit an offence under that subsection if—

- (a) P is carrying on business in the regulated sector,
- (b) P does the act in the course of that business, on behalf of a customer or client, in operating an account or accounts maintained with P or in connection with holding any property for the customer or client,
- (c) at the time of the act, P knows or suspects that part but not all of the funds in the account or accounts, or of the property so held, is criminal property (“the relevant criminal property”),
- (d) it is not possible, at the time the act takes place, to identify the part of the funds or property that is the relevant criminal property, and
- (e) the value of the funds in the account or accounts, or of the property so held, is not, as a direct or indirect result of the act, less than the value of the relevant criminal property at the time of the act.

(2G) Where subsection (2F) applies—

- (a) if P does the act in operating an account or accounts, the funds in the account or accounts immediately after the act are assumed to include the relevant criminal property, and
- (b) if P does the act in connection with holding any property for the customer or client, such of that property as is held by P immediately after the act is assumed to include the relevant criminal property.”

#### Commencement Information

**I2** S. 183 in force at Royal Assent for specified purposes, see **s. 219(1)(2)(b)**

**I3** S. 183 in force at 15.1.2024 in so far as not already in force by S.I. 2023/1206, **reg. 3(f)**

## 184 Money laundering: offences of failing to disclose

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 330 (failure to disclose: regulated sector)—
- (a) subsection (7A) is moved to after subsection (7B) and is renumbered subsection (7C);
  - (b) after that subsection as moved and renumbered, insert—

“(7D) Nor does a person commit an offence under this section if—

- (a) the information or other matter mentioned in subsection (3) consists of or includes information that was obtained only in consequence of the carrying out of a status check under

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- section 40 of the Immigration Act 2014 or an immigration check under section 40A of that Act or both, and
- (b) but for the information so obtained the person would not have reasonable grounds for knowing or suspecting that another person is engaged in money laundering.”
- (3) In section 331 (failure to disclose: nominated officers in the regulated sector), after subsection (6A) insert—
- “(6B) Nor does a person commit an offence under this section if—
- (a) the information or other matter disclosed to the person under section 330 consists of or includes information that was obtained only in consequence of the carrying out of a status check under section 40 of the Immigration Act 2014 or an immigration check under section 40A of that Act or both, and
- (b) but for the information so obtained the person would not have reasonable grounds for knowing or suspecting that another person is engaged in money laundering.”

#### Commencement Information

**I4** S. 184 in force at Royal Assent, see [s. 219\(2\)\(g\)](#)

### 185 Money laundering: information orders

- (1) Section 339ZH of the Proceeds of Crime Act 2002 (further information orders) is amended in accordance with subsections (2) to (11).
- (2) In the heading for “Further information” substitute “Information”.
- (3) In subsection (1)—
- (a) for “a further” substitute “an”;
- (b) for “either condition 1 or condition 2” substitute “one of conditions 1 to 4”.
- (4) In subsection (3) for “A further” substitute “An”.
- (5) In subsection (4) for “a further” substitute “an”.
- (6) In subsection (5) for “a further” substitute “an”.
- (7) After subsection (6) insert—
- “(6A) Condition 3 for the making of an information order is met if—
- (a) the information would assist an authorised NCA officer to conduct—
- (i) operational analysis of information that is relevant to money laundering or suspected money laundering, or
- (ii) strategic analysis identifying trends or patterns in the conduct of money laundering, or systemic deficiencies or vulnerabilities which have been, are being or are likely to be, exploited for the purposes of money laundering,
- for the purposes of the criminal intelligence function of the National Crime Agency, so far as it relates to money laundering,

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- (b) the respondent is a person carrying on a business in the regulated sector,
  - (c) where the application for the order is made to a magistrates' court, the person making the application has had regard to the code of practice under section 339ZL,
  - (d) where the application for the order is made to the sheriff—
    - (i) the application is made by a procurator fiscal at the request of the Director General of the National Crime Agency or an authorised NCA officer, and
    - (ii) the person making that request has had regard to the code of practice under section 339ZL, and
  - (e) it is reasonable in all the circumstances for the information to be provided.
- (6B) Condition 4 for the making of an information order is met if—
- (a) a request has been made by a foreign FIU to the National Crime Agency for the provision of the information required to be given under the order,
  - (b) an authorised NCA officer has reasonable grounds to believe that the request was made only for the purpose of assisting the foreign FIU to conduct one or both of the following—
    - (i) operational analysis of information that is relevant to money laundering or suspected money laundering, or
    - (ii) strategic analysis identifying trends or patterns in the conduct of money laundering, or systematic deficiencies or vulnerabilities which have been, are being or are likely to be, exploited for the purposes of money laundering,and that the information is likely to be of substantial value to the foreign FIU in carrying out such analysis,
  - (c) the provision of the information by the National Crime Agency to the foreign FIU would be for the purposes of the criminal intelligence function of the National Crime Agency, so far as it relates to money laundering,
  - (d) the respondent is a person carrying on a business in the regulated sector,
  - (e) where the application for the order is made to a magistrates' court, the person making the application has had regard to the code of practice under section 339ZL,
  - (f) where the application for the order is made to the sheriff—
    - (i) the application is made by a procurator fiscal at the request of the Director General of the National Crime Agency or an authorised NCA officer, and
    - (ii) the person making that request has had regard to the code of practice under section 339ZL, and
  - (g) it is reasonable in all the circumstances for the information to be provided.”
- (8) In subsection (7) for “A further” substitute “An”.
- (9) In subsection (8) for “a further” substitute “an”.



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- (10) In subsection (12), at the appropriate places, insert—
- ““authorised NCA officer” means a National Crime Agency officer authorised by the Director General (whether generally or specifically) for the purposes of this section;”;
- ““the criminal intelligence function” has the meaning given by section 1(5) of the Crime and Courts Act 2013;”;
- ““foreign FIU” means a body in a foreign country carrying out the functions of a financial intelligence unit within the meaning of Recommendation 29 of the Financial Action Task Force (as that Recommendation has effect from time to time);”.
- (11) In that subsection, in the definition of “relevant person”, in paragraph (a), for “other National Crime Agency officer” to the end substitute “authorised NCA officer”.
- (12) After section 339ZK of the Proceeds of Crime Act 2002 insert—

**“339ZL Code of practice about certain information orders**

- (1) The Secretary of State must make a code of practice in connection with the exercise of the following functions by the Director General of the National Crime Agency or an authorised NCA officer—
- (a) the making of an application to the magistrates’ court for an information order in reliance on Condition 3 or 4 in section 339ZH being met;
  - (b) the making of a request to a procurator fiscal for the procurator fiscal to apply for an information order in reliance on Condition 3 or 4 in section 339ZH being met.
- (2) Where the Secretary of State proposes to issue a code of practice the Secretary of State must—
- (a) publish a draft,
  - (b) consider any representations made about the draft, and
  - (c) if the Secretary of State thinks appropriate, modify the draft in the light of any such representations.
- (3) A requirement in paragraph (a), (b) or (c) of subsection (2) may be satisfied by the carrying out of the action required by the paragraph in question before this section comes into force.
- (4) The Secretary of State must lay a draft of the code before Parliament.
- (5) When the Secretary of State has laid a draft of the code before Parliament the Secretary of State may bring it into operation by regulations.
- (6) The Secretary of State may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (5) apply to a revised code as they apply to the original code.
- (7) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.
- (8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.



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- (9) A code of practice made under this section may be combined with a code of practice under section 22F of the Terrorism Act 2000 (code of practice relating to information orders under section 22B(1A) of that Act).
- (10) In this section “authorised NCA officer” has the meaning given in section 339ZH(12).”
- (13) In section 459 of that Act (orders and regulations)—
- (a) in subsection (4), after paragraph (azaa) (inserted by section 182(7)(a) of this Act) insert—
- “(azab) regulations under section 339ZL(5);”;
- (b) after subsection (6ZBA) (inserted by section 182(7)(b) of this Act) insert—
- “(6ZBB) No regulations may be made by the Secretary of State under section 339ZL(5) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”
- (14) In consequence of further information orders being renamed information orders by this section, the following amendments are also made to that Act—
- (a) in the italic heading before section 339ZH for “Further information” substitute “Information”;
- (b) in section 339ZI (statements), in subsection (1) for “a further” substitute “an”;
- (c) in section 339ZJ (appeals), in subsections (1) and (4)(a) for “a further” substitute “an”;
- (d) in section 339ZK (supplementary)—
- (i) in subsection (1) for “A further” substitute “An”;
- (ii) in subsection (3) for “a further” substitute “an”;
- (iii) in subsection (4) for “a further” substitute “an”;
- (iv) in subsection (5) omit “further”;
- (e) in section 340 (interpretation), in subsection (15) for “Further information” substitute “Information”.

