PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ECONOMIC CRIME AND CORPORATE TRANSPARENCY BILL

Nineteenth Sitting

Tuesday 29 November 2022

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not later than

Saturday 3 December 2022

The Committee consisted of the following Members:

Chairs: † Mr Laurence Robertson, Hannah Bardell, Julie Elliott, Sir Christopher Chope

† Anderson, Lee *(Ashfield)* (Con)
† Ansell, Caroline *(Eastbourne)* (Con)
Byrne, Liam *(Birmingham, Hodge Hill)* (Lab)
† Crosbie, Virginia *(Ynys Môn)* (Con)
† Daly, James *(Bury North)* (Con)
† Hodge, Dame Margaret *(Barking)* (Lab)
† Hollinrake, Kevin *(Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)*
Hughes, Eddie *(Walsall North)* (Con)
† Hunt, Jane *(Loughborough)* (Con)
† Kinnock, Stephen *(Aberavon)* (Lab)
† Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Mann, Scott *(Lord Commissioner of His Majesty's Treasury)*
† Morden, Jessica *(Newport East)* (Lab)
† Newlands, Gavin *(Paisley and Renfrewshire North)* (SNP)
† Stevenson, Jane *(Wolverhampton North East)* (Con)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Tugendhat, Tom *(Minister for Security)*

Kevin Maddison, Anne-Marie Griffiths, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Tuesday 29 November 2022

[Mr Lawrence Robertson *in the Chair*]

Economic Crime and Corporate Transparency Bill

New Clause 69

Prevention of continued trading for companies repeatedly declared insolvent

"(1) A company may not be registered under the Companies Act 2006 if, in the opinion of the registrar of companies, it is substantially similar to a company which has been subject to winding up procedures under the Insolvency Act 1986 on more than three occasions in the preceding ten years.

(2) For the purposes of subsection (1), 'substantially similar' can include, but may not be limited to, a company having the same or similar—

(a) name;

(b) registered office;

(c) proposed officers; or

(d) principal business activities

as another company."—*(Gavin Newlands.)*

This new clause seeks to prevent companies from repeatedly becoming insolvent and then continuing to carry on the same business activities through a new company (the practice of "phoenixing").

Brought up, and read the First time.

9.25 am

Gavin Newlands (Paisley and Renfrewshire North) (SNP): I beg to move, That the clause be read a Second time.

It is a pleasure to serve under your chairmanship, Mr Robertson, and it is fantastic to rise to do something more worthy in Committee than pour water for my hon. Friend the Member for Glasgow Central.

I accept completely that, as has been said many times, the Bill is excellent and we just need to tighten it up, and that it contains provisions, including on unique identifiers, that will help to block some of the more obvious means of carrying out the practice of phoenixing, which has been discussed both when we took oral evidence and throughout line-by-line scrutiny. However, it is my view, and that of many others, that we are missing a golden opportunity to fully address phoenixing with the Bill and to tighten up all parts of the regulations relating to Companies House.

The genesis behind new clauses 69 and 70 is a specific directorate and company the businesses of which have unfortunately harmed my constituents and many others across Scotland and throughout the UK. New clause 69 would stop those who burn through multiple limited companies leaving a train of destruction in their wake, with little or no recourse for the authorities. It would not prevent those who have no nefarious or ill intent but find that their company is unsuccessful, even on more than one occasion. It would not apply automatically to any individual who hits the three winding-ups limit; it would only allow the registrar to act if there were grounds to do so.

Around 10 years, a company called HELMS—Home Energy and Lifestyle Management Systems—controlled and operated by a man named Robert Skillen, went door to door in my constituency offering solar panels and home insulation as part of the now-scrapped UK Government green deal scheme. You will be pleased to know, Mr Robertson, that I do not intend to go over the whole story; suffice it to say that hundreds of my constituents and thousands of people across Scotland are still paying the price to the tune of thousands of pounds each.

Skillen was able to wind up HELMS, move on to his latest venture with millions in his back pocket and face no consequences for his personal actions. He is an individual—there will be thousands like him—with a long track record of extracting maximum value from his scams via limited companies and then setting up shop for a new crack at it, having defrauded thousands of people. He even had the cheek to set up a company to assist those who had been defrauded by his previous company to receive compensation from which he would receive a cut. That type of individual is currently beyond the reach of the law; hopefully, provisions such as the new clause would assist with that.

Mr Skillen was fined £200,000 by the Information Commissioner's Office and £10,500 by the Department of Energy and Climate Change, as it was at the time, but the fact is that of that £200,000 he paid only £10,000 before winding the company up. That led the ICO to lobby the Government to enable it to fine individuals such as Robert Skillen up to £500,000.

In respect of cases such as those of Mr Skillen and many others who make sharp practice look easy and do so without any care or remorse, the new clause would act as a deterrent to the manipulation of company registration for personal gain and enrichment and prevent those who have used multiple company identities for malfeasance or sinister purposes from continuing that pattern of behaviour ad nauseum. I stress that the point of the new clause is not to prevent those who have had genuinely unsuccessful businesses from starting afresh. The registrar should be able to separate those cases from those of people with evil intent.

Companies House already has the power to disqualify directors and the new clause would simply allow it to consider slightly wider grounds on which such a disqualification could rest. It would help to put an end to the cases that every Committee member will have encountered in their constituencies of companies taking payment for goods and services, shutting up shop with the cash pocketed and then popping up again under a different name but carrying out exactly the same work. The purpose of the new clause is to tease out from the Minister the Government's approach to phoenixing. With that, I rest.

Seema Malhotra (Feltham and Heston) (Lab/Co-op): It is a pleasure to serve under your chairship, Mr Robertson, and to follow the hon. Member for Paisley and Renfrewshire North, who made a very important speech. New clause 69 would introduce new provisions to prevent the continued

trading of companies repeatedly declared insolvent and the practice of phoenixing, which the hon. Member outlined. It states:

"A company may not be registered under the Companies Act 2006 if, in the opinion of the registrar of companies, it is substantially similar to a company which has been subject to winding up procedures under the Insolvency Act 1986 on more than three occasions in the preceding ten years."

A company may be "substantially similar" to previous companies in terms of its name, registered office, proposed officers and so on. This would mean that there is more scrutiny, and questions are raised about whether a company should be able to continue trading.

It is very important, for the reasons we have outlined in Committee, to seek to protect the public and other businesses from unscrupulous operators effectively carrying on their business activity and going through the same cycle of building up debts, which leads to consumer issues, and simply disappearing and starting again. We must deal with that behaviour, which is a route through which economic crime takes place, and that is why we support the new clause. We will listen closely to the Minister's response on how the Government propose to tackle the issue of phoenixing.

I note the similarity between the intentions of this new clause and new clauses 28 and 46, tabled by my hon. Friend the Member for Aberavon and I, which we have discussed. In different ways, all those new clauses would tighten up glaring loopholes around strike-off, insolvency and phoenixing that enable those who are participating in economic crime to avoid scrutiny. We welcome the new clause, and we look forward to the Minister's response.

The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Kevin Hollinrake): It is a pleasure to serve with you in the Chair, Mr Robertson. I appreciate the spirit of the amendment, and I also appreciate the hon. Member for Paisley and Renfrewshire North describing this as an excellent Bill—a very constructive point—but one that needs tightening up; I understand his points and applaud the efforts made by him and other Opposition Members to do so.

I am fully aware of the devastating consequences that such issues have on businesses, suppliers, supply chains and our constituents. I have a case of a gentleman called Scott Robinson who repeatedly closed his investment business down. It was called TBO Investments at one point and then became Mount Sterling Wealth. He effectively took his clients with him, and people lost huge amounts of money. They had provided money for him to invest based on supposedly low-risk investments, but he was actually gambling that money in very high-risk investments, and he did that time and again. I really sympathise with the spirit of the amendment, and I am keen to look at not just phoenixing but other types of situation where people deliberately take risks like that that have devastating consequences for consumers and businesses in our constituencies.

Gavin Newlands: The Minister says he will look at this and is sympathetic to the issue. For clarity, does that mean a later stage beyond the Bill or at a later stage of the Bill?

Kevin Hollinrake: In my view, it needs further work rather than just plonking the new clause in the Bill. There is a wider issue here and I am pleased to see that he seems to acknowledge that. Certainly, a piece of work is needed to look at this in detail. There are some measures in place already—just the pre-pack arrangements subject to Committee scrutiny. I will come on to that in a second.

There are existing provisions in the Bill that provide safeguards against the fraudulent phoenixing behaviour that the new clause targets. Section 216 of the Insolvency Act 1986 makes provision for restriction and prohibition on the re-use of a company name when new companies are formed, which is an intrinsic feature of phoenixing and one that the hon. Gentleman addresses in his new clause. That provision will be complemented by the new powers contained in the Bill. For instance, the registrar may choose to exercise the power to compel the production of information to help her determine whether an application to incorporate a company complies with the proper delivery requirements. They will include that those named as prospective directors can lawfully act as such, which would not be the case if they were barred under the 1986 Act from acting as a director of a company using a prohibited name, and the registrar would be empowered to reject the incorporation application. Furthermore, the registrar will have greater power to direct companies to change their names if they deliberately mislead in their purpose. Such powers provide the registrar with a powerful tool when considering new company registrations.

The registrar will be able to examine and interrogate information already held and share data with law enforcement partners and other authorities. That will allow other key characteristics such as verified identities, the registered office, proposed officers and business activities to be critically assessed with intelligence received to spot patterns of phoenixing.

If adopted, the new clause would be largely duplicative of provisions already in place or those introduced by the Bill. It would also erode the registrar's discretion in the application of their powers as envisaged. There will be some instances when companies are captured by the new clause and are not culpable, but are merely victims of a legitimate business failure trying to start their enterprise. For instance, the new clause mentions companies that have

"been subject to winding up procedures".

In that situation, they may be companies that have not necessarily gone into liquidation. There might be other legitimate reasons that those procedures have taken place, which may not be reflective of something that might be considered phoenixing. So, the registrar must be allowed to apply their powers according to the facts and information available. As I have said, I am keen to look at that, including the pre-pack rules, to see where we can tighten up on the matter to make sure those instances are minimised. For all those reasons, I hope the hon. Member will withdraw his new clause.

Gavin Newlands: I thank the Minister for his response. The new clause was very much a probing amendment and the Minister points out one weakness. It is a small new clause for dealing with quite a big problem and I may look to table a much more rounded amendment on Report. With that, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 70

BAR ON DIRECTORS IN BREACH OF DUTIES RECEIVING PUBLIC FUNDS

"(1) A company with a director or directors which are in breach of the general duties outlined in Chapter 2 of the Companies Act 2006, or who have been found to have committed statutory breaches of employment law, may not receive Government provided funds or financial support, unless subsection (2) applies.

(2) A company whose director or directors meet the criteria outlined in subsection (1) may receive Government provided funds or financial support if such funds or support are provided solely and specifically for the direct benefit of the company's employees."—*(Gavin Newlands.)*

This new clause seeks to prevent directors who fail to comply with their duties as a company director or with employment law provisions from being able to access funds in instances where these funds are for the benefit of the company and not the company's employees.

Brought up, and read the First time.

Gavin Newlands: I beg to move, That the clause be read a Second time.

It is like London buses—I am back. I do not propose to take as long to speak to new clause 70, which proposes to turn off the tap of public funding to those who have failed to discharge their duties under the Companies Act or who have failed to discharge their duties to their company's staff. I mentioned Mr Skillen previously, and his local constituency got in touch with me to tell me that he is back in business and that his company had been in receipt of public funds. The aforementioned Mr Skillen is currently a director of four limited companies, each one coming after the winding up of HELMS. Those companies are interlinked via control and ownership structures. Through that, Government loan funding was applied for and granted just before Mr Skillen became a director and owner of a large chunk of the new enterprise.

My new clause is very simple and would prevent those who fail to discharge their duties from receiving public money or support for any company for which they are listed as a director. Mr Skillen's modus operandi was to misuse and mis-sell under the Government's green deal scheme, but he popped up a few years later at a company benefiting from taxpayer funding and is involved in the energy business as well. It is simply not good enough that policy interventions intended to promote a wider economic strategy, be it local or national, are manipulated and used by spivs who are able to hide behind company registration and face no barriers to their actions from the registrar, short of the nuclear option of being barred from acting as a director.

We have seen a number of cases over recent years of multinational companies, such as P&O Ferries and, not quite to the same extent, British Airways, breaching their duties as employers and breaching employment law. Indeed, the chief executive of the former happily admitted breaking the law while appearing before the Transport Committee's joint session with the Business, Energy and Industrial Strategy Committee. Such blatant and open law breaking cannot be rewarded with taxpayer support, and the new clause would ensure that those breaching laws that are meant to protect workers cannot then dip into the same workers' pockets for financial support. It would not impact on workers, because any funding, such as for a furlough scheme, would not be affected by the new clause.

Seema Malhotra: This is a useful new clause, in the spirit of some of the new clauses that we have tabled on what should and should not be available to directors who are in breach of their duties, disqualified and so on. The new clause, tabled by our colleagues from the SNP, would introduce new provisions that bar directors who are in breach of their duties from receiving public funds. Under the new clause, a company with a director or directors who are in breach of the general duties outlined in the Companies Act 2006, or who have been found to have committed statutory breaches of employment law, should not receive Government-provided funds or financial support unless it is solely and specifically for the purpose of directly benefiting the company's employees.

This is an important debate, and I would be interested in the Minister's response. When taxpayers find out that their money goes towards effectively supporting or enriching directors who are in breach of the Companies Act, there will be a real question about what the Government can do to further disincentivise and not reward those who are in breach of employment law or other areas of legislation. We support the sentiments behind the new clause and the arguments being made, and I look forward to the Minister's response.

Kevin Hollinrake: I thank the hon. Member for Paisley and Renfrewshire North for his new clause; again, I support the motivation behind it. Clearly, there are restrictions already. Where a director has failed to observe a specific duty under the Companies Act 2006, they will potentially find themselves liable to criminal sanction and disqualification. I accept the fact that we have not focused too much on that area in the past, but that is exactly why we are legislating in the Bill to make the registrar far more proactive in her work. Where an employer has committed a breach of employment law, the relevant statute will generally provide appropriate remedies either by way of a right of action for the worker—normally in an employment tribunal or the courts—or by way of state enforcement, or sometimes both.

The new clause seeks to isolate only two triggers for denying access to financial support. Although they may have merit as triggers, who is to say that there are no other matters of conduct on the part of either a company or its directors that might lead one to question the wisdom of awarding it taxpayers' money? Obviously, that should be determined within the scheme rules. The hon. Gentleman pointed to a case in which a director was interlinked with four other companies. There are already restrictions on Government loans—covid loans, for example—which must be taken into account where there are interlinked schemes, and he is probably aware of that.

9.45 am

The hon. Gentleman said that companies would still be able to access the furlough scheme to protect workers, because subsection (2) stipulates that may receive such funds where those

"funds or support are provided solely and specifically for the direct benefit of the company's employees."

It is more than possible to argue that the furlough scheme did not just benefit the employees. Normally, in that situation, companies would have made huge numbers redundancies, which can be quite expensive for companies themselves. The new clause does not carve out the furlough scheme, so it could put workers' jobs at threat.

The hon. Gentleman has raised a very good point, but the new clause is probably not the right way to tackle it, and I hope he will withdraw it.

Gavin Newlands: I appreciate the Minister's response. To pick up on a couple of his points, he said that there are already remedies available, but as we have seen there are far too few for employees who suffer at the hands of a nasty business owner. We have all seen such cases on the news or from our own case loads.

The Minister mentioned the regulations governing covid loans. Clearly, that is a very specific example, and he makes a fair point, but that is not the case for all public moneys. However, this is a probing provision and would require further work before I sought to test the Committee or the Chamber with a vote. I therefore beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 71

SUSPICIOUS ACTIVITY REPORTING: RISK RATING

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

(2) After subsection 339(1) insert—

'(1ZA) An order under subsection (1) must prescribe that a risk rating be included as part of a disclosure.'"—*(Dame Margaret Hodge.)*

Brought up, and read the First time.