#### Commencement Information

- I5** S. 185(1)-(11)(14) in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)
- I6** S. 185(12)(13) in force at Royal Assent, see [s. 219\(1\)\(2\)\(h\)](#)

## 186 Terrorist financing: information orders

- (1) Section 22B of the Terrorism Act 2000 (further information orders) is amended in accordance with subsections (2) to (12).
- (2) In the heading for “Further information” substitute “Information”.
- (3) In subsection (1) for “a further” substitute “an”.
- (4) After subsection (1) insert—
- “(1A) A magistrates’ court or (in Scotland) the sheriff may, on an application made—
- (a) in the case of a magistrates’ court, by the Director General of the National Crime Agency or an authorised NCA officer, and

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(b) in the case of the sheriff, by a procurator fiscal,  
make an information order if satisfied that either condition 3 or condition 4 is met.”

(5) In subsection (3) for “A further” substitute “An”.

(6) In subsection (4) for “a further” substitute “an”.

(7) In subsection (5) for “a further” substitute “an”.

(8) After subsection (6) insert—

“(6A) Condition 3 for the making of an information order is met if—

(a) the information would assist an authorised NCA officer to conduct—

(i) operational analysis of information that is relevant to terrorist financing or suspected terrorist financing, or

(ii) strategic analysis identifying trends or patterns in the conduct of terrorist financing, or systemic deficiencies or vulnerabilities which have been, are being or are likely to be, exploited for the purposes of terrorist financing,

for the purposes of the criminal intelligence function of the National Crime Agency so far as it relates to terrorist financing,

(b) the respondent is a person carrying on a business in the regulated sector,

(c) where the application for the order is made to a magistrates’ court, the person making the application has had regard to the code of practice under section 22F,

(d) where the application for the order is made to the sheriff—

(i) the application is made by a procurator fiscal at the request of the Director General of the National Crime Agency or an authorised NCA officer, and

(ii) the person making that request has had regard to the code of practice under section 22F, and

(e) it is reasonable in all the circumstances for the information to be provided.

(6B) Condition 4 for the making of an information order is met if—

(a) a request has been made by a foreign FIU to the National Crime Agency for the provision of the information required to be given under the order,

(b) an authorised NCA officer has reasonable grounds to believe that the request was made only for the purpose of assisting the foreign FIU to conduct one or both of the following—

(i) operational analysis of information that is relevant to terrorist financing or suspected terrorist financing, or

(ii) strategic analysis identifying trends or patterns in the conduct of terrorist financing, or systematic deficiencies or vulnerabilities which have been, are being or are likely to be, exploited for the purposes of terrorist financing,

and that the information is likely to be of substantial value to the foreign FIU in carrying out such analysis,

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- (c) the provision of the information by the National Crime Agency to the foreign FIU would be for the purposes of the criminal intelligence function of the National Crime Agency, so far as it relates to terrorist financing,
  - (d) the respondent is a person carrying on a business in the regulated sector,
  - (e) where the application for the order is made to a magistrates' court, the person making the application has had regard to the code of practice under section 22F,
  - (f) where the application for the order is made to the sheriff—
    - (i) the application is made by a procurator fiscal at the request of the Director General of the National Crime Agency or an authorised NCA officer, and
    - (ii) the person making that request has had regard to the code of practice under section 22F, and
  - (g) it is reasonable in all the circumstances for the information to be provided.”
- (9) In subsection (7) for “A further” substitute “An”.
- (10) In subsection (8) for “a further” substitute “an”.
- (11) In subsection (12), after “this section” insert “in reliance on Condition 1 or 2”.
- (12) In subsection (14), at the appropriate places, insert—  
““authorised NCA officer” means an officer of the National Crime Agency authorised by the Director General (whether generally or specifically) for the purposes of this section;”;  
““the criminal intelligence function” has the meaning given by section 1(5) of the Crime and Courts Act 2013;”;  
““foreign FIU” means a body in a foreign country carrying out the functions of a financial intelligence unit within the meaning of Recommendation 29 of the Financial Action Task Force (as that Recommendation has effect from time to time);”;  
““terrorist financing” means—  
(a) for the purposes of subsection (6A), an act which constitutes an offence under any of sections 15 to 18;  
(b) for the purposes of subsection (6B), an act which constitutes a corresponding terrorist financing offence.”
- (13) After section 22E of the Terrorism Act 2000 insert—

**“22F Code of practice about certain information orders**

- (1) The Secretary of State must make a code of practice in connection with the exercise of the following functions by the Director General of the National Crime Agency or an authorised NCA officer—
- (a) the making of an application to the magistrates' court for an information order under section 22B(1A) (information orders made in reliance on Condition 3 or 4 in section 22B being met);
  - (b) the making of a request to a procurator fiscal for the procurator fiscal to apply for an information order under section 22B(1A).

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- (2) Where the Secretary of State proposes to issue a code of practice the Secretary of State must—
  - (a) publish a draft,
  - (b) consider any representations made about the draft, and
  - (c) if the Secretary of State thinks appropriate, modify the draft in the light of any such representations.
- (3) A requirement in paragraph (a), (b) or (c) of subsection (2) may be satisfied by the carrying out of the action required by the paragraph in question before this section comes into force.
- (4) The Secretary of State must lay a draft of the code before Parliament.
- (5) When the Secretary of State has laid a draft of the code before Parliament the Secretary of State may bring it into operation by regulations.
- (6) The Secretary of State may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (5) apply to a revised code as they apply to the original code.
- (7) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.
- (8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
- (9) A code of practice made under this section may be combined with a code of practice under section 339ZL of the Proceeds of Crime Act 2002 (code of practice relating to certain information orders under section 339ZH of that Act).
- (10) In this section “authorised NCA officer” has the meaning given in section 22B(14).”
- (14) In section 123(4) of that Act (orders and regulations subject to affirmative procedure), after paragraph (a) insert—
 

“(aza) section 22F(5);”.
- (15) In consequence of further information orders being renamed information orders by this section, the following amendments are also made to that Act—
  - (a) in the italic heading before section 22B for “Further information” substitute “Information”;
  - (b) in section 22C (statements), in subsection (1) for “a further” substitute “an”;
  - (c) in section 22D (appeals), in subsections (1) and (4)(a) for “a further” substitute “an”;
  - (d) in section 22E (supplementary)—
    - (i) in subsection (1) for “A further” substitute “An”;
    - (ii) in subsection (3) for “a further” substitute “an”;
    - (iii) in subsection (4) for “a further” substitute “an”;
    - (iv) in subsection (5) omit “further”;
  - (e) in section 120C (enforcement of orders in other parts of UK), in subsection (2) (a) omit “further”.

*Status: Point in time view as at 04/03/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

#### Commencement Information

- I7** S. 186(1)-(12)(15) in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)  
**I8** S. 186(13)(14) in force at Royal Assent, see [s. 219\(1\)\(2\)\(i\)](#)

### 187 Enhanced due diligence: designation of high-risk countries

- (1) The Sanctions and Anti-Money Laundering Act 2018 is amended as follows.
- (2) In Schedule 2 (money laundering and terrorist financing etc)—
- (a) in paragraph 4—
- (i) the existing text becomes sub-paragraph (1);
- (ii) after sub-paragraph (1) insert—
- “(2) Provide for the imposition of requirements relating to enhanced customer due diligence measures by reference to prescribed high-risk countries.
- (3) Provision made by virtue of sub-paragraph (2) may in particular refer to a list of countries published by the Financial Action Task Force as it has effect from time to time.”;
- (b) in paragraph 23, after sub-paragraph (2) insert—
- “(2A) In paragraph 4 (measures in relation to customers of relevant persons), the reference in sub-paragraph (2) to requirements includes requirements imposed by or under the Money Laundering Regulations 2017.”
- (3) In section 55 (parliamentary procedure for regulations)—
- (a) in subsection (2), for the first “which” substitute “made during the period of 6 months beginning with the day on which the Economic Crime and Corporate Transparency Act 2023 is passed if the instrument”;
- (b) in subsection (9), for the words from “if” to the end substitute “if they only make provision prescribing high-risk countries by virtue of paragraph 4(2) of Schedule 2”.

#### Commencement Information

- I9** S. 187 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)  
**I10** S. 187 in force at 15.1.2024 in so far as not already in force by [S.I. 2023/1206, reg. 3\(g\)](#)

*Disclosures to prevent, detect or investigate economic crime etc*

### 188 Direct disclosures of information: restrictions on civil liability

- (1) The protections set out in subsection (2) apply in relation to a disclosure made by a person (“A”) to another person (“B”) if—
- (a) A is carrying on business in circumstances where subsection (3) applies,
- (b) B is also carrying on business in circumstances where that subsection applies,

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*Status: Point in time view as at 04/03/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

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- (c) the information relates to a person who is a customer or former customer of A (“the customer”),
  - (d) either the request condition or the warning condition is met,
  - (e) A is satisfied that the disclosure of the information will or may assist B in carrying out relevant actions of B, and
  - (f) the disclosure is not a privileged disclosure.
- (2) The protections are that, subject to subsection (11), the disclosure does not—
- (a) give rise to a breach of any obligation of confidence owed by A, or
  - (b) give rise to any civil liability, on the part of A, to the person to whom the disclosed information relates.
- (3) This subsection applies—
- (a) where the business carried on is business in the regulated sector, and
  - (b) in circumstances prescribed, in relation to the business or the person carrying it on, by regulations made by the Secretary of State for the purposes of this paragraph.
- (4) The request condition is that—
- (a) the disclosure is made in response to a request made by B, and
  - (b) at the time the request is made, B has reason to believe that A holds information relating to the customer the disclosure of which will or may assist B in carrying out relevant actions of B.
- (5) The warning condition is that A, due to concerns about risks of economic crime, has decided to take safeguarding action (or would have decided to take such action but for the customer having ceased to be a customer of A).
- (6) For the purposes of subsection (5), “safeguarding action” means—
- (a) terminating a business relationship with the customer,
  - (b) refusing the customer a product or service, or
  - (c) restricting the customer’s access to elements of a product or service available to other customers of A.
- (7) Where a disclosure is made to which subsection (1) applies, B’s use of the disclosed information, for the purposes of any of B’s relevant actions, does not breach any obligation of confidence owed by B.
- (8) The protections set out in subsection (9) apply in relation to a disclosure made by a person (“R”) who is carrying on business in circumstances where subsection (3) applies to another person for the purpose of making a disclosure request if R has reason to believe that other person—
- (a) is carrying on business in circumstances where subsection (3) applies, and
  - (b) has in their possession information about a customer or former customer of theirs that will or may assist R to carry out any of R’s relevant actions.
- (9) The protections are that, subject to subsection (11), the disclosure does not—
- (a) give rise to a breach of any obligation of confidence owed by R, or
  - (b) give rise to any civil liability, on the part of R, to the person to whom the disclosed information relates.

*Status: Point in time view as at 04/03/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

- (10) Where a disclosure is made to which subsection (8) applies, the use by that other person of the disclosed information, for the purposes of enabling a disclosure to be made by them to which subsection (1) applies, does not—
- (a) give rise to a breach of any obligation of confidence owed by them, or
  - (b) give rise to any civil liability, on the part of R, to the person to whom the disclosed information relates.

This is subject to subsection (11).

- (11) Nothing in this section requires or authorises a disclosure of information that would contravene, or prevents any civil liability arising under, the data protection legislation.

#### Commencement Information

**111** S. 188 in force at Royal Assent for specified purposes, see s. 219(1)(2)(b)

**112** S. 188 in force at 15.1.2024 in so far as not already in force by S.I. 2023/1206, reg. 3(h)

### 189 Indirect disclosure of information: restrictions on civil liability

- (1) The protections set out in subsection (2) apply in relation to a disclosure made by a person (“A”) to another person (“B”) if—
- (a) A is carrying on business in circumstances where subsection (3) applies,
  - (b) the information relates to a person who is a customer or former customer of A (“the customer”),
  - (c) due to concerns about the risk of economic crime, A has decided to—
    - (i) terminate a business relationship with the customer,
    - (ii) refuse the customer a product or service, or
    - (iii) restrict the customer’s access to elements of a product or service which are available to other customers,
  - (d) A is satisfied that the information disclosed to B, if it is disclosed by B to one or more persons carrying on business in circumstances where subsection (3) applies, will or may assist those persons in carrying out their relevant actions,
  - (e) to the extent that the information is personal data, the UK GDPR applies to the disclosure of the information by A,
  - (f) A and B are parties to an agreement the terms of which provide that, to the extent that the information is personal data, B will only disclose or otherwise process it in circumstances where the UK GDPR applies to the disclosure or other processing, and
  - (g) the disclosure is not a privileged disclosure.
- (2) The protections are that, subject to subsection (10), the disclosure does not—
- (a) give rise to a breach of any obligation of confidence owed by A, or
  - (b) give rise to any civil liability, on the part of A, to the person to whom the disclosed information relates.
- (3) This subsection applies—
- (a) where the business carried on is business in the regulated sector as—
    - (i) a deposit-taking body,
    - (ii) an electronic money institution,



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- (iii) a payment institution,
    - (iv) a cryptoasset exchange provider, or
    - (v) a custodian wallet provider,
  - (b) where—
    - (i) the business carried on is business in the regulated sector within paragraph 1(1)(j) to (n) of Schedule 9 to the Proceeds of Crime Act 2002 (audit, insolvency, accountancy, tax or legal services), and
    - (ii) the UK revenue of the person carrying on the business is large or very large for the relevant financial year (see subsection (11)), and
  - (c) in circumstances prescribed, in relation to the business or the person carrying it on, by regulations made by the Secretary of State for the purposes of this paragraph.
- (4) Where subsection (1) applies to a disclosure of information made by A to B, the protections set out in subsection (5) apply in relation to a further disclosure of that information made by B to another person (“C”) if—
  - (a) C is carrying on business in circumstances where subsection (3) applies, and
  - (b) to the extent that the information is personal data, the UK GDPR applies to all processing of the information by B, up to and including the disclosure of the information to C.
- (5) The protections are that, subject to subsection (10), the disclosure does not—
  - (a) give rise to a breach of any obligation of confidence owed by B, or
  - (b) give rise to any civil liability, on the part of B, to the person to whom the disclosed information relates.
- (6) Where a disclosure is made to which subsection (4) applies, C’s use of the disclosed information, for the purposes of any of C’s relevant actions, does not breach any obligation of confidence owed by C.
- (7) The protections set out in subsection (8) apply in relation to a disclosure made by a person (“R”), who is carrying on business in circumstances where subsection (3) applies, to another person, for the purposes of making a request for a disclosure of information to be made to R by that other person if, at the time the request is made, R has reason to believe that the disclosure of information to which the request relates would be one to which subsection (4) applies.
- (8) The protections are that, subject to subsection (10), the disclosure does not—
  - (a) give rise to a breach of any obligation of confidence owed by R, or
  - (b) give rise to any civil liability, on the part of R, to the person to whom the disclosed information relates.
- (9) Where a disclosure is made to which subsection (7) applies, the use by that other person, of the disclosed information, for the purposes of enabling a disclosure to be made by them to which subsection (4) applies, does not—
  - (a) give rise to a breach of any obligation of confidence owed by them, or
  - (b) give rise to any civil liability, on their part, to the person to whom the disclosed information relates.

This is subject to subsection (10).
- (10) Nothing in this section authorises a disclosure of information that would contravene, or prevents any civil liability arising under, the data protection legislation.

*Status: Point in time view as at 04/03/2024.*

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- (11) In subsection (3)(b) “relevant financial year”—
- (a) for the purposes of subsection (1)(a), means the financial year immediately preceding that in which the disclosure by A is made;
  - (b) for the purposes of subsection (4)(a), means the financial year immediately preceding that in which the disclosure to C is made.

And, for the purposes of subsection (3)(b), the question of whether a person’s UK revenue is large or very large for a particular financial year is to be determined in accordance with sections 55 to 57 of the Finance Act 2022 (calculation of UK revenue for the economic crime (anti-money laundering) levy).

#### Commencement Information

**I13** S. 189 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I14** S. 189 in force at 15.1.2024 in so far as not already in force by [S.I. 2023/1206, reg. 3\(h\)](#)

### 190 Meaning of “privileged disclosure”

- (1) For the purposes of sections 188 and 189, “privileged disclosure” means a disclosure of information made by a professional legal adviser or relevant professional adviser in circumstances where the information disclosed came to the adviser in privileged circumstances.
- (2) Information comes to a professional legal adviser or relevant professional adviser in privileged circumstances if it is communicated or given to the adviser—
- (a) by (or by a representative of) a client of the adviser in connection with the giving by that person of legal advice to the client,
  - (b) by (or by a representative of) a person seeking legal advice from the adviser, or
  - (c) by a person in connection with legal proceedings or contemplated legal proceedings.
- (3) For the purposes of this section a “relevant professional adviser” means an accountant, auditor or tax adviser who is a member of a professional body which is established for accountants, auditors or tax advisers (as the case may be) and which makes provision for—
- (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission, and
  - (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.