Dame Margaret Hodge (Barking) (Lab): I beg to move, That the clause be read a Second time.

I will be on my feet for a bit, so I will try to be succinct—I know that Members have other things to do this afternoon. *[Laughter.]* It may be impossible for me. I want to say quite a lot about this new clause.

New clause 71 is about reforming of the suspicious activity reports regime. Ministers will accept that the SARs regime is a central tool in our defence against money laundering, but I hope they also accept that the current system is broken—it is not working. The new clause would introduce a new risk rating system, which would transform the efficacy and efficiency of the current regime.

SARs are very valuable and a vital source of intelligence. They are made mainly by financial institutions, but also by solicitors, accountants or estate agents, and they report suspicious activity. They have been absolutely instrumental in a range of successful actions against criminal activities, locating sex offenders, tracing murder suspects and identifying those involved in online child abuse, and they have shown how young women are trafficked into the UK. They have also been instrumental in closing down fraud and money laundering.

To give one example of a successful case involving fraud, a vulnerable elderly man in his 80s was the victim of a fraudster who had gained his personal details through a cloned website, when the elderly man believed that he was making a genuine investment. The reporter who saw the transaction going through was suspicious when the fraudster tried to impersonate the victim and access his main funds. He reported the transaction, and the UK Financial Intelligence Unit, which operates the SARs regime, received that report. The unit immediately passed it on to the enforcement agency—I wish this happened every time—which visited the victim in his house. The agency was then able to quickly contact the institution where the transaction was supposed to take place. It reported that the suspicious activity was wrong and confirmed the real identity and bank details of the elderly man, which all prevented him from losing in excess of £80,000.

This scheme is therefore important, and it is successful when it works well. However, at present, the sheer volume of SARs and the limited resources available mean that the information is not analysed and often simply not used. In evidence to the Treasury Committee, Mark Steward, the director of enforcement at the Financial Conduct Authority, said:

"More needs to be done in order to get more out of the valuable data that is in there. Otherwise, it just sits there."

Graeme Biggar, also giving evidence to the Treasury Committee, as director general of the National Economic Crime Centre, said:

"Twenty years ago, we got 20,000 suspicious activity reports in, largely from banks. This year, we would not be surprised if we got three quarters of a million, and the number of defence against money laundering SARs, where we are told in advance and given the option to refuse permission to proceed, is going to double, we think, this year. The sheer volume coming through is really significant and very hard to deal with."

According to research from Spotlight on Corruption, only 118 people handle the SARs. That is one employee to 4,250 SARs. The Australians, who have a similar enforcement regime, and who have also experienced an explosion in SARs, have a staff complement of one to 1,400—three times better than our own. The Committee has often talked about the relative budgets for enforcement of the UK and the USA. The USA has increased funding of the Financial Crimes Enforcement Network by 30%, and its staffing by 50%. The Minister should recognise that the Federal Bureau of Investigation's budget is now 15 times larger than the National Crime Agency, although our population is only five times smaller than America's.

The Financial Action Task Force review in 2018 said SARs should be reformed, and SARs were criticised by the FATF. The Treasury Committee report in 2019 talked about SARs reform. In 2017, the Government had announced a reform programme for SARs, led by the Home Office together with the NCA. That reform programme constituted action 30 in the economic crime plan. The intent was to have an IT transformation, better analytical resources and capabilities, and an improvement in SARs processes. That SARs programme was reviewed by the Government's Infrastructure and Projects Authority, and was given an amber rating in 2021. So reform started in 2017, the programme was given an amber rating in 2021, and today, in 2022, it is not complete and there is no timetable from the Home Office—maybe the Minister can help with that—or a target date for completion, which was a criticism the Treasury Committee made of the programme. Delivery was originally promised by December 2020, but we are two years on from that and we are a long way from seeing SARs completed.

[Dame Margaret Hodge]

In that context, new clause 71 introduces a risk-rating regime. I do not think anybody thinks that is a crazy idea, and I hope the Minister will—just for once—adopt one of the suggestions that the Opposition have made in Committee. I hope he will not say that we do not need the legislation. We are nearly six years on from when the reform programme was announced, and reform has not happened. The Government cannot, despite the best efforts of right hon. Member for Uxbridge and South Ruislip (Boris Johnson), ignore legislation, although they seem to be ignoring the desire to reform the SARs programme.

If Ministers want action, which they have consistently said they seek with the Bill, they should accept new clause 71. If they simply see this measure as party political, they should not. We do not deal with the funding issue in the new clause, but we will ensure that the focus is on the most significant SARs. That will lead to more enforcement. I urge the Minister to adopt our new clause.

Seema Malhotra: It is a pleasure to speak briefly in support of the new clause tabled by my right hon. Friend the Member for Barking. It would amend the Proceeds of Crime Act 2002 such that any disclosure made as part of the suspicious activity reporting regime must include a risk rating. My right hon. Friend outlined very effectively the reasons why the new clause is important. Much of the evidence in our meetings at the outset of the Bill, which set out the context and stakeholder views, it was clear that the SARs regime was failing. The databases of referrals were going unreviewed and unlooked at, because the resources were not there. There was no effective means that we could see of prioritising SARs fed into the NCA.

SARs is an essential tool in our defence against money laundering, but if the system is not working, something needs to happen. Having an extra step in the process to help with prioritisation, look at risks and deal with those identified as higher risk would help, as my right hon. Friend outlined, to bring in quality, at a time when we know that quantity is the new battle. She said that the current estimate is three quarters of a million referrals, which is extraordinary. Given the scale and types of economic crime, the number of referrals is likely to get worse, not better. That is a good thing if we are starting to highlight and refer more cases as we start to clean up our systems. However, we then need to deliver on that; otherwise, the downside is that we will reduce confidence among those doing the referrals that anything will actually happen.

Nigel Kirby of Lloyds Bank said in his evidence to the Committee:

"I think the SARs regime and the Proceeds of Crime Act 2002 itself actually need—well, not necessarily to be turned upside down, but to be looked at as a whole."—[*Official Report, Economic Crime and Corporate Transparency Public Bill Committee,* 25 October 2022; c. 19, Q26.]

I think we have some agreement that the system itself is important, essential and necessary but that it needs wholesale reform to make it more efficient and effective and to ensure that it does what we ask of it.

The Minister for Security (Tom Tugendhat): I thank the right hon. Member for Barking for the new clause. I will slightly gloss over one element and focus on something she mentioned several times—I always listen carefully to what she says—about the comparison between the FBI and the NCA. I take the comparison, but the NCA is not a direct comparator for the FBI. After all, the FBI includes the equivalent to MI5. It also includes counter-terrorism police and a lot of what we call regional organised crime units. It includes a lot of other areas of policing that simply do not come under the NCA's budget, so the comparison of budgets is not apples and oranges; it is more like apples and cider—the bulk of one and the punch of the other are not quite the same. I hope the right hon. Lady will forgive me for saying that that is not entirely a fair comparison.

That said, the NCA does an enormous amount of good work and uses SARs in many different ways. I have the figure here: the UKFIU received and processed nearly 600,000 SARs in 2019-20. That has increased significantly every year. The action taken has resulted in about £192 million being denied to criminals in 2019-20, up 46% on the previous year. So this is something that we are already using heavily.

10 am

Dame Margaret Hodge: We all think that SARs is a helpful regime. I wonder whether the Minister has been given the information by the NCA. It got more than half a million SARs, but how much of that data did it use to get the millions that it got in? That is a heck of a lot of data, which should yield a huge amount of valuable information.

Tom Tugendhat: First, not every SAR leads to an actionable offence. Many of them are simply, and quite rightly, reports. They are reports because there are suspicions, but suspicion does not necessarily mean guilt. Many times these are companies that are taking on clients or that have clients who are suspicious, and they want to be sure they are doing the right thing so, responsibly, they report in. We should not confuse the absolute number of reports with a level of criminality. That would not be fair on the British population, those doing the reporting or the NCA, which is looking into these things.

Alison Thewliss (Glasgow Central) (SNP): I did not mean to stop the Minister in mid-flow. He says that the number does not necessarily correlate to criminality. Is he concerned to hear that trust and company service providers have provided only 31 SARs, according to Graeme Biggar when he gave evidence to the Treasury Committee? A total of 31 seems impossibly low for the number of trust and company service providers, compared with what comes in from others.

Tom Tugendhat: The hon. Lady makes a fair point, but as she knows well that is not the point of the new clause, which is about the supervision of SARs and the ways in which they are checked and verified. That said, I have listened carefully to her and will have a look at that, because I do appreciate the point she makes. That said, I think these codes already enable the NCA to triage effectively, although if she has better ideas I am happy to listen and look at them further. However, I am to be convinced, because I think the Bill already addresses the areas she indicates. I get the point she is trying to make, but I am not sure that her suggestions would lead to a significant improvement on what is already there.

Dame Margaret Hodge: I am trying to untangle what the Minister said. If he is open to further discussions, I do not think that there is a rating regime. All we are saying is that there should be a rating regime so that the most urgent cases come at the top. My understanding is that that does not exist. There may be some form of triaging that I am not aware of. We just want to introduce a rating regime. If he is willing to engage in discussions before Report, I am happy not to put the matter to the vote. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 72

OFFICE FOR PROFESSIONAL BODY ANTI-MONEY LAUNDERING SUPERVISION: POWERS AND DUTIES

"(1) The Secretary of State must by regulations set out a further power and duty for the Office for Professional Body Anti-Money Laundering Supervision.

(2) The power referred to in subsection (1) is the power to impose unlimited financial penalties on Professional Body Supervisors that fail to—

(a) adopt an effective risk-based approach to anti-money laundering supervision;

(b) impose proportionate and dissuasive sanctions for non-compliance with anti-money laundering requirements; and

(c) fail to separate their advocacy and regulatory functions.

(3) The duty referred to in subsection (1) is the duty to publish the details of any sanctions imposed on Professional Body Supervisors, and its reviews of Professional Body Supervisors with data disaggregated by body rather than by sector."—*(Dame Margaret Hodge.)*

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 18]

AYES

Hodge, rh Dame Margaret	Morden, Jessica
Kinnock, Stephen	Newlands, Gavin
Malhotra, Seema	Thewliss, Alison

NOES

Anderson, Lee	Hollinrake, Kevin
Ansell, Caroline	Mann, Scott
Crosbie, Virginia	Stevenson, Jane
Daly, James	Tugendhat, rh Tom

Question accordingly negatived.

New Clause 73

OFFENCE OF FAILURE TO PREVENT FRAUD, FALSE ACCOUNTING OR MONEY LAUNDERING

"(1) A relevant commercial organisation ('C') is guilty of an offence under this section where—

(a) a person ('A') associated with C commits a fraud, false accounting or an act of money laundering, or aids and abets a fraud, false accounting or act of money laundering, intending—

(i) to confer a business advantage on C, or

(ii) to confer a benefit on a person to whom A provides services on behalf of C, and

(b) C fails to prevent the activity set out in paragraph (a).

(2) C does not commit an offence where C can prove that the conduct detailed in subsection (1)(a) was intended to cause harm to C.

(3) It is a defence for C to prove that, at the relevant time, C had in place procedures that were reasonable in all the circumstances and which were designed to prevent persons associated with C from undertaking the conduct detailed in subsection (1)(a).

(4) For the purposes of this section 'relevant commercial organisation' means—

(a) For the offence as it relates to false accounting and fraud, 'relevant commercial organisations' are defined as—

(i) a body which is incorporated under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere),

(ii) any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom,

(iii) a partnership which is formed under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere), or

(iv) any other partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom, and

(v) for the purposes of this section, a trade or profession is a business.

(b) For the offence as it relates to money laundering, 'relevant commercial organisations' is defined as—

(i) credit institutions;

(ii) financial institutions;

(iii) auditors, insolvency practitioners, external accountants and tax advisers;

(iv) independent legal professionals;

(v) trust or company service providers;

(vi) estate agents and letting agents;

(vii) high value dealers;

(viii) casinos;

(ix) art market participants;

(x) cryptoasset exchange providers;

(xi) custodian wallet providers."—*(Dame Margaret Hodge.)*

Brought up, and read the First time.

Dame Margaret Hodge: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 74—*Failure to prevent fraud, false accounting or money laundering: director liability*—

"(1) If an offence under section [*Offence of failure to prevent fraud, false accounting or money laundering*] is committed by a body corporate and it is proved that the offence—

(a) has been committed with the consent or connivance of an officer of the body corporate, or

(b) is attributable to any neglect on the part of an officer of the body corporate, the officer (as well as the body corporate) commits the offence.

(2) For the purposes of this section, 'officer' means—

(a) a director, manager, associate, secretary or other similar officer, or

(b) a person purporting to act in any such capacity."

Dame Margaret Hodge: I will speak for a little longer on new clause 73, but hopefully we will get through the others more quickly. It is probably one of the most important new clauses that we have tabled. It sits with new clause 79, which we will come to a little later. If we can make progress on this issue, we will be putting some better meat on the bones of what is still quite timid legislation.

We all want to do all we can to prevent economic crime from occurring in the first place. Prevention and early intervention is obviously the best, cheapest and most effective way of tackling the problem of dirty money. We want to stop it happening in the first place. We also all know that much economic crime takes place because lawyers, company service providers, accountants, bankers or estate agents either enable or collude with bad actors, helping them or turning a blind eye to the things that they do, thus enabling money to be laundered, crime to be committed, and our systems to be used to commit financial crimes.

There is currently too little in our laws and regulations that will stop the enablers—accountants and all the others—supporting and enabling economic crime. Companies and individuals are not held to account for what they do. The new clause aims to put a halt to that. We need to reform our outdated corporate liability laws so that not only companies but senior managers can be prosecuted if they fail to prevent fraud, false accounting and money laundering. It is not because we want to have endless prosecutions, or to fill prisons with these enablers, but because the threat of criminal prosecution will act as the best and most vital deterrent in preventing professionals from helping criminals to launder and manage their dirty money.

As we have said time and again in Committee, most professionals act with integrity. Those professionals with integrity have absolutely nothing to fear from the new clause. Indeed, the majority, who act responsibly, should welcome the change, because it will help us to clean up their profession, get rid of the bad apples and restore our reputation as a trusted jurisdiction. The Minister knows very well—I am trying to find the right Minister—

Kevin Hollinrake: I know as well.

Dame Margaret Hodge: Both Ministers know that reform has been promised, and delayed, for a long time. The 2015 Conservative manifesto committed to making it illegal for companies to fail to put in place measures to prevent economic crime. The 2017 Ministry of Justice consultation on corporate liability reform sat for three and a half years. Inexplicably, it found that there was not enough evidence to pursue reform. I can only imagine that the Ministry was strongly lobbied. It said there was not enough evidence despite the fact that 76%, or three out of four respondents, said that the identification doctrine, which we will come to, inhibits the holding of companies to account for economic crime, and that two out of three respondents thought that corporate liability reform would result in improved corporate conduct. Despite all that, the Ministry chose not to pursue reform.

We then got the Law Commission's review in 2022. It found that the current situation was "highly unsatisfactory" and that, on the status quo on corporate liability, "the identification doctrine"—for fraud and money laundering, the way in which we determine whether the people involved represent the "directing mind and will" of the company and can therefore be held responsible—

"is an obstacle to holding large companies criminally responsible for offences committed in their interests by their employees."

The commission said that the status quo is "unfair" and that if the law remains unchanged it

"will continue to enable large companies to be acquitted for conduct which would see small businesses convicted."

It also stated that that

"could diminish confidence in the criminal law"

and, finally, that the status quo incentivises poor corporate governance and

"rewards companies whose boards do not pay close attention."

Given all that, I cannot think of a stronger indictment of the status quo.