#### Commencement Information

**I15** S. 190 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I16** S. 190 in force at 15.1.2024 in so far as not already in force by [S.I. 2023/1206, reg. 3\(h\)](#)

### 191 Meaning of “relevant actions”

In sections 188 and 189, “relevant actions”, of a person, means the actions of—

- (a) determining, for the purposes of preventing, detecting or investigating economic crime—

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- (i) whether it is appropriate to apply any customer due diligence measures, or any similar measures, in respect of a customer or proposed customer of the person;
- (ii) the nature or extent of the measures;
- (b) carrying out, for such purposes—
  - (i) effective measures for identifying or verifying the identity of, or
  - (ii) any other customer due diligence measures in respect of, a customer or proposed customer of the person;
- (c) determining, for such purposes, whether it is appropriate to—
  - (i) terminate an existing business relationship with a customer or proposed customer of the person;
  - (ii) decline to establish a new business relationship with such a customer;
  - (iii) decline to provide a product or service to such a customer;
  - (iv) restrict the access of such a customer to an existing product or service which is normally available to other customers;
  - (v) decline to carry out a transaction for such a customer.

#### Commencement Information

**I17** S. 191 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I18** S. 191 in force at 15.1.2024 in so far as not already in force by [S.I. 2023/1206](#), [reg. 3\(h\)](#)

## 192 Meaning of “business relationship”

- (1) In sections 188 to 191, “business relationship” means a business, professional or commercial relationship between a person carrying on relevant business and a customer or client which—
- (a) arises out of the business of the person, and
  - (b) has, or is expected by the person (at the time when contact is established) to have, an element of duration.
- (2) In subsection (1) “relevant business” means—
- (a) in the case of section 188 (and section 191 as it applies for the purposes of that section), business within section 188(3);
  - (b) in the case of section 189 (and section 191 as it applies for the purposes of that section), business within section 189(3).

#### Commencement Information

**I19** S. 192 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I20** S. 192 in force at 15.1.2024 in so far as not already in force by [S.I. 2023/1206](#), [reg. 3\(h\)](#)

## 193 Other defined terms in sections 188 to 191

- (1) In sections 188 to 191—
- “cryptoasset exchange provider” has the meaning given by paragraph 1(12) (a) of Schedule 9 to the Proceeds of Crime Act 2002;

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“custodial wallet provider” has the meaning given by paragraph 1(12)(b) of Schedule 9 to the Proceeds of Crime Act 2002;

“customer due diligence measures” has the meaning given by regulation 3(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692);

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“deposit-taking body” means—

- (a) a business which engages in the activity of accepting deposits, or
- (b) the National Savings Bank;

“economic crime” means an act which—

- (a) constitutes an offence listed in Schedule 11 (“a listed offence”),
- (b) constitutes an attempt or conspiracy to commit a listed offence,
- (c) constitutes an offence—
  - (i) under Part 2 of the Serious Crime Act 2007 (England and Wales and Northern Ireland: encouraging or assisting crime) in relation to a listed offence, or
  - (ii) under the law of Scotland of inciting the commission of a listed offence,
- (d) constitutes aiding, abetting, counselling or procuring the commission of a listed offence, or
- (e) would constitute a listed offence or an offence specified in paragraph (b), (c) or (d) if done in the United Kingdom;

“electronic money institution” has the same meaning as in the Electronic Money Regulations 2011 (S.I. 2011/99) (see regulation 2 of those Regulations);

“enactment” includes—

- (a) an enactment contained in subordinate legislation (as defined in section 21 of the Interpretation Act 1978);
- (b) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru;
- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- (e) any retained direct EU legislation;

“financial year” means a period of 12 months ending with 31 March;

“payment institution” means an authorised payment institution or small payment institution (each as defined in regulation 2 of the Payment Services Regulations 2017 (S.I. 2017/752));

“personal data” and “processing” have the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“regulated sector”: see subsection (2);

“the UK GDPR” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

- (2) Part 1 of Schedule 9 to the Proceeds of Crime Act 2002 has effect for the purpose of determining what is a business in the regulated sector.

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- (3) The Secretary of State may, by regulations, add an offence to or remove an offence from the list in Schedule 11.

**Commencement Information**

**I21** S. 193 in force at Royal Assent for specified purposes, see **s. 219(1)(2)(b)**

**I22** S. 193 in force at 15.1.2024 in so far as not already in force by S.I. 2023/1206, **reg. 3(h)**

*Power to strike out certain claims*

**194 Strategic litigation against public participation: requirement to make rules of court**

- (1) The power to make Civil Procedure Rules must be exercised so as to secure that Civil Procedure Rules include provision for ensuring that a claim may be struck out before trial where the court determines—
- (a) that the claim is a SLAPP claim (see section 195), and
  - (b) that the claimant has failed to show that it is more likely than not that the claim would succeed at trial.
- (2) Rules made in compliance with subsection (1) may include rules about how a determination under that subsection is to be made, including (in particular)—
- (a) rules for determining the nature and extent of the evidence that may or must be considered;
  - (b) rules about the extent to which evidence may or must be tested;
  - (c) rules permitting or requiring the court to determine matters of fact by way of presumptions.
- (3) Rules made in compliance with subsection (1) must include rules under which the court may make a determination under that subsection of its own motion.
- (4) The power to make Civil Procedure Rules must be exercised so as to secure that Civil Procedure Rules include provision for securing that, in respect of a SLAPP claim, a court may not order a defendant to pay the claimant’s costs except where, in the court’s view, misconduct of the defendant in relation to the claim justifies such an order.
- (5) The Lord Chancellor may by regulations provide for subsections (1) to (4) to apply in relation to any rules of court that may be specified in the regulations as those subsections apply in relation to Civil Procedure Rules.
- (6) In this section—
- “court” includes a tribunal;
  - “rules of court” means rules relating to the practice and procedure of a court or tribunal.

**Commencement Information**

**I23** S. 194 in force at Royal Assent for specified purposes, see **s. 219(1)(2)(b)**

*Status: Point in time view as at 04/03/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

## 195 Meaning of “SLAPP” claim

- (1) For the purposes of section 194 a claim is a “SLAPP claim” if—
  - (a) the claimant’s behaviour in relation to the matters complained of in the claim has, or is intended to have, the effect of restraining the defendant’s exercise of the right to freedom of speech,
  - (b) any of the information that is or would be disclosed by the exercise of that right has to do with economic crime,
  - (c) any part of that disclosure is or would be made for a purpose related to the public interest in combating economic crime, and
  - (d) any of the behaviour of the claimant in relation to the matters complained of in the claim is intended to cause the defendant—
    - (i) harassment, alarm or distress,
    - (ii) expense, or
    - (iii) any other harm or inconvenience,beyond that ordinarily encountered in the course of properly conducted litigation.
- (2) For the purposes of determining whether a claim meets the condition in subsection (1) (a) or (c), any limitation prescribed by law on the exercise of the right to freedom of speech (for example in relation to the making of defamatory statements) is to be ignored.
- (3) For the purposes of this section, information mentioned in subsection (1)(b) “has to do with economic crime” if—
  - (a) it relates to behaviour or circumstances which the defendant reasonably believes (or, as the case requires, believed) to be evidence of the commission of an economic crime, or
  - (b) the defendant has (or, as the case requires, had) reason to suspect that an economic crime may have occurred and believes (or, as the case requires, believed) that the disclosure of the information would facilitate an investigation into whether such a crime has (or had) occurred.
- (4) In determining whether any behaviour of the claimant falls within subsection (1)(d), the court may, in particular, take into account—
  - (a) whether the behaviour is a disproportionate reaction to the matters complained of in the claim, including whether the costs incurred by the claimant are out of proportion to the remedy sought;
  - (b) whether the defendant has access to fewer resources with which to defend the claim than another person against whom the claimant could have brought (but did not bring) proceedings in relation to the matters complained of in the claim;
  - (c) any relevant failure, or anticipated failure, by the claimant to comply with a pre-action protocol, rule of court or practice direction, or to comply with or follow a rule or recommendation of a professional regulatory body.
- (5) For the purposes of subsection (4)(c) a failure, or anticipated failure, is “relevant” so far as it relates to—
  - (a) the choice of jurisdiction,
  - (b) the use of dilatory strategies,
  - (c) the nature or amount of material sought on disclosure,
  - (d) the way to respond to requests for comment or clarification,

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- (e) the use of correspondence,
  - (f) making or responding to offers to settle, or
  - (g) the use of alternative dispute resolution procedures.
- (6) In this section—
- “court” has the same meaning as in section 194;
  - “economic crime” has the meaning given by section 193(1);
  - “the right to freedom of speech” means the right set out in Article 10 of the European Convention on Human Rights (freedom of expression) so far as it consists of a right to impart ideas, opinions or information by means of speech, writing or images (including in electronic form).
- (7) In the definition of “the right to freedom of speech” in subsection (6) “the European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950 as it has effect for the time being in relation to the United Kingdom.