There are endless examples of where our failure to modernise our criminal liability law has led to failure in the courts. The Barclays bank action is probably the most infamous, or famous, of them all. In 2008, during the financial crisis, Barclays wanted to avoid nationalisation and entered into a deal with Qatar, from which it received more than £11 billion and a loan of £3 billion. The bank, however, also set up what was called an advisory service agreement—in a sense, as I can say under parliamentary privilege, it was a bribe—and, under it, £322 million was given to those who facilitated the deal between Qatar and Barclays bank.

The Serious Fraud Office tried to prosecute the bank and its chief operating officer with charges of conspiracy to commit fraud and charges involving "disguised commissions"—in my interpretation, bribes. The court threw out all the charges, saying that the alleged criminal dishonesty of senior officers "could not be attributed" to Barclays. So the chief executive could not be held responsible for what the bank did, because the chief executive was not the bank, but reported to the bank. It was a crazy judgment. The court also dismissed cases against other individuals, as they could not be defined as the "directing mind and will" of Barclays.

There was, then, a Barclays fiasco, but there were other examples, such as the LIBOR rate-rigging scandal. No criminal prosecutions were brought, although the individuals prosecuted gave evidence that their managers knew what they were doing, so the company itself was liable. If the Minister for Security will allow this comparison, the US brought criminal enforcement action against 12 of the banks in the LIBOR scandal—British banks—and extracted $3.4 billion in criminal fines. Other examples include HBOS—to which the Under-Secretary often refers—Serco and the tagging contract, London Capital & Finance, and so on and so forth.

In 2022, four parliamentary Committees called for the reform of corporate criminal liability legislation. In February 2022, the Treasury Committee urged the Government to

"act quickly in bringing forward any legislation flowing from the Law Commission's review. In the meantime, corporate criminals will continue to be able to escape prosecution for economic crimes."

I probably do not have to quote this one, as the Minister might remember it, but the Foreign Affairs Committee called for

"reform of outdated and ineffective corporate criminal liability laws which mean that it is difficult to hold large companies to account for economic crimes."

10.15 am

In October 2022, the Justice Committee recommended that

"A failure to prevent fraud offence should be introduced to hold companies to account for fraud occurring on their systems and encourage better corporate behaviours."

In November 2022, the House of Lords Fraud Act 2006 and Digital Fraud Committee found that the reform

"of corporate criminal liability will be essential in order to maximise the impact of the Fraud Act and other legal tools going forward",

and in order to

"hold corporates across all sectors to account and to inspire behaviour change."

Finally, let me quote the Under-Secretary. On Second Reading of the Bill, he said:

"I have said many times that the No. 1 measure we need is an extension of the failure to prevent provisions on bribery and tax evasion, which have been so effective. People say that we talk a lot and never get anything done"—

hear, hear!—

"but the bribery provisions have been massive in holding corrupt companies to account. The Serious Fraud Office has deferred prosecution agreements for Rolls-Royce for Airbus, with almost £1 billion in fines going to the Treasury. The SFO also prosecuted the GPT Special Project Management Ltd case. The SFO does not get many successful convictions but GPT Special Project Management Ltd pleaded guilty in Southwark Crown court in 2020, and paid £28 million in financial forfeitures as a result, on the back of the Bribery Act 2010."—[*Official Report*, 13 October 2022; Vol. 720, c. 308-309.]

On another occasion, the Under-Secretary said:

"Criminal fraud at Lloyds HBOS was proven in 2017, and the cover-up associated with that is an utter disgrace. We are yet to see the Dobbs review, which later this year should identify the scale of the cover-up by Lloyds of what went on at HBOS. We have also seen the problems with Royal Bank of Scotland's Global Restructuring Group"—[*Official Report*, 7 July 2022; Vol. 717, c. 1043.]

I could go on; does he want to hear all of his speech?

Kevin Hollinrake: No, I remember it very well.

Dame Margaret Hodge: Anyway, I thought it was a speech in favour of the intent of this new clause.

Failure to prevent offences have proved effective elsewhere, as the Minister himself has said. We use them to tackle bribery and tax evasion, and the Minister always raises the best example when he refers to what used to go on in the construction industry. In my youth, people would regularly have terrible accidents on construction sites, some of which were fatal. It was only when a duty was introduced for those who ran construction companies to ensure the health and safety of their workers in the workplace, meaning it would be a criminal offence if they failed to do so, that miraculously, overnight, deaths on building sites came almost to a 100% halt. We have lots of examples of where a failure to prevent does not end up with people being locked up but does change behaviour. That is what we are trying to do.

I have lots of examples of areas where the Bribery Act 2010 has been successful and this is not one. This is the last legislative opportunity we will have in this Parliament to put into effect something that Members across the House think is important. There is so much evidence from so many bodies emphasising the importance of this bit of legislation. I cannot see any argument for delay. Before they reached their great, really important roles on the Front Bench, both Ministers argued passionately, frequently and loudly for this reform. I hope they will accept the new clauses, together with new clause 79, on the identification principle. With the inclusion of those three new clauses, we can hold our heads up high and say that we have done good work in Parliament.

Stephen Kinnock (Aberavon) (Lab): It is a pleasure to serve under your chairship, Mr Robertson. I pay tribute to my right hon. Friend the Member for Barking. The passion and eloquence with which she spoke was exemplary in terms of reminding us about what is at the heart of the Bill and one of the top priorities that we want to achieve. I do not want to say much more; how can I follow that?

New clause 73 would introduce a new offence of failing to prevent fraud, false accounting or money laundering, and new clause 74 would extend that offence, so I shall take them together. In effect, the new clauses would extend current failure to prevent offences beyond bribery and tax evasion to other economic crimes, money laundering and fraud. The offences would be applicable both to companies themselves and to senior managers or directors.

The Labour Front Bench team welcomes the new clauses tabled by my right hon. Friend the Member for Barking as vital to help to drive cultural change and corporate governance standards for the prevention of economic crime in the UK. They would also standardise criminal rules for holding companies to account across different economic crimes.

The call for this change is supported by a number of stakeholders, including Spotlight on Corruption, which made the following argument in written evidence to the Committee:

"Most urgently, a new failure to prevent fraud offence would help address the UK's serious fraud epidemic. Fraud accounts for 40% of all recorded crime, but fraud prosecutions have fallen from 42,000 in 2011, to 13,500 in 2021 in the last decade, a 67% decrease. According to the Crown Prosecution Service (CPS): 'an extension of the "failure to prevent" model to fraud, false accounting and money laundering would be unlikely to require companies to do more than what they would already be expected to do under the current law (which relies on the identification doctrine) but it would enable prosecutors to hold them to account more effectively where they fail to do so'. The heads of the Serious Fraud Office (SFO) and the CPS have both recently called for new failure to prevent offences."

I refer the Minister, in addition to the stakeholders that support the call for change, to his own words on Second Reading. I will not replay his greatest hits—that my right hon. Friend the Member for Barking has already done so—but he has stated clearly that he sees this offence as "the No. 1 measure" that we need. The Opposition fervently hope that both Ministers will agree with their former selves that this is the No. 1 measure we need in the prevention and detection of economic crime. We urge the Conservative Front-Bench team to accept the new clause as a necessary and urgent provision to tackle economic crime that would have support across the board.

Alison Thewliss: I, too, rise to support the new clauses, which are incredibly important.

"Of all the measures we have talked about today, this would have the biggest effect in terms of cutting down on economic crime, because lots of our financial organisations are complicit when it suits their interests to be so."—[*Official Report*, 13 October 2022; Vol. 720, c. 309.]

If the Under-Secretary recognises those words, it is because they are his own from just a few weeks ago, on 13 October 2022. What a long time it has been; here we are today at the end of November.

It is important that we use the new clauses as an opportunity. As the right hon. Member for Barking said, this is an opportunity to make this change now and get it right. It cannot be said that the Ministers present do not agree with the measures. The Under-Secretary argued for a failure to prevent economic crime offence not just on 13 October 2022 but on 7 July 2022 and 1, 22 and 28 February 2022, on 2 December 2021, on 9 November 2021, on 22 September 2021, on 18 May 2021, on 9 November 2020, on 25 February 2020, on 19 July 2019, on 23 April 2019, on 18 December 2018 and on 9 October 2018. Why have we got to the point today where he is arguing against something that he has argued for so consistently and repeatedly in this House?

Kevin Hollinrake: Will the hon. Lady give way?

Alison Thewliss: I will if the Minister can give me an explanation as to why he is not going to back the new clause.

Kevin Hollinrake: When have I argued against it?

Alison Thewliss: I suspect that if it goes to a vote, he will vote against the new clause, so he does not even need to argue against it. If it goes to a vote, he and his colleagues will vote against something that he has consistently and repeatedly supported in this House. He knows in his heart of hearts that this is the right thing to do. I am very interested to know whether, if the Government will not support the new clause—whether it goes to a vote or not—they will introduce something similar on Report. Both Ministers know that this is the right thing to do. The opportunity is here in the Bill. If the opportunity is there and the will is not, that leaves huge questions for the credibility of the entire Bill.

Tom Tugendhat: I am delighted to speak on the new clause. As the right hon. Member for Barking correctly identifies, it touches on many areas that my hon. Friend the Under-Secretary and I have spoken about on numerous occasions, and we are not alone in having done so. Section 172(1)(b) and (d) of the Companies Act 2006 speaks about the interests of employees and of the community being the responsibility of directors as well, so having an emphasis on directors' responsibility in corporate legislation is not new. My hon. Friend the Under-Secretary has also spoken about it in building safety legislation, which the right hon. Lady cited.

There are many different examples of our recognition that the interests of the whole of society and of the whole United Kingdom are better protected when directors understand that they are there not simply to advance shareholder value, but to further the interests of the whole community of their employees and wider society in actions and responsibilities they undertake. Although I see all of the responsibility laid out and I take very seriously the point the right hon. Lady made, we still need to do a little bit of work on how this can be made to work. There are arguments, some of which hold water, about whether the 2017 money laundering regulations include elements that already cover some of these areas, and there are arguments about whether the Law Commission will want to look at different bits of this. I can assure the right hon. Lady that I will look at this extremely seriously, because she is absolutely right that the Bill offers an opportunity to introduce different reforms. I will look to make sure that any opportunity is fulfilled as quickly as possible.

Dame Margaret Hodge: I am grateful for that. The hon. Gentleman referred to the Companies Act 2006—I cannot remember which section. In the days when Tony Blair changed our jobs every year, I was lumbered with taking through the biggest Act in Parliament. We deliberately put that section in, in the face of massive opposition. At the time there was a front page story in the *FT* that said, "How dare you talk about any interest but shareholder interest?" But the provision has stood the test of time, I am pleased to say, and I am glad to hear him cite it.

I do not want to embarrass Ministers today by putting the issue to a vote. I know that they feel strongly about this, but so do we—really strongly. The Bill will not pass any litmus test of its potency if the new clause is not included. I know there will be resistance because the professions that would be subject to the new potential criminal liability are very strong in lobbying. They are probably strongly lobbying the Department for Business, Energy and Industrial Strategy, as well as the Treasury and other Government Departments. I say to Ministers that they have to resist that lobbying with every bone in their bodies, because this is not an attack on any profession. There ought to be a new offence that cleans up the profession, and we will pursue this issue right through every phase and stage of the Bill's passage.

I want to say one final thing to the Minister. Of course we need to make the new clause work, but for goodness' sake, we have the same offence in the Bribery Act and the tax evasion legislation, and it works perfectly well.

10.30 am

Kevin Hollinrake: The right hon. Lady makes a very important point about vested interests. We have previously discussed the influence of people who may not be keen on these kinds of clauses. I would say to anybody in the financial services sector who is making these claims that there are potentially huge benefits from preventing fraud across the board, because 70% of online fraud, which costs banks a lot of money, comes from platforms, and this kind of legislation could make the platforms responsible for removing content. So the sector could see benefits as well as potential new obligations.

Dame Margaret Hodge: I am grateful to the Minister for reinforcing my argument. I would add simply that the same is true of the online harms Bill. If we had director liability there, I think we would see a lot of the online harms disappearing, but that is for next week.

On how the new clause would work, we can mirror processes that take place in other bits of legislation. To say that it is already covered is a nonsense, because we would not have had the failure of the Barclays case and all the other cases that I cited to the Minister had we already put in place legislation that was appropriate for ensuring that companies and their directors are held to account. I will not put the matter to a vote, but this is a hugely important issue. I look forward to our debating it further at other stages during the course of the Bill. I wish Ministers well in their attempts to get it past the Government, but if they do not, Parliament will do so. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 75

THE ECONOMIC CRIME COMMITTEE OF PARLIAMENT

"(1) The Secretary of State must by regulations establish a body to be known as the Economic Crime Committee of Parliament (in this section referred to as "the ECC").

(2) The ECC will consist of nine members who are to be drawn both from the members of the House of Commons and from the members of the House of Lords.

(3) Each member of the ECC is to be appointed by the House of Parliament from which the member is to be drawn.

(4) The ECC will have the power to meet confidentially.

(5) The ECC may examine or otherwise oversee any regulatory, enforcement or supervision agencies involved in work related, but not limited to—

(a) tax avoidance and evasion by corporations;

(b) illicit finance;

(c) anti-money laundering supervision;

(d) tackling fraud;

(e) kleptocracy and corruption; and

(f) whistleblower protection."—*(Dame Margaret Hodge.)*

Brought up, and read the First time.

Dame Margaret Hodge: I beg to move, That the clause be read a Second time.

I have been promoting accountability for years now. In the work that I did with the Minister as we thought about how we could tackle economic crime and turn round the tanker, we always said there were four ways in which we had to respond. One was through having not more regulation, but smart regulation. The second was through tough enforcement. The third was through broad transparency—the ruling of the European Court of Justice last week is an absolute nightmare that could create real difficulties for us in the economic crime space. The fourth was accountability, and with the new clause we are suggesting a way for us to have that accountability.

There is interest in this subject across the House. The hon. Member for Hitchin and Harpenden (Bim Afolami) has written a paper on these issues. Can we find a mechanism for holding the regulatory bodies properly accountable to Parliament for what they do?

A lot of these questions arose when I chaired the Public Accounts Committee and we first started looking at tax avoidance. The rule is that everybody should be equal before the law in tax, but there was always a suspicion that sweetheart deals were being struck with certain big corporations and high net worth individuals. In fact, early on we came across one involving Goldman Sachs; on the back of a story in *Private Eye*, we uncovered a sweetheart deal. To this day, though, I do not understand whether Google is paying the correct tax or whether there is a deal there, and I could say the same about a lot of the big multinational companies. Because of the confidentiality of taxpayers' interests, Parliament has no way to get the information that it needs to assure itself that the tax authorities are treating all taxpayers equally.

I have worked with all the agencies in this area—the NCA, the Serious Fraud Office, the Metropolitan police and so on—so whistleblowers, or just people who come across something that is wrong, often come to me, and I give the case to one of the agencies—and that is the last I ever hear of it. I always pursue the cases, but all too often I get the response, "Oh, there are security reasons for you not being given the information." There was the Savaro case, which I referred to BEIS at the time. It went through BEIS and I still do not know whether anybody was pursued. Certainly, there were people behind that explosion in Lebanon, which led to so many deaths and loss of property.

I think that Parliament needs a better hold on what is happening and better accountability around how those agencies are operating. In the new clause, we suggest that we mirror the Intelligence and Security Committee, which meets under Privy Council terms. The proposed economic crime committee could be a Committee of both Houses, meeting under Privy Council terms and overseeing all the regulatory bodies in this space—in financial services and economic crime. It could call for papers relating to individual cases, which would remain confidential because the ECC would meet in private. The ECC could then produce reports on systemic changes that are necessary, arising from consideration of those individual cases.

I think that that would massively improve accountability, as well as the performance and effectiveness of the agencies. With that information, members of the ECC would have a better understanding of what, if anything, they needed to do as legislators to improve the situation. I believe that this committee will happen one day, but I am proposing it today as a new clause in this Bill. I know that the hon. Member for Hitchin and Harpenden and those who support him in this mission would be happy to support me today, and I hope that Ministers give it a good hearing.

Stephen Kinnock: I am happy to support new clause 75, tabled by my right hon. Friend the Member for Barking, which would require the Secretary of State by regulation to establish a body to be known as the economic crime committee of Parliament.

The new clause is driven by and based on the fundamental principles of transparency and accountability. Our call for those two principles to be adhered to is important because it recognises that the structures for reviewing progress, and scrutinising and reviewing economic crime, are simply not good enough. There is too much siloed thinking. This aspect of scrutiny does not sit neatly within BEIS, the Treasury, the Home Office, or the Ministries of Defence and of Justice; it really spans the waterfront, yet those Departments are all vital parts of what should be a systemic approach to tackling economic crime.

[Stephen Kinnock]

The proposed committee would consist of nine Members drawn from the House of Commons and the House of Lords, with each member of the ECC appointed by their respective House of Parliament. The ECC would have the power to meet confidentially; it could examine or otherwise oversee any regulatory enforcement or supervision agencies involved in work related to, but not limited to, tax avoidance and evasion by corporations, illicit finance, money laundering, fraud, kleptocracy, corruption, and whistleblower protection.

We welcome the new clause as it would introduce a vital mechanism for transparency and accountability within the Bill. If the Minister does not agree with it, we hope that he will acknowledge that the existing mechanisms are unfit for the kind of joined-up, systemic, expert-driven scrutiny that is needed to keep pace with and keep ahead of economic crime. Throughout this Committee's proceedings, my colleagues and I have tabled amendments and new clauses designed to increase the scrutiny and transparency of the measures that the Bill will introduce, so as to ensure that when they are implemented, they are as effective as possible. If the Minister is not able to support the new clause, Parliament and the country more broadly would need him to come up with something better.

Alison Thewliss: I wholeheartedly agree with the new clause. When the Treasury Committee looked at this issue, what struck me was that economic crime was nobody's priority. Our report said:

> "Economic crime seems not to be a priority for law enforcement. The number of agencies responsible for fighting economic crime and fraud is bewildering."

If it is bewildering in that sense, it is bewildering to Parliament, too. This is a BEIS and Home Office Bill, yet it has huge Treasury implications and huge security implications, and that gets to the heart of why this new clause is so important. There needs to be a body in Parliament that holds all these agencies to account in one place. If BEIS does a little bit, and the Home Office does a little bit, and security does a little bit, and the Treasury does a little bit, there will not be the cohesive scrutiny of all those agencies that is needed. Committees could well be palmed off with different responses by different agencies, with nobody consistently holding them to account.

The work of the Treasury Committee is very wide ranging. We have two meetings a week, and that is not enough to cover all the issues we need to cover. Setting up a bespoke Committee that could build up expertise on this issue would allow for that accountability. It could meet in private if it needed to, although it would ideally meet in public. The point is that it would keep an eye on all the things that we have agreed to in the Bill, and we would be holding all these agencies and Ministers to account in a consistent way. The reports of the ECC would also, we hope, be taken seriously, and its recommendations implemented.

It is not really enough that the Treasury Committee or another Committee looks at economic crime every once in a while and sees how things are going. The Treasury Committee has done that previously, looking back at previous reports and asking, "How are things going now?" but there is not that week in, week out consistent scrutiny of what is happening. Without scrutiny and consistency, it is difficult to see how the Government will get this right. We are legislating here, but legislation cannot be put on a shelf and left; it has to be living legislation that is scrutinised on a regular basis. A committee of sort proposed in the new clause really would give Parliament a lot of power to ensure that these measures are implemented correctly and that the agencies responsible for economic crime, which affects all of our constituents, continue to be held to account.

Tom Tugendhat: The right hon. Member for Barking will not be surprised to hear that I am a huge fan of parliamentary scrutiny, not just of Government but of various issues that others have sometimes felt are not in the immediate remit of the scrutinising Committee. As she will be aware, I received some criticism when the Foreign Affairs Committee, which I was fortunate to chair, focused so clearly on economic crime in 2017-18—in fact, it was some of the first work that we did—because of the national security threat that it poses to the United Kingdom. Its importance in foreign policy is very clear.

The Treasury Committee has done an awful lot of extremely good work on this issue; over the years, it has done some excellent reports on economic crime. The Public Accounts Committee, the Justice Committee and others have also focused on economic crime at various points. However, while I completely understand the right hon. Lady's argument, I cannot support the new clause, because it is simply not up to a Secretary of State to set up a Committee of the House. As she knows very well, that is a decision for the House; it would therefore not be appropriate to have that provision in the Bill.

I would add that there are various other elements that already scrutinise quite a lot of the agencies referred to. There is the Economic Crime Strategic Board, co-chaired by the Chancellor and the Home Secretary—I know it is within Government, but it is still a challenging body because it supervises the agencies of Government. Various other levels of scrutiny appear at different points, which help to oversee the function of the agencies and different elements that the Government are trying to deliver—that the ministerial element of the Government is trying to get the bureaucratic element of the Government to deliver. It is really important that we keep those intentions.

10.45 am

How the House decides to scrutinise the ministerial and bureaucratic elements of the Government is up to the House. The right hon. Lady can see that I am a strong supporter of parliamentary scrutiny, and there are ways that it can be done without a Committee. Some have argued—but not on this in particular—that we now have so many Members on so many Committees that a quorum is sometimes difficult; whether it would be in this or not, I cannot possibly comment. While I understand her point, I will not support this for the reasons that I have identified, but I sympathise entirely with her intent.

Dame Margaret Hodge: I am sure that, in that spirit, the Minister also accepts that scrutiny by the Executive is different to scrutiny by the legislature.

Tom Tugendhat: Of course.

Dame Margaret Hodge: What we are seeking is scrutiny by the legislature. I take what he said, and will reflect on it. There is cross-party support for this concept; whether we have got it quite right is open to debate, and we will have to find another means of getting it debated in the House. On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 76

WHISTLEBLOWING: ECONOMIC CRIME

"(1) Whistleblowing is defined for the purposes of this section as any disclosure of information suggesting that, in the reasonable opinion of the whistleblower, an economic crime—

(a) has occurred,

(b) is occurring, or

(c) is likely to occur.

(2) The Secretary of State must, within twelve months of the date of Royal Assent to this Act, set up an office to receive reports of whistleblowing as defined in subsection (1) to be known as the Office for Whistleblowers.

(3) The Office for Whistleblowers must—

(a) protect whistleblowers from detriment resulting from their whistleblowing,

(b) ensure that disclosures by whistleblowers are investigated, and

(c) escalate information and evidence of wrongdoing outside of its remit to another appropriate authority.

(4) The objectives of the Office for Whistleblowers are—

(a) to encourage and support whistleblowers to make whistleblowing reports,

(b) to provide an independent, confidential and safe environment for making and receiving whistleblowing information,

(c) to provide information and advice on whistleblowing, and

(d) to act on evidence of detriment to the whistleblower in line with guidance set out by the Secretary of State in regulations.

(5) The Office for Whistleblowers must report annually to Parliament on the exercise of its duties, objectives and functions."
—(Dame Margaret Hodge.)

Brought up, and read the First time.

Dame Margaret Hodge: I beg to move, That the clause be read a Second time.

This new clause relates to another issue on which there is cross-party support: reform of whistleblowing. It has been put together for me, although it is in my name, by the hon. Member for Cheadle (Mary Robinson), who leads the all-party parliamentary group for whistleblowing. I must put it on the record that she has been a fantastic campaigner in this area and an outspoken champion for the countless courageous individuals who have dared to speak out. As she rightly says, for most of those individuals whistleblowing has shattered their lives, with many losing their health and livelihood. What we are talking about here is really important.

Our new clause would introduce an office for whistleblowers, which would protect the whistleblowers and ensure that their disclosures are investigated and information provided is passed to the relevant authorities. In clause 4, we set out ways in which whistleblowers would provide that service. I think that the hon. Member for Thirsk and Malton is the Minister replying to this debate; I know that he is passionate about this topic, because he has said so on lots of occasions—most recently on Second Reading on 13 October, when he said:

"We do not protect or compensate whistleblowers, and that is wrong. Those people do the right thing and come forward but—not to put too fine a point on it —we hang them out to dry."—[*Official Report*, 13 October 2022; Vol. 720, c. 309.]

He went on to say:

"It is pointless having lots of law enforcement people charging around not knowing where to look. Whistleblowers tell us where to look. Some 43% of all financial crimes are identified through whistleblowers, yet it is something we do not talk about. We do not just need more regulators; we need somebody to point us in the right direction. Regulators will always be watchdogs, never bloodhounds. We need the bloodhounds in the organisations who are willing to speak up if things are going wrong."—[*Official Report*, 7 March 2022; Vol. 710, c. 121.]

Hear, hear to that, but let us have some action arising out of those passionate words.

Whistleblowing plays an absolutely key role in addressing economic crime, whether it is for money laundering or other crimes. Think of the Panama papers 2016—we would never have had them—or the Paradise papers, the Russian and Troika laundromats, the Azerbaijan laundromat, the FinCEN files and the Pandora papers. Let us look at just one of those—the Panama papers—which were 11.5 million legal documents held by the Panamanian law firm Mossack Fonseca. It basically made its money by creating offshore companies and bank accounts to launder and hide the money. The story was given to a German paper, then 370 journalists got involved in investigating the data, working in 80 countries.

Just think what came out of that. Twelve current and former world leaders were named in those papers. There was a $2 billion trail to Putin through his close friend Sergei Roldugin, known as Putin's wallet. The money went all over the world, including into an upmarket ski resort in Leningrad owned by a company funded by this dirty money and where Putin gave his daughter a sumptuous wedding. The Icelandic Prime Minister resigned off the back of the papers. The Pakistani Prime Minister was removed from office due to allegations of corruption and fraud.

Through the leak, some £1.2 billion of tax revenue was restored to 23 national Governments. In the UK, there was an extraordinary list of the rich and powerful, from Kevin Keegan to Nick Faldo, Lewis Hamilton, Tiger Woods, Gary Lineker, Madonna, Keira Knightley, Simon Cowell, Nicole Kidman, the Barclay brothers, Stuart Gulliver of HBSC, and political figures like Arron Banks, Michael Ashcroft and the right hon. Member for North East Somerset (Mr Rees-Mogg). They were all named and exposed.

Going back to my Public Accounts Committee days, the work we did all came from whistleblowers in the area of economic crime. I referred earlier to the Goldman Sachs sweetheart deal. That emerged from a whistleblower—a lawyer working in His Majesty's Revenue and Customs. We had a very frustrating session. We knew something was going on, and we interviewed the head of tax at HMRC, but he would tell us absolutely nothing. I then got a bundle of papers from a lawyer

[Dame Margaret Hodge]

who was working there, and in that bundle was a sheet of paper that had on it two things. It said that a meeting was held by the head of law, and he had said that the head of tax had shaken hands on the deal, which the head of tax had denied at the Treasury Committee. He also said that the deal was unconscionable.

We called back the head of tax and head of law and interrogated them. They still said nothing. Then my hon. Friend the Member for Norwich South (Clive Lewis) said to me, "Put the guy on oath. He might tell you something." That had never happened in a Select Committee. I turned to the clerk, who told me that I could put him on oath, and said, "Go and find a Bible." It took them 20 minutes to find a Bible. But the point is that all that from a whistleblower led to the trail that I think has certainly ended up with me being on this Committee considering the Bill today.

What is so terrible about that story is that the then head of tax left public service, and I asked the person who became the permanent secretary in HMRC every time she appeared before the Committee, "Are you looking after that whistleblower? Is he okay?" She always gave me assurances that he was, but actually they raided his computer and telephone. His marriage broke up, and in the end life became so intolerable that he had to leave public office. It is one of the things I feel great shame about really—that I was not able even in that position to protect him, even though it was his revelations that enabled us to start discovering what was going on.

Whistleblowing helps everywhere. It is a vital way of revealing wrongdoing in all sorts of sectors. It was a child sex abuse whistleblower who helped reveal the child sexual exploitation in Rotherham. The NHS is full of workers who blew the whistle on things such as the lack of personal protective equipment. The Public Accounts Committee saw another example, relating to Serco, where a GP contract was done in Cornwall but they were lying about their performance. A whistleblower came to us, but Serco's response was simply to rifle through everybody's lockers to try to find out who the whistleblowers were. Serco was not interested at all in the fact that the information it provided was inaccurate, or in trying to improve the quality of the service.

Interestingly, whistleblowers in America are treated very differently, particularly on the issue of compensation. To give one example, in the JPMorgan case, there was a $45 million settlement after two whistleblower employees at a Georgia mortgage broker alleged that the bank had scammed a programme that was intended to make it easier for veterans to qualify for loans, and had submitted fraudulent claims to the Government. The whistleblowers were awarded $11 million. Facing the same charges, Wells Fargo later settled for $108 million. A whistleblower revealed massive robo-signing at the four banks that were the country's largest mortgage providers. The companies had allegedly relied on a company called Docx to forge signatures on thousands of mortgage documents. The suit was settled for $95 million, and the whistleblowers received $18 million for helping to expose the fraud.

The Minister well knows the facts that I will give him now. In 2018, 40% of whistleblowers reported going on sick leave—that is the pressure in the workplace. Only 4% of whistleblowers who bring claims under the current legal structure succeed. Of the 1,041 whistleblower reports submitted to the FCA in 2021-22, only three have resulted in any significant action. The Minister must agree that enough is enough. We in this country cannot go on failing to treat whistleblowers with the respect, support and advice that they deserve. Our new clause starts the process of reform. It does not do everything—for example, it does not do financial compensation—but it is a start.

Finally, please do not just say, "We are looking at this." Do not tell us you will come back. This is a once-in-a-lifetime opportunity.

Kevin Hollinrake: The right hon. Lady makes an interesting point about how compensation works in the USA. She will be aware that Protect, the most high-profile whistleblower organisation in the UK, is against a compensation scheme similar to that in the USA. There is good reason for that: very few whistleblowers in the USA actually get compensation, which is one of the flaws in the scheme. Does she agree that we must think carefully about how we introduce whistleblower reform? It needs to be well thought through, rather than simply rushed.

Dame Margaret Hodge: I agree that we have to think carefully, but setting up an office for whistleblowing, which is what our new clause would do, could be the start. We might get some proper expertise in there, so as to think through some of the more complex issues.

Minister, grasp the opportunity and agree with our proposal. It would set up a new office—a central place for any would-be whistleblower to come for advice. It would support regulation in organisations. It would be a central place for setting standards, monitoring, evaluating and reporting. It would ensure that those who inflict or suffer detriment will be properly held to account or properly compensated. An office for whistleblowers would drive up standards across both the private and public sectors, increase transparency and restore public confidence. Whistleblower discrimination is a global problem, and the new office would set a global standard here in the UK.

11 am

Stephen Kinnock: I will be brief because my right hon. Friend the Member for Barking has, again, made the case so eloquently. We support new clause 76. The basic fact is that by their very nature, money laundering and economic crime are very often linked to serious organised crime gangs and hostile states. We are dealing with some pretty frightening people. Without adequate protection, the stakes for an informed insider blowing the whistle are simply too high.

New clause 76 would take those vital first steps to provide more adequate protection for whistleblowers and enable the greater detection of fraud and economic crime by establishing a body specifically set up to both protect whistleblowers and investigate their reports. We feel strongly that the Government must bring forward steps to protect and enable whistleblowers. New clause 76 provides an excellent and strong platform to make that happen.

Alison Thewliss: We also support this important new clause. In a recent speech, the Minister said that 43% of all economic crime was identified by whistleblowers, which illustrates why the new clause belongs in the Bill. We all know from whistleblowers' stories that doing the right thing comes often at a significant cost personally, professionally and financially. It is important that we do anything we can to support those whistleblowers and to make sure they feel comfortable to go ahead and do what they do to ensure that we are all protected. I look forward to hearing the Minister supporting the new clause, because he has supported it umpteen times in the past.