#### Commencement Information

**I24** S. 195 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

### *Attributing criminal liability for economic crimes to certain bodies*

#### **196 Attributing criminal liability for economic crimes to certain bodies**

- (1) If a senior manager of a body corporate or partnership (“the organisation”) acting within the actual or apparent scope of their authority commits a relevant offence after this section comes into force, the organisation is also guilty of the offence.

This is subject to subsection (3).

- (2) “Relevant offence” means an act which constitutes—
- (a) an offence listed in Schedule 12 (“a listed offence”),
  - (b) an attempt or conspiracy to commit a listed offence,
  - (c) an offence—
    - (i) under Part 2 of the Serious Crime Act 2007 (England and Wales and Northern Ireland: encouraging or assisting crime) in relation to a listed offence, or
    - (ii) under the law of Scotland of inciting the commission of a listed offence, or
  - (d) aiding, abetting, counselling or procuring the commission of a listed offence.
- (3) Where no act or omission forming part of the relevant offence took place in the United Kingdom, the organisation is not guilty of an offence under subsection (1) unless it would be guilty of the relevant offence had it carried out the acts that constituted that offence (in the location where the acts took place).
- (4) In this section—
- “body corporate” includes a body incorporated outside the United Kingdom, but does not include—
    - (a) a corporation sole, or



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(b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;

“partnership” means—

- (a) a partnership within the meaning of the Partnership Act 1890;
- (b) a limited partnership registered under the Limited Partnerships Act 1907;
- (c) a firm or other entity of a similar character to one within paragraph (a) or (b) formed under the law of a country or territory outside the United Kingdom;

“senior manager”, in relation to a body corporate or partnership, means an individual who plays a significant role in—

- (a) the making of decisions about how the whole or a substantial part of the activities of the body corporate or (as the case may be) partnership are to be managed or organised, or
- (b) the actual managing or organising of the whole or a substantial part of those activities.

#### Commencement Information

**I25** S. 196 in force at 26.12.2023, see s. 219(3)(a)

### 197 Power to amend list of economic crimes

- (1) The Secretary of State may by regulations amend Schedule 12 by—
  - (a) removing an offence from the list in the Schedule, or
  - (b) adding an offence to that list.
- (2) The power in subsection (1) is exercisable by the Scottish Ministers (and not by the Secretary of State) so far as it may be used to make provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (3) The power in subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision that—
  - (a) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly, and
  - (b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.
- (4) The Secretary of State may from time to time by regulations restate Schedule 12 as amended by virtue of subsections (1) to (3) (without changing the effect of the Schedule).

#### Commencement Information

**I26** S. 197 in force at 26.12.2023, see s. 219(3)(b)

*Status: Point in time view as at 04/03/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

## 198 Offences under section 196 committed by partnerships

- (1) Proceedings for an offence alleged to have been committed by a partnership by virtue of section 196 must be brought in the name of the partnership (and not in that of any of the partners).
- (2) For the purposes of such proceedings—
  - (a) rules of court relating to the service of documents have effect as if the partnership were a body corporate, and
  - (b) the following provisions apply as they apply in relation to a body corporate—
    - (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates’ Courts Act 1980;
    - (ii) section 18 of the [Criminal Justice Act \(Northern Ireland\) 1945 \(c. 15 \(N.I.\)\)](#) and Schedule 4 to the Magistrates’ Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#));
    - (iii) sections 34(2), 66(6AA) and 72D(2) of the Criminal Procedure (Scotland) Act 1995.
- (3) A fine imposed on the partnership on its conviction for an offence committed by virtue of section 196 is to be paid out of the partnership assets.
- (4) In this section “partnership” has the same meaning as in section 196.

### Commencement Information

**I27** [S. 198](#) in force at 26.12.2023, see [s. 219\(3\)\(c\)](#)

## *Failure to prevent fraud*

## 199 Failure to prevent fraud

- (1) A relevant body which is a large organisation (see sections 201 and 202) is guilty of an offence if, in a financial year of the body (“the year of the fraud offence”), a person who is associated with the body (“the associate”) commits a fraud offence intending to benefit (whether directly or indirectly)—
  - (a) the relevant body, or
  - (b) any person to whom, or to whose subsidiary undertaking, the associate provides services on behalf of the relevant body.
- (2) A relevant body is also guilty of an offence under subsection (1) if—
  - (a) an employee of the relevant body commits a fraud offence intending to benefit (whether directly or indirectly) the relevant body,
  - (b) the fraud offence is committed in a financial year of a parent undertaking of which the relevant body is a subsidiary undertaking (“the year of the fraud offence”), and
  - (c) the parent undertaking is a relevant body which is a large organisation.
- (3) But the relevant body is not guilty of an offence under subsection (1)(b) if the body itself was, or was intended to be, a victim of the fraud offence.
- (4) It is a defence for the relevant body to prove that, at the time the fraud offence was committed—

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- (a) the body had in place such prevention procedures as it was reasonable in all the circumstances to expect the body to have in place, or
  - (b) it was not reasonable in all the circumstances to expect the body to have any prevention procedures in place.
- (5) In subsection (4) “prevention procedures” means procedures designed to prevent persons associated with the body from committing fraud offences.
- (6) A “fraud offence” is an act which constitutes—
  - (a) an offence listed in Schedule 13 (a “listed offence”), or
  - (b) aiding, abetting, counselling or procuring the commission of a listed offence.
- (7) For the purposes of this section a person is associated with a relevant body if—
  - (a) the person is an employee, agent or subsidiary undertaking of the relevant body, or
  - (b) the person otherwise performs services for or on behalf of the body.
- (8) For the purposes of this section a person is also associated with a relevant body if the person is an employee of a subsidiary undertaking of the relevant body; but for the purpose of determining whether an offence is committed by virtue of this subsection, subsection (1) has effect with the omission of paragraph (b) (and the “or” preceding it).
- (9) Whether or not a particular person performs services for or on behalf of a relevant body is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between that person and the body.
- (10) Where a relevant body is liable to be proceeded against for an offence under subsection (1) in a particular part of the United Kingdom, proceedings against the body for the offence may be taken in any place in the United Kingdom.
- (11) Where by virtue of subsection (10) proceedings against a relevant body for an offence are to be taken in Scotland—
  - (a) the body may be prosecuted, tried and punished in a sheriff court district determined by the Lord Advocate, as if the offence had been committed in that district, and
  - (b) the offence is, for all purposes incidental to or consequential on the trial or punishment, deemed to have been committed in that district.
- (12) A relevant body guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction in England and Wales, to a fine;
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (13) In this section—
  - “relevant body” means a body corporate or a partnership (wherever incorporated or formed);
  - “sheriff court district” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act).
- (14) In this section “financial year”—
  - (a) in relation to a UK company, has the meaning given by the Companies Act 2006 (see section 390 of that Act);
  - (b) in relation to a relevant body that is not a UK company means—

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- (i) any period in respect of which a profit and loss account of the relevant body is required to be made up (by its constitution or by the law under which it is established), whether that period is a year or not, or
- (ii) if the body is not required by its constitution or the law under which it is established to draw up a profit and loss account, a calendar year.

#### Commencement Information

**I28** S. 199 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

## 200 Fraud offences: supplementary

- (1) The Secretary of State may by regulations amend Schedule 13 by—
  - (a) removing an offence from the list in the Schedule, or
  - (b) adding an offence to that list.
- (2) The power in subsection (1) is exercisable by the Scottish Ministers (and not by the Secretary of State) so far as it may be used to make provision that would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (3) The power in subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision that—
  - (a) would be within the legislative competence of the Northern Ireland Assembly if contained in an Act of that Assembly, and
  - (b) would not, if contained in a Bill for an Act of the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State.
- (4) An offence added under subsection (1)(b) must be—
  - (a) an offence of dishonesty,
  - (b) an offence that is otherwise of a similar character to those listed (on the passing of this Act) in paragraphs 1 to 6 of Schedule 13, or
  - (c) a relevant money laundering offence.
- (5) The Secretary of State may from time to time by regulations restate Schedule 13 as amended by virtue of subsections (1) to (3) (without changing the effect of the Schedule).
- (6) For the purposes of section 199(1), where a fraud offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, and that period of days straddles the beginning of a financial year of the relevant body in question, the fraud offence must be taken to have been committed on the last of those days.
- (7) In this section “relevant money laundering offence” means an offence under any of the following sections of the Proceeds of Crime Act 2002—
  - (a) section 327 (concealing etc);
  - (b) section 328 (arrangements);
  - (c) section 329 (acquisition, use and possession).