Kevin Hollinrake: I think this is the last occasion I have to address the Committee, so I thank all Members for their contributions. We have had very constructive debates throughout the days that we have looked at the Bill. I thank the officials for all their work in these areas.

Not for the first time, I am very sympathetic to the new clause and to the previous one on failure to prevent. Nothing I have seen or heard since I started as a Minister only a few weeks ago has changed my mind on the things I have said in the House and other places about the need for whistleblower reform and failure to prevent reform. There is no conspiracy behind the scenes here. There is a difference between arguing against the principle of something and arguing against the provisions of something. That is where we probably differ a little.

As the hon. Member for Glasgow Central said, I have said before that 43% is the stat for the discovery of financial crime. In my experience, it is much higher than that—about 100%. Everything I have dealt with has been brought to the attention of authorities through whistleblowers, not least Ian Foxley, my constituent who was very important to the case on GPT Special Project Management Ltd that the right hon. Member for Barking referenced. He was the bloodhound in that case. We need those bloodhounds.

Since taking over as Minister with whistleblowing in my portfolio, I have asked officials to prioritise this review and to get it moving properly, and that is what we have committed to do. There are differences in where we go with it: do we do something to address the cases like Ian Foxley's and the others the right hon. Lady references? Sally Masterton addressed those cases. Do we do something longer term and more complex? It is either low-hanging fruit or something more radical.

My hon. Friend the Member for Cheadle has done fantastic work in this area. I am keen to engage with her and my hon. Friend the Member for Weston-super-Mare (John Penrose) to make as much progress as we can as quickly as we can. Ian Foxley's case is interesting because he was prevented from getting compensation. He was very successful in getting that case highlighted and the authorities successfully prosecuted it, but he was denied compensation because the PIDA rules on what it describes as an employee did not cover his particular category. That is a relatively easy issue to fix and something I want to look at.

The other part of the current legislation is around prescribed persons. There are 80 prescribed persons at the moment: people to whom others can make a protected disclosure. We are extending that this week when I introduce a statutory instrument on extending the number of prescribed persons to whom whistleblowers can go to seek assistance. Indeed, some of those prescribed persons are in this room. Members of Parliament are prescribed persons, as are some Ministers, but so too are our agencies. That is probably my biggest concern.

I took the case of Sally Masterton, who was key to highlighting the HBOS Reading scandal, which I have referred to many times in Parliament, to the Financial Conduct Authority. When I asked Andrew Bailey, who was then the chief executive of the FCA, whether he had followed his own whistleblowing procedures in relation to Sally Masterton, who was terribly mistreated by Lloyds Banking Group, he refused to answer the question because I was not a relevant person, under the relevant legislation. That is quite astounding, when it was Parliament that legislated to introduce the whistleblowing protections in the first place.

There are things that we need to do quickly that would address many of the problems, but we have done much. We have improved the guidance on what a prescribed person needs to do. We have a requirement on people to make public annual reports on what they have done in terms of whistleblowers, but I am keen to hold regulators' feet to the fire in this area. I ask the right hon. Member for Barking not to pre-empt the review that I am urgently undertaking, because she knows how serious I am. I would like to bring forward effective reform very quickly, and to effect change more quickly. I fear that the new clause would delay the reform, when we can make progress by other means.

Dame Margaret Hodge: I hear what the Minister says. I simply say to him that finding legislative time will be a battle, so I hope that he has some mechanism to get the reform through.

Kevin Hollinrake: There are things that we can do without primary legislation that could move much more quickly.

Dame Margaret Hodge: I hear that. This matter will be debated by others on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 79

Identification doctrine

"(1) A body corporate commits an offence listed in Schedule 8 where the offence is committed with the consent, connivance or neglect of a senior manager or senior managers.

(2) An individual is a 'senior manager' of an entity if the individual—

(a) plays a significant role in—

(i) the making of decisions about how the entity's relevant activities are to be managed or organised, or

(ii) the managing or organising of the entity's relevant activities, or

(b) is the Chief Executive or Chief Financial Officer of the body corporate.

(3) A body corporate also commits an offence if, acting within the scope of their authority—

(a) one or more senior managers engage in conduct, whether by act or omission, such that, if it had been the conduct of only one representative, that representative would have been a party to the offence; and

(b) the senior manager who is responsible for the aspect of the organization's activities that is relevant to the offence — or the senior managers collectively — fail to take all reasonable steps to prevent that offence being committed."—*(Dame Margaret Hodge.)*

Brought up, and read the First time.

Dame Margaret Hodge: I beg to move, That the clause be read a Second time.

This goes with the failure to prevent, so I will not speak to the new clause. It literally just sorts out the legalese to ensure that we can get at companies and their directors.

The Chair: Order. Does the right hon. Lady still wish to move the motion?

Dame Margaret Hodge: Yes, because I want it on the record. I am just conscious that Members want to get on, and that the argument is the same.

Stephen Kinnock: We fully welcome the new clause, which we think is very important to ensure that all perpetrators of economic crime are caught and dealt with.

Tom Tugendhat: I merely point out that, while the new clause addresses many of the points that the right hon. Member for Barking has raised before, it also raises many of the same challenges. For that reason, I will object to it.

Dame Margaret Hodge: I will not at this point press the new clause to a vote, so I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 80

Forfeiture of recoverable property obtained through economic crime

"(1) Where the conditions in paragraph(2) are fulfilled, a notice may be served in accordance with subsection(4) by the Director of Public Prosecutions, the Director of Serious Fraud Office, or the Director General of the National Crime Agency (hereafter, 'the Director') upon the holder of an account held at a bank in the United Kingdom.

(2) The conditions mentioned in paragraph(1) are that—

(a) the Director has reasonable grounds to believe that property held in the bank account is recoverable property obtained as a result of an economic crime offence;

(b) in relation to the bank account or any property in the bank account, a consent request has been made to an authorized officer under Section 335 of the Proceeds of Crime Act;

(c) an authorized officer refused the consent requested;

(d) a court has granted an extension of a moratorium period for 186 days under section 336A of the Proceeds of Crime Act 2002; and

(e) a court has granted approval to the Director to serve the notice.

(3) A notice under this section shall be a notice by way of representation and shall—

(a) state the name of the holder of the bank account to whom it is addressed;

(b) specify the details of the bank account and of the property or part of the property in the bank account which in the opinion of the Director is recoverable property;

(c) state a date on which, and a place and time at which, the holder of the bank account is required to attend a hearing of the Court to show cause why the property so specified is not recoverable property and should not be forfeited; and

(d) be served on—

(i) the holder of the bank account, and

(ii) the bank at which the account in question is held,

and if an address for service on the holder of the bank account is not known, service on the bank only shall be taken as sufficient for the purposes of this paragraph.

(4) In this section and section [*Forfeiture of recoverable property obtained through economic crime: summary procedure*]—

(a) 'economic crime offence' means an offence listed in Schedule 8 of this Act; and

(b) 'recoverable property' has the meaning given in section 304 of the Proceeds of Crime Act 2002."—*(Dame Margaret Hodge.)*

Brought up, and read the First time.

Dame Margaret Hodge: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 81—*Forfeiture of recoverable property obtained through economic crime: summary procedure*—

'(1) If the person on whom a notice under section [Forfeiture of recoverable property obtained through economic crime](3)(d)(i) served (the "respondent") fails to attend the hearing as required by the notice, the Director may apply forthwith for a forfeiture order, and the Court may make such an order, without further notice to the respondent.

(2) If the respondent appears (whether in person or by a legal representative) at the hearing, the respondent may—

(a) at the hearing, satisfy the Court that the property is not recoverable property; or

(b) request that the question of whether or not the property is recoverable property be determined at such later date as the Court may order.

(3) If the respondent makes a request under subsection(2)(b), the respondent must provide an affidavit in answer to the notice within the period of 21days beginning with the date on which the matter is placed on the list, satisfying the Court that the property is not recoverable property.

(4) Unless the respondent satisfies the Court that the property is not recoverable property obtained as a result of an economic crime offence, the Court shall, upon the application of the Director, make a forfeiture order in relation to the property specified in the notice or any part of it.

(5) Property which is forfeited pursuant to a forfeiture order under this section shall be paid into the top slice of the Asset Recovery Incentivisation Scheme run by the Home Department.'

Dame Margaret Hodge: I will speak to this very quickly, too. This is an interesting new clause, because its purpose is to tackle the issue of suspicious wealth remaining frozen in bank accounts and serving no useful purpose. We propose a new, more straightforward,

pragmatic solution to deal with suspicious wealth, enabling our enforcement agencies to confiscate the moneys in the bank and repurpose them so that much of the wealth can be used to fund and strengthen our anti-money laundering enforcement capacity and perhaps be given back, in some cases, to the nations from which it has been stolen.

When a banker sees a suspicious transaction, he or she is required to ask for consent from the police to allow the transaction to go ahead. If the police officer refuses consent, the moneys can be frozen in the bank account. Under our new clause, the money would then remain frozen for six months, and the director of the Serious Fraud Office could apply to the courts to confiscate or seize the moneys. They will be granted that application unless the respondent proves to the court that the funds do not have a criminal origin. The onus is on the respondent to prove that he or she has obtained the assets legitimately. The SFO does not have to prove that the respondent committed a criminal activity; it is up to the respondent to prove that the funds are legitimately and honestly acquired and are not linked to acts of criminality. The new clause is modelled on unexplained wealth orders.

This would add an important new weapon to our arsenal in the fight against economic crime, as it provides for the non-conviction-based confiscation of frozen assets. Although they are not my favourite people, the people of Jersey have introduced a very similar law and recently managed to secure £1.7 million that was frozen in accounts there. That was money paid to Lieutenant General Jeremiah Useni, who had held office in the Abacha regime in Nigeria, and the allegation was that it was the proceeds of corruption. Although he tried to get his money back, he could not, and a lot of the £1.7 million went back to Nigeria.

The British Bankers' Association thinks that we have up to £50 million held in frozen accounts, untouched. We need a little touch of boldness from the Minister. He should not just accept the message of "resist" that he gets from his officials. He should give good consideration to this sensible, practical, good idea of seizing money stolen by bad people and giving it back to the citizens who have been robbed, or repurposing it to strengthen the fight against economic crime.

Stephen Kinnock: We welcome these new clauses, which would give effect to the Government's stated intention to unlock the proceeds of crime held in bank accounts to fund law enforcement efforts to tackle economic crime. Their adoption would also optimise the potential of the defence against money laundering regime and streamline the process of UK law enforcement identifying tainted wealth and being able to seek its forfeiture.

Tom Tugendhat: I thank the right hon. Member for Barking. While I agree with the intent behind her new clauses, I argue that they narrow slightly the scope in which the state can already recover much of the proceeds of crime. While they attempt to simplify, the reality is that we are already recovering large sums. I am not saying that we could not do more—we certainly could—but I am not convinced that the new clauses would add significantly to existing legislation. Last year, for example, a record £115 million of proceeds of crime were recovered under existing powers.

Dame Margaret Hodge: That is not a brilliant argument, but I will pursue this issue on Report, as we are doing with other issues around seizing and freezing assets. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 84

Compensation for Victims of Economic Crime

'(1) The Secretary of State must, no later than 90 days from the date on which this Act comes into force, publish and lay before Parliament a strategy for the potential establishment of a fund for the compensation of victims of economic crime.

(2) The strategy may include provisions on the management and disposal of any assets realised by the government, or any body with law enforcement responsibilities in relation to economic crime, under relevant UK legislation.'—*(Stephen Kinnock.)*

This new clause would require the Secretary of State to prepare and publish a strategy on the potential establishment of a fund to provide compensation to victims of economic crime.

Brought up, and read the First time.

Stephen Kinnock: I beg to move, That the clause be read a Second time.

As this is the last time I will be on my feet, I thank the Committee; it has been an excellent set of debates, and I look forward to further constructive engagement with the Government on these matters.

The context of new clause 84 is the devastation caused by Putin's barbaric and illegal war for the lives and livelihoods of Ukraine's population. This demands a concerted cross-party and international effort, of which the UK should be at the forefront, as the staggering costs of reconstruction are sure to remain a key challenge long after the war itself has reached its inevitable end.

The new clause would require the Government to prepare and publish a wide-ranging strategy for efforts to ensure that the necessary financial compensation is made available to victims of economic crime, wherever they may be. This could and should be applied to victims of international crimes, of which the war in Ukraine is without doubt an example, but it could be applied more broadly as a means of providing a measure of justice to the victims of any other kleptocratic regimes around the world. The new clause would provide a mechanism for compensating victims of economic crime in the UK, including the thousands, or perhaps even millions, of British victims of online scams and other kinds of fraud. We therefore commend the new clause to the Committee, and I look forward to the Minister's response.

11.15 am

Alison Thewliss: If this is indeed the last opportunity I have to speak in the Committee, I thank the Ministers. I hope they have been listening closely to what we recommend and will bring back amendments on Report. I also thank my hon. Friend the Member for Paisley and Renfrewshire North for being so patient and helpful in supporting me throughout the passage of the Bill.

[Alison Thewliss]

The new clause gets to the heart of the matter. Victims of economic crime often receive very little compensation but suffer greatly from the impact of the crime. It can be devastating for people, both financially and personally, and they are deeply affected by it for the rest of their lives, so anything that will go towards helping to compensate those victims seems like a sensible prospect.

Tom Tugendhat: As this is probably the last time I will speak in the Committee, I thank you, Mr Robertson. I also thank the right hon. Member for Barking for her input into the Bill not just today, but over many years and as Chair of the Public Accounts Committee. The way in which she has championed tackling economic crime, drawn the House's attention to it, and focused the country on the real threats that we have faced has been impressive to us all, and I am personally enormously grateful to her. She certainly helped my work enormously when I chaired the Foreign Affairs Committee, and she has now helped to focus my work as a Minister. I am very grateful that I have had the privilege of working with her.

Dame Margaret Hodge: I forgot to thank you, Mr Robertson, for chairing the Committee and for showing such an interest in what we are doing. I also thank the Ministers and Members of all parties who have spoken and participated. I look forward to working further to get even more into the Bill.

Tom Tugendhat: If anybody thinks that I was trying to soft-soap the right hon. Lady in order to shut her up in future sittings, they do not know her very well. It would have not worked, and I have not tried it. All I have done is to pay credit to somebody who has definitely earned it. I also thank my fellow Minister and the Whips, who have got us through at lightning speed.

On the new clause, the powers in part 4 already increase the focus on victims. The compensation principles of the Serious Fraud Office, CPS, the National Crime Agency and others have committed law enforcement bodies to ensuring that compensation for economic crime is considered in every relevant case, including where there are overseas victims, so I believe that the Bill already focuses on many of the aspects that we have discussed. That said, we are coming to Report. As always, I will be listening, but I have yet to be convinced about the new clause, because I believe that it has largely been covered.

Stephen Kinnock: Has the Minister any thoughts on the international forums that have been set up—for example, the Russian Elites, Proxies, and Oligarchs Taskforce and the European Commission's Freeze and Seize Taskforce. What contribution are the UK Government planning to make to those processes?

Tom Tugendhat: I can speak directly to that, because I have recently had a meeting about it with other Governments and other jurisdictions. So far, many people have come up with ways to freeze assets. That is not a particular challenge; the UK does so very actively. Seizing and forfeiting in totality is a different challenge, because it depends on ownership and on many aspects of common law jurisdiction that we would not want to understate. I assure the hon. Gentleman honestly that I have not given up on this, because compensation for the victims in Ukraine is the very least that we should expect, as he correctly identified. Ukraine's inevitable victory, which is absolutely assured, leads us to start thinking about how we reconstruct that extraordinary country. It is clear that Russian state assets held abroad—some, sadly, are held in the UK—should go some way to contributing to that.