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*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

### Commencement Information

**I29** S. 200 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

## 201 Section 199: large organisations

(1) For the purposes of section 199(1) and (2) a relevant body is a “large organisation” only if the body satisfied two or more of the following conditions in the financial year of the body (“year P”) that precedes the year of the fraud offence—

Turnover	More than £36 million
Balance sheet total	More than £18 million
Number of employees	More than 250.

(2) The reference in subsection (1) to a relevant body does not include a relevant body which is a parent undertaking (as to which see section 202).

(3) For a period that is a relevant body’s financial year but not in fact a year, the figure for turnover must be proportionately adjusted.

(4) In subsection (1) the “number of employees” means the average number of persons employed by the relevant body in year P, determined as follows—

- (a) find for each month in year P the number of persons employed under contracts of service by the relevant body in that month (whether throughout the month or not),
- (b) add together the monthly totals, and
- (c) divide by the number of months in year P.

(5) In this section—

“balance sheet total”, in relation to a relevant body and a financial year—

- (a) means the aggregate of the amounts shown as assets in its balance sheet at the end of the financial year, or
- (b) where the body has no balance sheet for the financial year, has a corresponding meaning;

“turnover”—

- (a) in relation to a UK company, has the same meaning as in Part 15 of the Companies Act 2006 (see section 474 of that Act);
- (b) in relation to any other relevant body, has a corresponding meaning;

“year of the fraud offence” is to be interpreted in accordance with section 199(1).

(6) The Secretary of State may by regulations modify this section (other than this subsection and subsections (7) and (9)) and section 202 for the purpose of altering the meaning of “large organisation” in section 199(1) and (2).

(7) The Secretary of State may (whether or not the power in subsection (6) has been exercised) by regulations—

- (a) omit the words “which is a large organisation” in section 199(1) and (2)(c), and

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- (b) make any modifications of this section (other than this subsection) that the Secretary of State thinks appropriate in consequence of provision made under paragraph (a).
- (8) Before making regulations under subsection (6) or (7) the Secretary of State must consult—
- (a) the Scottish Ministers, and
- (b) the Department of Justice in Northern Ireland.
- (9) Regulations under subsection (6) or (7) may make consequential amendments of section 205.

#### Commencement Information

**I30** S. 201 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

## 202 Large organisations: parent undertakings

- (1) For the purposes of section 199(1) and (2) a relevant body which is a parent undertaking is a “large organisation” only if the group headed by it satisfied two or more of the following conditions in the financial year of the body that precedes the year of the fraud offence—

Aggregate turnover	More than £36 million net (or £43.2 million gross)
Aggregate balance sheet total	More than £18 million net (or £21.6 million gross)
Aggregate number of employees	More than 250.

- (2) The aggregate figures are ascertained by aggregating the relevant figures determined in accordance with section 201 for each member of the group.
- (3) In relation to the aggregate figures for turnover and balance sheet total, “net” and “gross”—
- (a) except where paragraph (b) applies, have the meaning given by subsection (6) of section 466 of the Companies Act 2006;
- (b) in the case of accounts that are not of a kind specified in the definition of “net” in that subsection, have a corresponding meaning.
- (4) In this section—
- “balance sheet total” (in relation to a relevant body and a financial year) has the same meaning as in section 201;
- “group” means a parent undertaking and its subsidiary undertakings;
- “turnover” (in relation to a UK company or other relevant body) has the same meaning as in section 201;
- “year of the fraud offence” is to be interpreted in accordance with section 199(1) or (2) (as the case requires).
- (5) In this section “balance sheet total” and “turnover”, in relation to a subsidiary undertaking which is not a relevant body, have a meaning corresponding to the meaning given by subsection (4).

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*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

#### Commencement Information

**I31** S. 202 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

### 203 Offences under section 199 committed by partnerships

- (1) Proceedings for an offence under section 199 alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).
- (2) For the purposes of such proceedings—
  - (a) rules of court relating to the service of documents have effect as if the partnership were a body corporate, and
  - (b) the following provisions apply as they apply in relation to a body corporate—
    - (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;
    - (ii) section 18 of the [Criminal Justice Act \(Northern Ireland\) 1945 \(c. 15 \(N.I.\)\)](#) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#));
    - (iii) sections 34(2), 66(6AA) and 72D(2) of the Criminal Procedure (Scotland) Act 1995.
- (3) A fine imposed on the partnership on its conviction for an offence under section 199 is to be paid out of the partnership assets.

#### Commencement Information

**I32** S. 203 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

### 204 Guidance about preventing fraud offences

- (1) The Secretary of State must issue guidance about procedures that relevant bodies can put in place to prevent persons associated with them from committing fraud offences as mentioned in section 199(1).
- (2) The Secretary of State may from time to time revise the whole or any part of the guidance issued under this section.
- (3) The Secretary of State must publish—
  - (a) any guidance issued under this section;
  - (b) any revision of that guidance.
- (4) Before issuing or revising guidance under this section the Secretary of State must consult—
  - (a) the Scottish Ministers, and
  - (b) the Department of Justice in Northern Ireland.
- (5) The requirement to consult those persons may be satisfied by consultation carried out before this section comes into force.



*Status: Point in time view as at 04/03/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

#### Commencement Information

**I33** S. 204 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

### 205 Failure to prevent fraud: minor definitions

- (1) This section applies for the purposes of sections 199 to 204.
- (2) References to a person “associated with” a relevant body are to be interpreted in accordance with section 199(7).
- (3) “Financial year” has the meaning given by section 199(14).
- (4) “Fraud offence” has the meaning given by section 199(6).
- (5) “Modify” includes amend or repeal (and references to modifications are to be interpreted accordingly).
- (6) “Parent undertaking” has the same meaning as in the Companies Acts (see section 1162 of the Companies Act 2006).
- (7) “Partnership” means—
  - (a) a partnership within the meaning of the Partnership Act 1890;
  - (b) a limited partnership registered under the Limited Partnerships Act 1907;
  - (c) a firm or other entity of a similar character to one within paragraph (a) or (b) formed under the law of a country or territory outside the United Kingdom.
- (8) “Relevant body” has the meaning given by section 199(13).
- (9) “Subsidiary undertaking” has the same meaning as in the Companies Acts (see section 1162 of the Companies Act 2006).
- (10) “UK company” means a company formed and registered under the Companies Act 2006.

#### Commencement Information

**I34** S. 205 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

### 206 Failure to prevent fraud: miscellaneous

- (1) In section 61(1) of the Serious Organised Crime and Police Act 2005 (offences to which certain investigatory powers apply), at the end insert—
  - “(k) an offence under section 199 of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”
- (2) In Schedule 1 to the Serious Crime Act 2007 (offences which are serious offences for purposes of serious crime prevention orders)—
  - (a) in Part 1 (serious offences in England and Wales), in paragraph 7, after subparagraph (2) insert—

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- “(2A) An offence under section 199 of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”;
- (b) in Part 1A (serious offences in Scotland), in paragraph 16J, after subparagraph (1) insert—
- “(1A) An offence under section 199 of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”;
- (c) in Part 2 (serious offences in Northern Ireland), in paragraph 23, after subparagraph (2) insert—
- “(2A) An offence under section 199 of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”
- (3) In Part 2 of Schedule 17 to the Crime and Courts Act 2013 (offences in relation to which a deferred prosecution agreement may be entered into), after paragraph 27A insert—
- “27B An offence under section 199 of the Economic Crime and Corporate Transparency Act 2023 (failure to prevent fraud offences).”

#### **Commencement Information**

**I35** S. 206 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

### *Regulatory and investigatory powers*

#### **207 Law Society: powers to fine in cases relating to economic crime**

- (1) In section 44D of the Solicitors Act 1974 (disciplinary powers of Law Society), after subsection (2) insert—
- “(2A) In a case where this subsection applies, subsection (2)(b) has effect as if the words after “penalty” (which set a limit on the amount of the penalty a person may be directed to pay) were omitted.
- (2B) Subsection (2A) applies where the Society takes action against a person under subsection (2)(b)—
- (a) for failure to comply with a requirement or rule referred to in subsection (1)(a), where—
- (i) the requirement or rule applies only for purposes relating to the prevention or detection of economic crime, or
- (ii) the failure consisted of an act or omission which had the effect of inhibiting the prevention or detection of economic crime, or
- (b) for professional misconduct as referred to in subsection (1)(b), where the misconduct consisted of an act or omission which had the effect of inhibiting the prevention or detection of economic crime.

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- (2C) In subsection (2B) “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.”
- (2) In paragraph 14B of Schedule 2 to the Administration of Justice Act 1985 (disciplinary powers of Law Society), after sub-paragraph (2) insert—
- “(2A) In a case where this sub-paragraph applies, sub-paragraph (2)(b) has effect as if the words after “penalty” (which set a limit on the amount of the penalty a person may be directed to pay) were omitted.
- (2B) Sub-paragraph (2A) applies where the Society takes action against a person under sub-paragraph (2)(b) for failure to comply with a requirement or rule referred to in sub-paragraph (1) where—
- (a) the requirement or rule applies only for purposes relating to the prevention or detection of economic crime, or
  - (b) the failure consisted of an act or omission which had the effect of inhibiting the prevention or detection of economic crime.
- (2C) In sub-paragraph (2B) “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.”
- (3) The amendments made by this section do not apply in relation to any act or omission occurring before the day on which this section comes into force.

#### Commencement Information

**I36** S. 207 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I37** [S. 207](#) in force at 4.3.2024 in so far as not already in force by [S.I. 2024/269](#), [reg. 2\(z61\)](#)

## 208 Scottish Solicitors’ Discipline Tribunal: powers to fine in cases relating to economic crime

- (1) Section 53 of the Solicitors (Scotland) Act 1980 (powers of tribunal) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b)—
    - (i) after “dishonesty” insert “(other than a conviction for an economic crime offence)”;
      - (ii) after “or has” insert “(other than in relation to a conviction for an economic crime offence)”;
        - (b) after paragraph (b) insert—
 

“(ba) a solicitor has (whether before or after enrolment as a solicitor) been convicted by any court of an economic crime offence, or”;
        - (c) in paragraph (c), after “offence” insert “(other than a conviction for an economic crime offence)”;
          - (d) after paragraph (c) insert—
 

“(ca) an incorporated practice has been convicted by any court of an economic crime offence, which conviction the Tribunal

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is satisfied renders it unsuitable to continue to be recognised under section 34(1A), or”.

- (3) In subsection (2), after paragraph (c), insert—
- “(ca) where the Tribunal is proceeding on the ground in subsection (1)(ba) or (1)(ca), or where subsection (2A) or (2B) applies, impose on the solicitor or, as the case may be, the incorporated practice, a fine of any amount.”
- (4) After subsection (2) insert—
- “(2A) This subsection applies where the Tribunal is proceeding on the ground referred to in subsection (1)(a) and —
    - (a) the solicitor has, in relation to the subject matter of the Tribunal’s inquiry, been convicted by any court of an economic crime offence, or
    - (b) the misconduct referred to in subsection (1)(a) consisted of an act or omission which had the effect of inhibiting the prevention or detection of an economic crime offence.
  - (2B) This subsection applies where the Tribunal is proceeding on the ground referred to in subsection (1)(d) and the incorporated practice has —
    - (a) in relation to the subject matter of the Tribunal’s inquiry, been convicted by any court of an economic crime offence, or
    - (b) failed to comply with a provision or rule as referred to in subsection (1)(d) and—
      - (i) the failure consisted of an act or omission which had the effect of inhibiting the prevention or detection of an economic crime offence, or
      - (ii) the provision or rule applies only for purposes relating to the prevention or detection of an economic crime offence.”
- (5) In subsection (3ZA)—
- (a) in paragraph (a), after “dishonesty” insert “(not being an economic crime offence)”;
  - (b) in paragraph (b), at the end insert “, (1)(ba) or (1)(ca)”;
  - (c) after paragraph (b), insert—
    - “(c) where subsection (2A) or (3A) applies.”
- (6) In subsection (3A)—
- (a) in paragraph (a), for “(1)(a) or (b)” substitute “(1)(a), (b) or (ba)”;
  - (b) in paragraph (b), for “(1)(c) or (d)” substitute “(1)(c), (ca) or (d)”.
- (7) After subsection (9) insert—
- “(9A) In this section, an economic crime offence means an economic crime within the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.”
- (8) The amendments made by this section do not apply in relation to any act or omission occurring before the day on which this section comes into force.

*Status: Point in time view as at 04/03/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5. (See end of Document for details)*

#### Commencement Information

**I38** S. 208 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I39** [S. 208](#) in force at 4.3.2024 in so far as not already in force by [S.I. 2024/269](#), [reg. 2\(z62\)](#)

### 209 Regulators of legal services: objective relating to economic crime

- (1) Section 1 of the Legal Services Act 2007 (regulatory objectives) is amended as follows.
  - (2) In subsection (1), after paragraph (h) insert—
    - “(i) promoting the prevention and detection of economic crime.”
  - (3) After subsection (4) insert—
    - “(5) In subsection (1)(i) “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023”.

#### Commencement Information

**I40** S. 209 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I41** [S. 209](#) in force at 4.3.2024 in so far as not already in force by [S.I. 2024/269](#), [reg. 2\(z63\)](#)

### 210 Approved regulators: information powers relating to economic crime

- (1) The Legal Services Act 2007 is amended as follows.
- (2) After section 111 insert—

#### “PART 5A

##### APPROVED REGULATORS: INFORMATION POWERS

##### *The Law Society’s information powers relating to economic crime*

#### 111A The Law Society’s information powers relating to economic crime

- (1) The Law Society may, by notice, require a person falling within subsection (3) to—
  - (a) provide information, or information of a description, specified in the notice;
  - (b) produce documents, or documents of a description, specified in the notice.
- (2) The Law Society may only exercise the power in subsection (1) in relation to information or documents which the Law Society considers it necessary or expedient to have for the purposes of, or in connection with, the performance of its regulatory functions for purposes relating to the prevention or detection of economic crime.

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- (3) The persons are—
- (a) a solicitor;
  - (b) an employee of a solicitor;
  - (c) a body recognised under section 9 of the Administration of Justice Act 1985;
  - (d) an employee or manager of, or person with an interest in, such a body;
  - (e) a licensed body;
  - (f) a manager or employee of a licensed body;
  - (g) a non-authorised person who has an interest or an indirect interest, or holds a material interest (within the meaning of Part 5 of this Act), in a licensed body;
  - (h) a person who was, but is no longer, of a description mentioned within any of paragraphs (a) to (g).
- (4) A notice under subsection (1)—
- (a) may specify the manner and form in which the information is to be provided or document produced;
  - (b) must specify the period within which the information is to be provided or document produced;
  - (c) may require the information to be provided, or document to be produced, to the Law Society or to a person specified in the notice.
- (5) The Law Society may pay to any person such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to a notice under subsection (1).
- (6) The Law Society, or a person specified under subsection (4)(c) in a notice, may take copies of or extracts from a document produced pursuant to a notice under subsection (1).
- (7) In this section “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.

### **111B Enforcement of information powers relating to economic crime**

- (1) If a person refuses or otherwise fails to comply with a notice under section 111A(1), the Law Society may apply to the High Court for an order requiring the person to comply with the notice or with such directions for the like purpose as may be contained in the order.
- (2) On an application under subsection (1), the High Court may order a person other than the person to whom the notice was given to provide information or produce documents specified in the notice, if the High Court is satisfied that there is reason to suspect that the information or documents have come into the possession or custody or under the control of that other person.
- (3) Section 111A(4) applies in relation to an order under subsection (2) as it applies in relation to a notice under section 111A(1).
- (4) An order under this section may direct the Law Society to pay such reasonable costs as may be incurred by a person in connection with the provision of any

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information, or production of any document, by that person pursuant to the order.

- (5) A person may take copies of or extracts from a document produced to them pursuant to an order under this section.

### **111C Provision of information relating to economic crime by other persons**

- (1) The Law Society may apply to the High Court for an order requiring a person who does not fall within section 111A(3) to—
- (a) provide information, or information of a description, specified in the order, or
  - (b) produce documents, or documents of a description, specified in the order.
- (2) The High Court may make an order under this section only if it is satisfied—
- (a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and
  - (b) that it is necessary or expedient for the Law Society to have the information or document for the purposes of, or in connection with, the performance of its regulatory functions for purposes relating to the prevention or detection of economic crime.
- (3) Section 111A(4) applies in relation to an order under this section as it applies in relation to a notice under section 111A(1).
- (4) An order under this section may direct the Law Society to pay such reasonable costs as may be incurred by a person in connection with the provision of any information, or production of any document, by that person pursuant to the order.
- (5) A person may take copies of or extracts from a document produced to them pursuant to an order under this section.
- (6) In this section “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.