That said, how do we construct the legal arguments to ensure that that is possible? They need to be in keeping with British common law, for obvious reasons. We do not want a jurisdiction of forfeiture; we want a jurisdiction of law. There is more work to be done, therefore. We are working very closely with other common law jurisdictions, such as Australia, Canada and, indeed, the United States. There is an ongoing discussion, but it is not quite as straightforward as I would have hoped.

Stephen Kinnock: I have no further comments, and I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Schedule 1

Cryptoassets: terrorism

"*Part 1*

Amendments to the Anti-terrorism, Crime and Security Act 2001

1 Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist property) is amended as follows.

2 After Part 4B insert—

'Part 4BA

Seizure and detention of terrorist cryptoassets

Interpretation

10Z7A (1) In this Schedule—

"cryptoasset" means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically;

"crypto wallet" means—

(a) software,

(b) hardware,

(c) a physical item, or

(d) any combination of the things mentioned in paragraphs (a) to (c),

which is used to store the cryptographic private key that allows cryptoassets to be accessed.

"terrorist cryptoasset" means a cryptoasset which—

(a) is within subsection (1)(a) or (b) of section 1, or

(b) is earmarked as terrorist property.

(2) The Secretary of State may by regulations made by statutory instrument amend the definitions of "cryptoasset" and "crypto wallet" in sub-paragraph (1).

(3) Regulations under sub-paragraph (2)—

(a) may make different provision for different purposes;

(b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.

(4) A statutory instrument containing regulations under sub-paragraph (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(5) In this Part—

"cryptoasset-related item" means an item of property that is, or that contains or gives access to information that is, likely to assist in the seizure under this Part of terrorist cryptoassets;

"senior officer" means—

(a) a senior police officer;

(b) an officer of Revenue and Customs of a rank designated by the Commissioners for His Majesty's Revenue and Customs as equivalent to that of a senior police officer;

(c) an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer;

"senior police officer" means a police officer of at least the rank of superintendent.

Seizure of cryptoasset-related items

10Z7AA (1) An authorised officer may seize any item of property if the authorised officer has reasonable grounds for suspecting that the item is a cryptoasset-related item.

(2) If an authorised officer is lawfully on any premises, the officer may, for the purpose of—

(a) determining whether any property is a cryptoasset-related item, or

(b) enabling or facilitating the seizure under this Part of any terrorist cryptoasset,

require any information which is stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form.

(3) But sub-paragraph (2) does not authorise an authorised officer to require a person to produce privileged information.

(4) In this paragraph "privileged information" means information which a person would be entitled to refuse to provide—

(a) in England and Wales and Northern Ireland, on grounds of legal professional privilege in proceedings in the High Court;

(b) in Scotland, on grounds of confidentiality of communications in proceedings in the Court of Session.

(5) Where an authorised officer has seized a cryptoasset-related item under sub-paragraph (1), the officer may use any information obtained from the item for the purpose of—

(a) identifying or gaining access to a crypto wallet, and

(b) by doing so, enabling or facilitating the seizure under this Part of any cryptoassets.

Initial detention of cryptoasset-related items

10Z7AB (1) Property seized under paragraph 10Z7AA may be detained for an initial period of 48 hours.

(2) Sub-paragraph (1) authorises the detention of property only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to that property as described in paragraph 10Z7AA(1).

(3) In calculating a period of 48 hours for the purposes of this paragraph, no account is to be taken of—

(a) any Saturday or Sunday,

(b) Christmas Day,

(c) Good Friday,

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or

(e) any day prescribed by virtue of section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.

Further detention of cryptoasset-related items

10Z7AC (1) The period for which property seized under paragraph 10Z7AA may be detained may be extended by an order made—

(a) in England and Wales or Northern Ireland, by a magistrates' court;

(b) in Scotland, by the sheriff.

(2) An order under sub-paragraph (1) may not authorise the detention of any property—

(a) beyond the end of the period of 6 months beginning with the date of the order, and

(b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to sub-paragraph (4).

(3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1).

(4) The court or sheriff may make an order for the period of 2 years in sub-paragraph (2)(b) to be extended to a period of up to 3 years beginning with the date of the first order.

(5) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—

(a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and

(b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.

(6) An application for an order under sub-paragraph (1) or (4) may be made—

(a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty's Revenue and Customs or an authorised officer;

(b) in relation to Scotland, by a procurator fiscal.

(7) The court, sheriff or justice may make an order under sub-paragraph (1) if satisfied, in relation to the item of property to be further detained, that—

(a) there are reasonable grounds for suspecting that it is a cryptoasset-related item, and

(b) its continuing detention is justified.

(8) The court or sheriff may make an order under sub-paragraph (4) if satisfied that a request for assistance is outstanding in relation to the item of property to be further detained.

(9) A "request for assistance" in sub-paragraph (8) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the property to be further detained, made —

(a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003, or

(b) by an authorised officer, to an authority exercising equivalent functions in a foreign country.

(10) An order under sub-paragraph (1) must provide for notice to be given to persons affected by the order.

Seizure of cryptoassets

10Z7AD (1) An authorised officer may seize cryptoassets if the authorised officer has reasonable grounds for suspecting that the cryptoassets are terrorist cryptoassets.

(2) The circumstances in which a cryptoasset is "seized" for the purposes of sub-paragraph (1) include circumstances in which it is transferred into a crypto wallet controlled by the authorised officer.

Prior authorisation for detention of cryptoassets

10Z7AE (1) Where an order is made under paragraph 10Z7AC in respect of a cryptoasset-related item, the court, sheriff or justice making the order may, at the same time, make an order to authorise the detention of any cryptoassets that may be seized as a result of information obtained from that item.

(2) An application for an order under this paragraph may be made, by a person mentioned in paragraph 10Z7AC(6), at the same time as an application for an order under paragraph 10Z7AC is made by that person.

(3) The court, sheriff or justice may make an order under this paragraph if satisfied that there are reasonable grounds for suspecting that the cryptoassets that may be seized are terrorist cryptoassets.

(4) An order under this paragraph authorises detention of the cryptoassets for the same period of time as the order under paragraph 10Z7AC authorises detention in respect of the cryptoasset-related item to which those cryptoassets relate.

Initial detention of cryptoassets

10Z7AF (1) Cryptoassets seized under paragraph 10Z7AD may be detained for an initial period of 48 hours.

(2) Sub-paragraph (1) authorises the detention of cryptoassets only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to those cryptoassets as described in paragraph 10Z7AD(1).

(3) In calculating a period of 48 hours for the purposes of this paragraph, no account is to be taken of—

(a) any Saturday or Sunday,

(b) Christmas Day,

(c) Good Friday,

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or

(e) any day prescribed by virtue of section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.

(4) This paragraph is subject to paragraph 10Z7AE.

Further detention of cryptoassets

10Z7AG (1) The period for which cryptoassets seized under paragraph 10Z7AD may be detained may be extended by an order made—

(a) in England and Wales or Northern Ireland, by a magistrates' court;

(b) in Scotland, by the sheriff.

(2) An order under sub-paragraph (1) may not authorise the detention of any cryptoassets—

(a) beyond the end of the period of 6 months beginning with the date of the order, and

(b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order; but this is subject to sub-paragraph (4).

(3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1).

(4) The court or sheriff may make an order for the period of 2 years in sub-paragraph (2)(b) to be extended to a period of up to 3 years beginning with the date of the first order.

(5) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—

(a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and

(b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.

(6) An application for an order under sub-paragraph (1) or (4) may be made—

(a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty's Revenue and Customs or an authorised officer;

(b) in relation to Scotland, by a procurator fiscal.

(7) The court, sheriff or justice may make an order under sub-paragraph (1) if satisfied, in relation to the cryptoassets to be further detained, that condition 1, condition 2 or condition 3 is met.

(8) Condition 1 is that there are reasonable grounds for suspecting that the cryptoassets are intended to be used for the purposes of terrorism and that either—

(a) their continued detention is justified while their intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or

(b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.

(9) Condition 2 is that there are reasonable grounds for suspecting that the cryptoassets consist of resources of an organisation which is a proscribed organisation and that either—

(a) their continued detention is justified while investigation is made into whether or not they consist of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or

(b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.

(10) Condition 3 is that there are reasonable grounds for suspecting that the cryptoassets are property earmarked as terrorist property and that either—

(a) their continued detention is justified while their derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the cryptoassets are connected, or

(b) proceedings against any person for an offence with which the cryptoassets are connected have been started and have not been concluded.

(11) The court or sheriff may make an order under sub-paragraph (4) if satisfied that a request for assistance is outstanding in relation to the cryptoassets to be further detained.

(12) A "request for assistance" in sub-paragraph (11) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the property to be further detained, made —

(a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003, or

(b) by an authorised officer, to an authority exercising equivalent functions in a foreign country.

(13) An order under sub-paragraph (1) must provide for notice to be given to persons affected by the order.

Safekeeping of cryptoasset-related items and cryptoassets

10Z7AH (1) An authorised officer must arrange for any item of property seized under paragraph 10Z7AA to be safely stored throughout the period during which it is detained under this Part.

(2) An authorised officer must arrange for any cryptoassets seized under paragraph 10Z7AD to be safely stored throughout the period during which they are detained under this Part.

Release of cryptoasset-related items and cryptoassets

10Z7AI (1) This paragraph applies while any cryptoasset or other item of property is detained under this Part.

(2) A magistrates' court or (in Scotland) the sheriff may, subject to sub-paragraph (9), direct the release of the whole or any part of the property if the following condition is met.

(3) The condition is that the court or sheriff is satisfied, on an application by the person from whom the property was seized, that the conditions for the detention of the property in this Part are no longer met in relation to the property to be released.

(4) A person within sub-paragraph (5) may, subject to sub-paragraph (9) and after notifying the magistrates' court, sheriff or justice under whose order property is being detained, release the whole or any part of the property if satisfied that the detention of the property to be released is no longer justified.

(5) The following persons are within this sub-paragraph—

(a) in relation to England and Wales and Northern Ireland, an authorised officer;

(b) in relation to Scotland, a procurator fiscal.

(6) If any cryptoasset-related item which has been released is not claimed within the period of a year beginning with the date on which it was released, an authorised officer may—

(a) retain the item and deal with it as they see fit,

(b) dispose of the item, or

(c) destroy the item.

(7) The powers in sub-paragraph (6) may be exercised only—

(a) where the authorised officer has taken reasonable steps to notify—

(i) the person from whom the item was seized, and

(ii) any other persons who the authorised officer has reasonable grounds to believe have an interest in the item,

that the item has been released, and

(b) with the approval of a senior officer.

(8) Any proceeds of a disposal of the item are to be paid—

(a) into the Consolidated Fund if—

(i) the item was directed to be released by a magistrates' court, or

(ii) a magistrates' court or justice was notified under sub-paragraph (4) of the release;

(b) into the Scottish Consolidated Fund if—

(i) the item was directed to be released by the sheriff, or

(ii) the sheriff was notified under sub-paragraph (4) of the release.

(9) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, the property is not to be released under this paragraph (and so is to continue to be detained) until the proceedings are concluded.

Part 4BB

Terrorist cryptoassets: crypto wallet freezing orders

Interpretation

10Z7B (1) In this Part—

(a) "cryptoasset exchange provider" means a firm or sole practitioner who by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—

(i) exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,

(ii) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or

(iii) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets;

(b) "custodian wallet provider" means a firm or sole practitioner who by way of business provides services to safeguard, or to safeguard and administer—

(i) cryptoassets on behalf of its customers, or

(ii) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets;

(c) "cryptoasset service provider" includes cryptoasset exchange provider and custodian wallet provider.

(2) In the definition of "cryptoasset exchange provider" in sub-paragraph (1)—

(a) "cryptoasset" includes a right to, or interest in, a cryptoasset;

(b) "money" means—

(i) money in sterling,

(ii) money in any other currency, or

(iii) money in any other medium of exchange,

but does not include a cryptoasset.

(3) The Secretary of State may by regulations made by statutory instrument amend the definitions in sub-paragraphs (1) and (2).

(4) Regulations under sub-paragraph (3)—

(a) may make different provision for different purposes;

(b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.

(5) A statutory instrument containing regulations under sub-paragraph (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(6) For the purposes of this Part—

(a) a crypto wallet freezing order is an order that, subject to any exclusions (see paragraph 10Z7BD), prohibits each person by or for whom the crypto wallet to which the order applies is administered from—

(i) making withdrawals or payments from the crypto wallet, or

(ii) using the crypto wallet in any other way;

(b) a crypto wallet is administered by or for a person if the person is the person to whom services are being provided by a cryptoasset service provider in relation to that crypto wallet.

(7) In this Part—

"enforcement officer" means—

(a) a constable, or

(b) a counter-terrorism financial investigator;

"relevant court" means—

(a) in England and Wales and Northern Ireland, a magistrates' court, and

(b) in Scotland, the sheriff;

"senior officer" means a police officer of at least the rank of superintendent;

"UK-connected cryptoasset service provider" means a cryptoasset service provider which—

(a) is acting in the course of business carried on by it in the United Kingdom,

(b) has terms and conditions with the persons to whom it provides services which provide for a legal dispute to be litigated in the courts of a part of the United Kingdom,

(c) holds, in the United Kingdom, any data relating to the persons to whom it provides services, or

(d) meets the condition in sub-paragraph (8).

(8) The condition in this sub-paragraph is that—

(a) the cryptoasset service provider has its registered office, or if it does not have one, its head office in the United Kingdom, and

(b) the day-to-day management of the provider's business is the responsibility of that office or another establishment maintained by it in the United Kingdom.

Application for crypto wallet freezing order

10Z7BA (1) This paragraph applies if an enforcement officer has reasonable grounds for suspecting that cryptoassets held in a crypto wallet administered by a UK-connected cryptoasset service provider are terrorist cryptoassets.

(2) Where this paragraph applies the enforcement officer may apply to the relevant court for a crypto wallet freezing order in relation to the crypto wallet in which the cryptoassets are held.

(3) But—

(a) an enforcement officer may not apply for a crypto wallet freezing order unless the officer is a senior officer or is authorised to do so by a senior officer, and

(b) the senior officer must consult the Treasury before making the application for the order or (as the case may be) authorising the application to be made, unless in the circumstances it is not reasonably practicable to do so.

(4) An application for a crypto wallet freezing order may be made without notice if the circumstances of the case are such that notice of the application would prejudice the taking of any steps under this Schedule to forfeit cryptoassets that are terrorist cryptoassets.

(5) An application for a crypto wallet freezing order under this paragraph may be combined with an application for an account freezing order under paragraph 10Q where a single entity—

(a) is both a relevant financial institution for the purposes of paragraph 10Q and a cryptoasset service provider for the purposes of this Part, and

(b) operates or administers, for the same person, both an account holding money and a crypto wallet.

Making of crypto wallet freezing order

10Z7BB (1) This paragraph applies where an application for a crypto wallet freezing order is made under paragraph 10Z7BA in relation to a crypto wallet.

(2) The relevant court may make the order if satisfied that there are reasonable grounds for suspecting that some or all of the cryptoassets held in the crypto wallet are terrorist cryptoassets.

(3) A crypto wallet freezing order ceases to have effect at the end of the period specified in the order (which may be varied under paragraph 10Z7BC) unless it ceases to have effect at an earlier or later time in accordance with this Part or Part 4BC or 4BD.

(4) The period specified by the relevant court for the purposes of sub-paragraph (3) (whether when the order is first made or on a variation under paragraph 10Z7BC) may not exceed the period of 2 years, beginning with the day on which the crypto wallet freezing order is (or was) made; but this is subject to sub-paragraph (5).

(5) The relevant court may make an order for the period of 2 years in sub-paragraph (4) to be extended to a period of up to 3 years beginning with the day on which the crypto wallet freezing order is (or was) made.

(6) The relevant court may make an order under sub-paragraph (5) if satisfied that a request for assistance is outstanding in relation to some or all of the cryptoassets held in the crypto wallet.