*Other approved regulators: information powers relating to economic crime*

### **111D Order to confer information powers on other approved regulators**

- (1) The Lord Chancellor may by order amend this Part so as to—
- (a) provide for sections 111A to 111C to apply in relation to an approved regulator other than the Law Society as they apply in relation to the Law Society, and
  - (b) specify the persons to whom notices under section 111A(1) may be given by that approved regulator.
- (2) The Lord Chancellor may make an order under this section in relation to an approved regulator only if—
- (a) the Board has made a recommendation in accordance with section 111E in relation to that approved regulator, and



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- (b) the persons specified in the order to whom notices under section 111A(1) may be given by that approved regulator are the same as those persons specified in the recommendation.

### **111E The Board’s power to recommend orders under section 111D**

- (1) The Board may recommend to the Lord Chancellor that the Lord Chancellor make an order under section 111D in relation to an approved regulator.
  - (2) A recommendation must specify the persons to whom the approved regulator should be able to give notices under section 111A(1).
  - (3) A recommendation may only be made with the consent of the approved regulator.
  - (4) Before making a recommendation under this section, the Board must publish a draft of the proposed recommendation.
  - (5) The draft must be accompanied by a notice which states that representations about the proposed recommendation may be made to the Board within a specified period.
  - (6) Before making the recommendation, the Board must have regard to any representations duly made.”
- (3) In section 206 (parliamentary control of orders and regulations), in subsection (4), after paragraph (n) insert—
- “(na) section 111D (order to confer information powers on other approved regulators);”.

#### **Commencement Information**

**I42** S. 210 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I43** S. 210 in force at 4.3.2024 in so far as not already in force by [S.I. 2024/269, reg. 2\(z64\)](#)

## **211 Serious Fraud Office: pre-investigation powers**

- (1) In section 2A of the Criminal Justice Act 1987 (Director’s pre-investigation powers in relation to bribery and corruption: foreign officers etc), omit the following—
  - (a) in the heading, the words from “in relation to” to the end;
  - (b) in subsection (1), the words from “in a case” to the end;
  - (c) subsection (5).
- (2) In Schedule 1 to the Bribery Act 2010 (consequential amendments), omit paragraph 2 and the preceding italic heading.

#### **Commencement Information**

**I44** S. 211 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I45** S. 211 in force at 15.1.2024 in so far as not already in force by [S.I. 2023/1206, reg. 3\(i\)](#)

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### *Reports on payments to governments*

## **212 Reports on payments to governments regulations: false statement offences etc**

For regulation 16 of the Reports on Payments to Governments Regulations 2014 (S.I. 2014/3209) substitute—

### **“16 False statements: basic 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 these Regulations, a document that is misleading, false or deceptive in a material particular, or
  - (b) make to the registrar, for the purposes of these Regulations, a statement that is misleading, false or deceptive in a material particular.
- (2) Where the offence is committed by a firm, every officer of the firm who is in default also commits the offence.
- (3) In paragraph (2) “firm” has the meaning given by section 1173(1) of the Act.
- (4) Sections 1121 to 1123 of the Act (liability of officers default: interpretation etc) apply for the purposes of paragraph (2) as they apply for the purposes of provisions of the Companies Acts.
- (5) A person guilty of an offence under this regulation 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.
- (6) No proceedings are to be brought for an offence under this regulation—
  - (a) in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

### **16BA False statements: aggravated offence**

- (1) It is an offence for a person knowingly to—
  - (a) deliver or cause to be delivered to the registrar, for the purposes of these Regulations, a document that is misleading, false or deceptive in a material particular, or
  - (b) make to the registrar, for the purposes of these Regulations, a statement that is misleading, false or deceptive in a material particular.
- (2) Where the offence is committed by a firm, every officer of the firm who is in default also commits the offence.
- (3) In paragraph (2) “firm” has the meaning given by section 1173(1) of the Act.

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- (4) Sections 1121 to 1123 of the Act (liability of officers default: interpretation etc) apply for the purposes of paragraph (2) as they apply for the purposes of provisions of the Companies Acts.
- (5) A person guilty of an offence under this regulation is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
    - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).
- (6) No proceedings are to be brought for an offence under this regulation—
- (a) in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.”

**Commencement Information**

**I46** S. 212 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I47** [S. 212](#) in force at 4.3.2024 in so far as not already in force by [S.I. 2024/269](#), [reg. 2\(z65\)](#)

*Reports on implementation*

**213 Reports on the implementation and operation of Parts 1 to 3**

- (1) The Secretary of State must—
- (a) prepare reports on the implementation and operation of Parts 1 to 3, and
  - (b) lay a copy of each report before Parliament.
- (2) The first report must be laid within the period of 6 months beginning with the day on which this Act is passed.
- (3) Each subsequent report must be laid within the period of 12 months beginning with the day on which the previous report was laid.
- (4) But the duty to prepare and lay reports under subsection (1) ceases with the laying of the first report on or after 1 January 2030.

**Commencement Information**

**I48** [S. 213](#) in force at 26.12.2023, see [s. 219\(3\)\(d\)](#)

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*Sanctions enforcement: monetary penalties*

**214 Sanctions enforcement: monetary penalties**

- (1) In section 143 of the Policing and Crime Act 2017 (interpretation), in subsection (4) (meaning of “financial sanctions legislation”), in paragraph (f)—
- (a) the words from “contains” to the end become sub-paragraph (i);
  - (b) at the end of that sub-paragraph insert—

“;

- (ii) makes supplemental provision (within the meaning of section 1(6) of that Act) in connection with any prohibition or requirement mentioned in sub-paragraph (i).”

- (2) The Sanctions and Anti-Money Laundering Act 2018 is amended as follows.
- (3) In section 17 (enforcement), in subsection (9), in paragraph (a), after “(2)” insert “or makes supplemental provision in connection with any such prohibition or requirement”.
- (4) After section 17 insert—

**“17A Enforcement: monetary penalties**

- (1) The provision that may be made by virtue of section 17(2) (enforcement of prohibitions or requirements) includes provision authorising a prescribed person to impose a monetary penalty on another person if satisfied, to the prescribed standard of proof, that the other person has breached a prohibition, or failed to comply with a requirement, that is imposed by or under regulations.
- (2) Regulations authorising the Treasury to impose a monetary penalty in respect of a breach or failure for which the Treasury could impose a monetary penalty under Part 8 of the Policing and Crime Act 2017 may not be made unless the regulations also make provision of the kind mentioned in section 17(9) to disapply Part 8 of that Act in respect of that breach or failure.
- (3) Regulations authorising the imposition of a monetary penalty may make provision that, in determining for the purposes of the regulations whether a person has breached a prohibition, or failed to comply with a requirement, any requirement relating to the person’s knowledge or intention is to be ignored.
- (4) Regulations authorising the imposition of a monetary penalty must provide that—
  - (a) a person is not liable to such a penalty in respect of conduct amounting to an offence if—
    - (i) proceedings have been brought against the person for that offence in respect of that conduct and the proceedings are ongoing, or
    - (ii) the person has been convicted of that offence in respect of that conduct, and

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- (b) no proceedings may be brought against a person in respect of conduct amounting to an offence if the person has been given such a penalty under the regulations in respect of that conduct.
- (5) Where regulations authorising the imposition of a monetary penalty authorise a prescribed person to determine the amount of the penalty, the regulations must provide for a maximum penalty.
- (6) The maximum penalty may be a prescribed sum of any amount or may be calculated in accordance with the regulations.
- (7) In this section—  
“conduct” means an act or omission;  
“regulations” mean regulations under section 1.”

#### Commencement Information

**I49** S. 214 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I50** S. 214 in force at 15.11.2023 in so far as not already in force by [S.I. 2023/1206, reg. 2](#)

### *Report on costs orders for proceedings for civil recovery*

#### **215 Report on costs orders for proceedings for civil recovery**

- (1) The Secretary of State must assess whether it would be appropriate to restrict the court’s power to order that the costs of proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 are payable by an enforcement authority and, if so, how.
- (2) In carrying out the assessment, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (3) The Secretary of State must publish and lay before Parliament a report on the outcome of the assessment by the end of the period of 12 months beginning with the day on which this Act is passed.
- (4) In this section “the court” means the High Court in England and Wales.

#### Commencement Information

**I51** S. 215 in force at Royal Assent for specified purposes, see [s. 219\(1\)\(2\)\(b\)](#)

**I52** S. 215 in force at 4.3.2024 in so far as not already in force by [S.I. 2024/269, reg. 2\(z66\)](#)

**Status:**

Point in time view as at 04/03/2024.

**Changes to legislation:**

There are currently no known outstanding effects for the Economic Crime and Corporate Transparency Act 2023, PART 5.