(7) A "request for assistance" in sub-paragraph (6) means a request for assistance in obtaining evidence (including information in any form or article) in connection with some or all of the cryptoassets held in the crypto wallet, made—

(a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003, or

(b) by an enforcement officer, to an authority exercising equivalent functions in a foreign country.

(8) A crypto wallet freezing order must provide for notice to be given to persons affected by the order.

Variation and setting aside of crypto wallet freezing order

10Z7BC (1) The relevant court may at any time vary or set aside a crypto wallet freezing order on an application made by—

(a) an enforcement officer, or

(b) any person affected by the order.

(2) But an enforcement officer may not make an application under sub-paragraph (1) unless the officer is a senior officer or is authorised to do so by a senior officer.

(3) Before varying or setting aside a crypto wallet freezing order the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

(4) In relation to Scotland, the references in this paragraph to setting aside an order are to be read as references to recalling it.

Exclusions

10Z7BD (1) The power to vary a crypto wallet freezing order includes (amongst other things) power to make exclusions from the prohibition on making withdrawals or payments from the crypto wallet to which the order applies.

(2) Exclusions from the prohibition may also be made when the order is made.

(3) An exclusion may (amongst other things) make provision for the purpose of enabling a person by or for whom the crypto wallet is administered—

(a) to meet the person's reasonable living expenses, or

(b) to carry on any trade, business, profession or occupation.

(4) An exclusion may be made subject to conditions.

(5) Where a magistrates' court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Schedule, it must ensure that the exclusion—

(a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs,

(b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and

(c) is made subject to the same conditions as would be the required conditions (see section 286A of the Proceeds of Crime Act 2002) if the order had been made under section 245A of that Act (in addition to any conditions imposed under sub-paragraph (4)).

(6) A magistrates' court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Schedule—

(a) must have regard to the desirability of the person being represented in any proceedings under this Schedule in which the person is a participant, and

(b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made—

(i) be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or

(ii) be funded by the Department of Justice in Northern Ireland.

(7) The sheriff's power to make exclusions may not be exercised for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Schedule.

(8) The power to make exclusions must, subject to sub-paragraph (6), be exercised with a view to ensuring, so far as practicable, that there is not undue prejudice to the taking of any steps under this Schedule to forfeit cryptoassets that are terrorist cryptoassets.

Restriction on proceedings and remedies

10Z7BE (1) If a court in which proceedings are pending in respect of a crypto wallet administered by a UK-connected cryptoasset service provider is satisfied that a crypto wallet freezing order has been applied for or made in respect of the crypto wallet, it may either stay the proceedings or allow them to continue on any terms it thinks fit.

(2) Before exercising the power conferred by sub-paragraph (1), the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.

(3) In relation to Scotland, the reference in sub-paragraph (1) to staying the proceedings is to be read as a reference to sisting the proceedings.

PART 4BC

Forfeiture of terrorist cryptoassets

Interpretation

10Z7C (1) In this Part—

"cryptoasset service provider" has the same meaning as in Part 4BB (see paragraph 10Z7B(1));

"crypto wallet freezing order" has the same meaning as in Part 4BB (see paragraph 10Z7B(6));

"senior officer" means—

(a) a senior police officer;

(b) an officer of Revenue and Customs of a rank designated by the Commissioners for His Majesty's Revenue and Customs as equivalent to that of a senior police officer;

(c) an immigration officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer;

"senior police officer" means a police officer of at least the rank of superintendent.

(2) Paragraph 10Z7B(6)(b) (administration of crypto wallets) applies in relation to this Part as it applies in relation to Part 4BB.

Forfeiture

10Z7CA (1) This paragraph applies—

(a) while any cryptoassets are detained in pursuance of an order under paragraph 10Z7AE or 10Z7AG, or

(b) while a crypto wallet freezing order made under paragraph 10Z7BB has effect.

(2) An application for the forfeiture of some or all of the cryptoassets that are detained or held in the crypto wallet that is subject to the crypto wallet freezing order may be made—

(a) to a magistrates' court by the Commissioners for His Majesty's Revenue and Customs or an authorised officer, or

(b) to the sheriff by the Scottish Ministers.

(3) The court or sheriff may order the forfeiture of some or all of the cryptoassets if satisfied that the cryptoassets are terrorist cryptoassets.

(4) An order under sub-paragraph (3) made by a magistrates' court may provide for payment under paragraph 10Z7CJ of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—

(a) the proceedings in which the order is made, or

(b) any related proceedings under this Part.

(5) A sum in respect of a relevant item of expenditure is not payable under paragraph 10Z7CJ in pursuance of provision under sub-paragraph (4) unless—

(a) the person who applied for the order under sub-paragraph (3) agrees to its payment, or

(b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.

(6) For the purposes of sub-paragraph (5)—

(a) a "relevant item of expenditure" is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (3) had instead been a recovery order made under section 266 of that Act;

(b) an amount is "allowed" in respect of a relevant item of expenditure if it would have been allowed by those regulations;

(c) if the person who applied for the order under sub-paragraph (3) was an authorised officer, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.

(7) Sub-paragraph (3) ceases to apply on the transfer of an application made under this paragraph in accordance with paragraph 10Z7CE.

Forfeiture: supplementary

10Z7CB (1) Sub-paragraph (2) applies where an application is made under paragraph 10Z7CA for the forfeiture of any cryptoassets detained in pursuance of an order under paragraph 10Z7AE or 10Z7AG.

(2) The cryptoassets are to continue to be detained in pursuance of the order (and may not be released under any power conferred by this Schedule) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.

This is subject to Part 4BD (conversion to money)

(3) Where an application is made under paragraph 10Z7CA in relation to cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order—

(a) sub-paragraphs (4) and (5) apply, and

(b) the crypto wallet freezing order is to continue to have effect until the time referred to in sub-paragraph (4)(b) or (5).

(4) Where the cryptoassets are ordered to be forfeited under paragraph 10Z7CA(3) or 10Z7CE(3)—

(a) the cryptoasset service provider that administers the crypto wallet must transfer the cryptoassets into a crypto wallet nominated by an authorised officer, and

(b) immediately after the transfer has been made, the freezing order ceases to have effect.

(5) Where the application is determined or otherwise disposed of other than by the making of an order under paragraph 10Z7CA(3) or 10Z7CE(3), the crypto wallet freezing order ceases to have effect immediately after that determination or other disposal.

(6) Sub-paragraphs (4)(b) and (5) are subject to paragraph 10Z7CF and Part 4BD.

(7) The Secretary of State may by regulations made by statutory instrument amend this paragraph to make provision about the forfeiture of cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order.

(8) Regulations under sub-paragraph (7) may in particular make provision about—

(a) the process for the forfeiture of cryptoassets;

(b) the realisation of forfeited cryptoassets;

(c) the application of the proceeds of such realisation.

(9) Regulations under sub-paragraph (7) may—

(a) make different provision for different purposes;

(b) make consequential, supplementary, incidental, transitional, transitory or saving provision, including provision which makes consequential amendments to this Part.

(10) A statutory instrument containing regulations under sub-paragraph (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

Associated and joint property

10Z7CC (1) Paragraphs 10Z7CD and 10Z7CE apply if—

(a) an application is made under paragraph 10Z7CA in respect of cryptoassets,

(b) the court or sheriff is satisfied that some or all of the cryptoassets are terrorist cryptoassets, and

(c) there exists property that is associated with the cryptoassets in relation to which the court or sheriff is satisfied as mentioned in paragraph (b).

(2) Paragraphs 10Z7CD and 10Z7CE also apply in England and Wales and Northern Ireland if—

(a) an application is made under paragraph 10Z7CA in respect of cryptoassets,

(b) the court is satisfied that some or all of the cryptoassets are earmarked as terrorist property, and

(c) the cryptoassets in relation to which the court is satisfied as mentioned in paragraph (b) belong to joint tenants and one of the tenants is an excepted joint owner.

(3) In this paragraph and paragraphs 10Z7CD and 10Z7CE, "associated property" means property of any of the following descriptions that is not itself the forfeitable property—

(a) any interest in the forfeitable property;

(b) any other interest in the property in which the forfeitable property subsists;

(c) if the forfeitable property is part of a larger property, but not a separate part, the remainder of that property.

References to property being associated with forfeitable property are to be read accordingly.

(4) In this paragraph and paragraphs 10Z7CD and 10Z7CE, the "forfeitable property" means the cryptoassets in relation to which the court or sheriff is satisfied as mentioned in sub-paragraph (1)(b) or (2)(b) (as the case may be).

(5) For the purposes of this paragraph and paragraphs 10Z7CD and 10Z7CE—

(a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against them) be earmarked, and

(b) references to the excepted joint owner's share of property are to so much of the property as would have been theirs if the joint tenancy had been severed.

Agreements about associated and joint property

10Z7CD (1) Where—

(a) this paragraph applies, and

(b) the person who applied for the order under paragraph 10Z7CA (on the one hand) and the person who holds the associated property or who is the excepted joint owner (on the other hand) agree,

the magistrates' court or sheriff may, instead of making an order under paragraph 10Z7CA(3), make an order requiring the person who holds the associated property or who is the excepted joint owner to make a payment to a person identified in the order.

(2) The amount of the payment is (subject to sub-paragraph (3)) to be the amount which the persons referred to in sub-paragraph (1)(b) agree represents—

(a) in a case where this paragraph applies by virtue of paragraph 10Z7CC(1), the value of the forfeitable property;

(b) in a case where this paragraph applies by virtue of paragraph 10Z7CC(2), the value of the forfeitable property less the value of the excepted joint owner's share.

(3) The amount of the payment may be reduced if the person who applied for the order under paragraph 10Z7CA agrees that the other party to the agreement has suffered loss as a result of—

(a) the seizure of the forfeitable property under paragraph 10Z7AD and its subsequent detention, or

(b) the making of a crypto wallet freezing order under paragraph 10Z7BB.

(4) The reduction that is permissible by virtue of sub-paragraph (3) is such amount as the parties to the agreement agree is reasonable, having regard to the loss suffered and any other relevant circumstances.

(5) An order under sub-paragraph (1) may, so far as required for giving effect to the agreement, include provision for vesting, creating or extinguishing any interest in property.

(6) An order under sub-paragraph (1) made by a magistrates' court may provide for payment under sub-paragraph (11) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—

(a) the proceedings in which the order is made, or

(b) any related proceedings under this Part.

(7) A sum in respect of a relevant item of expenditure is not payable under sub-paragraph (11) in pursuance of provision under sub-paragraph (6) unless—

(a) the person who applied for the order under paragraph 10Z7CA agrees to its payment, or

(b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.

(8) For the purposes of sub-paragraph (7)—

(a) a "relevant item of expenditure" is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (1) had instead been a recovery order made under section 266 of that Act;

(b) an amount is "allowed" in respect of a relevant item of expenditure if it would have been allowed by those regulations.

(9) If there is more than one item of associated property or more than one excepted joint owner, the total amount to be paid under sub-paragraph (1), and the part of that amount which is to be provided by each person who holds any such associated property or who is an excepted joint owner, is to be agreed between both (or all) of them and the person who applied for the order under paragraph 10Z7CA.

(10) If the person who applied for the order under paragraph 10Z7CA was an authorised officer, that person may enter into an agreement for the purposes of any provision of this paragraph only if the person is a senior officer or is authorised to do so by a senior officer.

(11) An amount received under an order under sub-paragraph (1) must be applied as follows—

(a) first, it must be applied in making any payment of legal expenses which, after giving effect to sub-paragraph (7), are payable under this sub-paragraph in pursuance of provision under sub-paragraph (6);

(b) second, it must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the forfeitable property and any associated property whilst detained under this Schedule;

(c) third, it must be paid—

(i) if the order was made by a magistrates' court, into the Consolidated Fund;

(ii) if the order was made by the sheriff, into the Scottish Consolidated Fund.

Associated and joint property: default of agreement

10Z7CE (1) Where this paragraph applies and there is no agreement under paragraph 10Z7CD, the magistrates' court or sheriff may transfer the application made under paragraph 10Z7CA to the appropriate court.

(2) The "appropriate court" is—

(a) the High Court, where the application under paragraph 10Z7CA was made to a magistrates' court;

(b) the Court of Session, where the application under paragraph 10Z7CA was made to the sheriff.

(3) Where (under sub-paragraph (1)) an application made under paragraph 10Z7CA is transferred to the appropriate court, the appropriate court may order the forfeiture of the property to which the application relates, or any part of that property, if satisfied that what is to be forfeited—

(a) is within subsection (1)(a) or (b) of section 1, or

(b) is property earmarked as terrorist property.

(4) An order under sub-paragraph (3) made by the High Court may include provision of the type that may be included in an order under paragraph 10Z7CA(3) made by a magistrates' court by virtue of paragraph 10Z7CA(4).

(5) If provision is included in an order of the High Court by virtue of sub-paragraph (4) of this paragraph, paragraph 10Z7CA(5) and (6) apply with the necessary modifications.

(6) The appropriate court may, as well as making an order under sub-paragraph (3), make an order—

(a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or

(b) providing for the excepted joint owner's interest to be severed.

(7) Where (under sub-paragraph (1)) the magistrates' court or sheriff decides not to transfer an application made under paragraph 10Z7CA to the appropriate court, the magistrates' court or sheriff may, as well as making an order under paragraph 10Z7CA(3), make an order—

(a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner's interest to be extinguished, or

(b) providing for the excepted joint owner's interest to be severed.

(8) An order under sub-paragraph (6) or (7) may be made only if the appropriate court, the magistrates' court or the sheriff (as the case may be) thinks it just and equitable to do so.

(9) An order under sub-paragraph (6) or (7) must provide for the payment of an amount to the person who holds the associated property or who is an excepted joint owner.

(10) In making an order under sub-paragraph (6) or (7), and including provision in it by virtue of sub-paragraph (9), the appropriate court, the magistrates' court or the sheriff (as the case may be) must have regard to—

(a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to that person of that property or (as the case may be) of that person's share (including any value that cannot be assessed in terms of money), and

(b) the interest of the person who applied for the order under paragraph 10Z7CA in realising the value of the forfeitable property.

(11) If the appropriate court, the magistrates' court or the sheriff (as the case may be) is satisfied that—

(a) the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of—

(i) the seizure of the forfeitable property under paragraph 10Z7AD and its subsequent detention, or

(ii) the making of the crypto wallet freezing order under paragraph 10Z7BB, and

(b) the circumstances are exceptional,

an order under sub-paragraph (6) or (7) may require the payment of compensation to that person.

(12) The amount of compensation to be paid by virtue of sub-paragraph (11) is the amount the appropriate court, the magistrates' court or the sheriff (as the case may be) thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(13) Compensation to be paid by virtue of sub-paragraph (11) is to be paid in the same way that compensation is to be paid under paragraph 10Z7CM.

Continuation of crypto wallet freezing order pending appeal

10Z7CF (1) This paragraph applies where, on an application under paragraph 10Z7CA in relation to a crypto wallet to which a crypto wallet freezing order applies—

(a) the magistrates' court or sheriff decides—

(i) to make an order under paragraph 10Z7CA(3) in relation to some but not all of the cryptoassets to which the application related, or

(ii) not to make an order under paragraph 10Z7CA(3), or

(b) if the application is transferred in accordance with paragraph 10Z7CE(1), the High Court or Court of Session decides—

(i) to make an order under paragraph 10Z7CE(3) in relation to some but not all of the cryptoassets to which the application related, or

(ii) not to make an order under paragraph 10Z7CE(3).

(2) The person who made the application under paragraph 10Z7CA may apply without notice to the court or sheriff that made the decision referred to in sub-paragraph (1) for an order that the crypto wallet freezing order is to continue to have effect.

(3) Where the court or sheriff makes an order under sub-paragraph (2) the crypto wallet freezing order is to continue to have effect until—

(a) the end of the period of 48 hours starting with the making of the order under sub-paragraph (2), or

(b) if within that period of 48 hours an appeal is brought (whether under paragraph 10Z7CG or otherwise) against the decision referred to in sub-paragraph (1), the time when the appeal is determined or otherwise disposed of.

(4) Sub-paragraph (3) of paragraph 10Z7AF applies for the purposes of sub-paragraph (3) as it applies for the purposes of that paragraph.

Paragraphs 10Z7CA to 10Z7CE: appeals

10Z7CG (1) Any party to proceedings for an order for the forfeiture of cryptoassets under paragraph 10Z7CA may appeal against—

(a) the making of an order under paragraph 10Z7CA;

(b) the making of an order under paragraph 10Z7CE(7);

(c) a decision not to make an order under paragraph 10Z7CA unless the reason that no order was made is that an order was instead made under paragraph 10Z7CD;

(d) a decision not to make an order under paragraph 10Z7CE(7).

Paragraphs (c) and (d) do not apply if the application for the order under paragraph 10Z7CA was transferred in accordance with paragraph 10Z7CE(1).

(2) Where an order under paragraph 10Z7CD is made by a magistrates' court, any party to the proceedings for the order (including any party to the proceedings under paragraph 10Z7CA that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under paragraph 10Z7CD(6).

(3) An appeal under this paragraph lies—

(a) in relation to England and Wales, to the Crown Court;

(b) in relation to Scotland, to the Sheriff Appeal Court;

(c) in relation to Northern Ireland, to a county court.

(4) An appeal under this paragraph must be made before the end of the period of 30 days starting with the day on which the court or sheriff makes the order or decision.

(5) Sub-paragraph (4) is subject to paragraph 10Z7CH.

(6) The court hearing the appeal may make any order it thinks appropriate.

(7) If the court upholds an appeal against an order forfeiting any cryptoasset or other item of property, it may, subject to sub-paragraph (8), order the release of the whole or any part of the property.

(8) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, the property is not to be released under this paragraph (and so is to continue to be detained) until the proceedings are concluded.

Extended time for appealing in certain cases where deproscription order made

10Z7CH (1) This paragraph applies where—

(a) a successful application for an order under paragraph 10Z7CA relies (wholly or partly) on the fact that an organisation is proscribed,

(b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,

(c) the property forfeited by the order under paragraph 10Z7CA was seized under this Schedule on or after the date of the refusal of that application,

(d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,

(e) a deproscription order is made accordingly, and

(f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.

(2) Where this paragraph applies, an appeal under paragraph 10Z7CG against the making of an order under paragraph 10Z7CA, and against the making (in addition) of any order under paragraph 10Z7CE(7), may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.

(3) In this paragraph a "deproscription order" means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

Realisation or destruction of forfeited cryptoassets etc

10Z7CI (1) This paragraph applies where any cryptoasset or other item of property is forfeited under this Part.

(2) An authorised officer must—

(a) realise the property, or

(b) make arrangements for its realisation.

This is subject to sub-paragraphs (3) to (5).

(3) The property is not to be realised—

(a) before the end of the period within which an appeal may be made (whether under paragraph 10Z7CG or otherwise), or

(b) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.

(4) The realisation of property under sub-paragraph (2) must be carried out, so far as practicable, in the manner best calculated to maximise the amount obtained for the property.

(5) Where an authorised officer is satisfied that—

(a) it is not reasonably practicable to realise any cryptoasset, or

(b) there are reasonable grounds to believe that the realisation of any cryptoasset would be contrary to the public interest,

the authorised officer may destroy the cryptoasset.

(6) But—

(a) the authorised officer may destroy the cryptoasset only if the officer is a senior officer or is authorised to do so by a senior officer, and

(b) the cryptoasset is not to be destroyed—

(i) before the end of the period within which an appeal may be made (whether under paragraph 10Z7CG or otherwise), or

(ii) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.

(7) The question of whether the realisation of the cryptoasset would be contrary to the public interest is to be determined with particular reference to how likely it is that the entry of the cryptoasset into general circulation would facilitate criminal conduct by any person.

Proceeds of realisation

10Z7CJ (1) This paragraph applies where any cryptoasset or other item of property is realised under paragraph 10Z7CI.

(2) The proceeds of the realisation must be applied as follows—

(a) first, they must be applied in making any payment required to be made by virtue of paragraph 10Z7CE(9);

(b) second, they must be applied in making any payment of legal expenses which, after giving effect to paragraph 10Z7CA(5) (including as applied by paragraph 10Z7CE(5)), are payable under this sub-paragraph in pursuance of provision under paragraph 10Z7CA(4) or, as the case may be, 10Z7CE(4);

(c) third, they must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the property whilst detained under this Schedule and in realising the property;

(d) fourth, they must be paid—

(i) if the property was forfeited by a magistrates' court or the High Court, into the Consolidated Fund;

(ii) if the property was forfeited by the sheriff or the Court of Session, into the Scottish Consolidated Fund.

(3) If what is realised under paragraph 10Z7CI represents part only of an item of property, the reference in sub-paragraph (2)(c) to costs incurred in storing or insuring the property is to be read as a reference to costs incurred in storing or insuring the whole of the property.

Victims etc: detained cryptoassets

10Z7CK (1) A person who claims that any cryptoassets detained under this Schedule belong to the person may apply for some or all of the cryptoassets to be released.

(2) An application under sub-paragraph (1) is to be made—

(a) in England and Wales or Northern Ireland, to a magistrates' court;

(b) in Scotland, to the sheriff.

(3) The application may be made in the course of proceedings under paragraph 10Z7AG or 10Z7CA or at any other time.

(4) The court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant if it appears to the court or sheriff that—

(a) the applicant was deprived of the cryptoassets to which the application relates, or of property which they represent, by criminal conduct,

(b) the cryptoassets the applicant was deprived of were not, immediately before the applicant was deprived of them, property obtained by or in return for criminal conduct and nor did they then represent such property, and

(c) the cryptoassets belong to the applicant.

(5) If sub-paragraph (6) applies, the court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant or to the person from whom they were seized.

(6) This sub-paragraph applies where—

(a) the applicant is not the person from whom the cryptoassets to which the application relates were seized,

(b) it appears to the court or sheriff that those cryptoassets belong to the applicant,

(c) the court or sheriff is satisfied that the release condition is met in relation to those cryptoassets, and

(d) no objection to the making of an order under sub-paragraph (5) has been made by the person from whom those cryptoassets were seized.

(7) The release condition is met—

(a) if the conditions in Part 4BA for the detention of the cryptoassets are no longer met, or

(b) in relation to cryptoassets which are subject to an application for forfeiture under paragraph 10Z7CA, if the court or sheriff decides not to make an order under that paragraph in relation to the cryptoassets.

(8) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cryptoassets are connected, the cryptoassets are not to be released under this paragraph (and so are to continue to be detained) until the proceedings are concluded.

Victims etc: crypto wallet freezing orders

10Z7CL (1) A person who claims that any cryptoassets held in a crypto wallet in respect of which a crypto wallet freezing order has been made belong to the person may apply for some or all of the cryptoassets to be released.

(2) An application under sub-paragraph (1) is to be made—

(a) in England and Wales or Northern Ireland, to a magistrates' court;

(b) in Scotland, to the sheriff.

(3) The application may be made in the course of proceedings under paragraph 10Z7BB or 10Z7CA or at any other time.

(4) The court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant if it appears to the court or sheriff that—

(a) the applicant was deprived of the cryptoassets to which the application relates, or of property which they represent, by criminal conduct,

(b) the cryptoassets the applicant was deprived of were not, immediately before the applicant was deprived of them, property obtained by or in return for criminal conduct and nor did they then represent such property, and

(c) the cryptoassets belong to the applicant.

(5) If sub-paragraph (6) applies, the court or sheriff may, subject to sub-paragraph (8), order the cryptoassets to which the application relates to be released to the applicant.

(6) This sub-paragraph applies where—

(a) the applicant is not the person from whom the cryptoassets to which the application relates were seized,

(b) it appears to the court or sheriff that those cryptoassets belong to the applicant,

(c) the court or sheriff is satisfied that the release condition is met in relation to those cryptoassets, and

(d) no objection to the making of an order under sub-paragraph (5) has been made by the person from whom those cryptoassets were seized.

(7) The release condition is met—

(a) if the conditions for the making of the crypto wallet freezing order are no longer met in relation to the cryptoassets to which the application relates, or

(b) in relation to cryptoassets held in a crypto wallet subject to a crypto wallet freezing order which are subject to an application for forfeiture under paragraph 10Z7CA, if the court or sheriff decides not to make an order under that paragraph in relation to the cryptoassets.

(8) Cryptoassets are not to be released under this paragraph—

(a) if an application for their forfeiture under paragraph 10Z7CA is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;

(b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cryptoassets are connected, until the proceedings are concluded.

(9) In relation to cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order, references in this paragraph to a person from whom cryptoassets were seized include a reference to a person by or for whom the crypto wallet was administered immediately before the crypto wallet freezing order was made.

Compensation

10Z7CM (1) This paragraph applies if no order is made under paragraph 10Z7CA, 10Z7CD or 10Z7CE in respect of cryptoassets detained under this Schedule or held in a crypto wallet that is subject to a crypto wallet freezing order under paragraph 10Z7BB.

(2) Where this paragraph applies, the following may make an application to the relevant court for compensation—

(a) a person to whom the cryptoassets belong or from whom they were seized;

(b) a person by or for whom a crypto wallet to which the crypto wallet freezing order applies is administered.

(3) If the relevant court is satisfied that the applicant has suffered loss as a result of the detention of the cryptoassets or the making of the crypto wallet freezing order and that the circumstances are exceptional, the relevant court may order compensation to be paid to the applicant.

(4) The amount of compensation to be paid is the amount the relevant court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(5) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for His Majesty's Revenue and Customs.

(6) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by a constable, the compensation is to be paid as follows—

(a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;

(b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;

(c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.

(7) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by a counter-terrorism financial investigator, the compensation is to be paid as follows—

(a) in the case of a counter-terrorism financial investigator who was—

(i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or

(ii) a member of staff of the City of London police force,

it is to be paid out of the police fund from which the expenses of the police force are met;

(b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.

(8) If the cryptoassets were seized, or the crypto wallet freezing order was applied for, by an immigration officer, the compensation is to be paid by the Secretary of State.

(9) If an order under paragraph 10Z7BB, 10Z7CA, 10Z7CD or 10Z7CE is made in respect of some of the cryptoassets detained or held, this paragraph has effect in relation to the remainder.

(10) This paragraph does not apply if the relevant court makes an order under paragraph 10Z7CK or 10Z7CL.

(11) In this paragraph "relevant court" means—

(a) in England and Wales and Northern Ireland, a magistrates' court;

(b) in Scotland, the sheriff.

Part 4BD

Conversion of cryptoassets

Interpretation

10Z7D (1) In this Part—

"converted cryptoassets" is to be read in accordance with paragraphs 10Z7DC and 10Z7DD;

"crypto wallet freezing order" has the same meaning as in Part 4BB (see paragraph 10Z7B(6));

"relevant court" means—

(a) in England and Wales and Northern Ireland, a magistrates' court;

(b) in Scotland, the sheriff;

"relevant financial institution" has the same meaning as in Part 4B (see paragraph 10Q);

"UK-connected cryptoasset service provider" has the same meaning as in Part 4BB (see paragraph 10Z7B(7)).

(2) Paragraph 10Z7B(6)(b) (administration of crypto wallets) applies in relation to this Part as it applies in relation to Part 4BB.

(3) In this Part references to the conversion of cryptoassets into money are references to the conversion of cryptoassets into—

(a) cash, or

(b) money held in an account maintained with a relevant financial institution.

(4) For the purposes of Parts 2 to 4, converted cryptoassets detained under this Part are not to be treated as cash detained under this Schedule.

Detained cryptoassets: conversion

10Z7DA (1) Sub-paragraph (2) applies while any cryptoassets are detained in pursuance of an order under paragraph 10Z7AE or 10Z7AG (including where cryptoassets are subject to forfeiture proceedings).

(2) A person within sub-paragraph (3) may apply to the relevant court for an order requiring all of the cryptoassets detained pursuant to the order to be converted into money.

(3) The following persons are within this sub-paragraph—

(a) an authorised officer;

(b) a person from whom the cryptoassets were seized.

(4) In deciding whether to make an order under this paragraph, the court must have regard to whether the cryptoassets (as a whole) are likely to suffer a significant loss in value during the period before they are released or forfeited (including the period during which an appeal against an order for forfeiture may be made).

(5) Before making an order under this paragraph the court must give an opportunity to be heard to—

(a) the parties to the proceedings, and

(b) any other person who may be affected by its decision.

(6) As soon as practicable after an order is made under this paragraph, an authorised officer must convert the cryptoassets, or arrange for the cryptoassets to be converted, into money.

(7) The conversion of cryptoassets under sub-paragraph (6) must be carried out, so far as practicable, in the manner best calculated to maximise the amount of money obtained for the cryptoassets.

(8) At the first opportunity after the cryptoassets are converted, the authorised officer must arrange for the amount of money obtained for the cryptoassets to be paid into an interest-bearing account and held there.

(9) Interest accruing on the amount is to be added to it on its forfeiture or release.

(10) Where cryptoassets are converted into money in accordance with an order made under this paragraph—

(a) the cryptoassets are no longer to be treated as being detained in pursuance of an order under paragraph 10Z7AE or 10Z7AG, and

(b) any application made under paragraph 10Z7CA(2) in relation to the cryptoassets which has not yet been determined or otherwise disposed of (including under paragraph 10Z7CD or 10Z7CE) is to be treated as if it were an application made under paragraph 10Z7DG(2) in relation to the converted cryptoassets.

(11) An order made under this paragraph must provide for notice to be given to persons affected by the order.

(12) No appeal may be made against an order made under this paragraph.

Frozen crypto wallet: conversion

10Z7DB (1) This paragraph applies while a crypto wallet freezing order under paragraph 10Z7BB has effect (including where cryptoassets held in a crypto wallet that is subject to a crypto wallet freezing order are subject to forfeiture proceedings).

(2) A person within sub-paragraph (3) may apply to the relevant court for an order requiring all of the cryptoassets held in the crypto wallet to be converted into money.

(3) The following persons are within this sub-paragraph—

(a) an authorised officer;

(b) a person by or for whom the crypto wallet is administered.

(4) In deciding whether to make an order under this paragraph, the court must have regard to whether the cryptoassets (as a whole) are likely to suffer a significant loss in value during the period before—

(a) the crypto wallet freezing order ceases to have effect, or

(b) the cryptoassets are forfeited (including the period during which an appeal against an order for forfeiture may be made).

(5) Before making an order under this paragraph the court must give an opportunity to be heard to—

(a) the parties to the proceedings, and

(b) any other person who may be affected by its decision.

(6) As soon as practicable after an order is made under this paragraph, the UK-connected cryptoasset service provider that administers the crypto wallet must convert the cryptoassets, or arrange for the cryptoassets to be converted, into money.

(7) The conversion of cryptoassets under sub-paragraph (6) must be carried out, so far as practicable, in the manner best calculated to maximise the amount of money obtained for the cryptoassets.

(8) At the first opportunity after the cryptoassets are converted, the UK-connected cryptoasset service provider must arrange for the amount of money obtained for the cryptoassets to be paid into an interest-bearing account nominated by an authorised officer and held there.

(9) But—

(a) the UK-connected cryptoasset service provider may deduct any reasonable expenses incurred by the provider in connection with the conversion of the cryptoassets, and

(b) the amount to be treated as the proceeds of the conversion of the cryptoassets is to be reduced accordingly.

(10) Interest accruing on the amount obtained for the cryptoassets is to be added to it on its forfeiture or release.

(11) Where cryptoassets are converted in accordance with an order made under this paragraph—

(a) the crypto wallet freezing order ceases to have effect,

(b) any application made under paragraph 10Z7CA(2) in relation to the cryptoassets which has not yet been determined or otherwise disposed of (including under paragraph 10Z7CD or 10Z7CE) is to be treated as if it were an application made under paragraph 10Z7DG(2) in relation to the converted cryptoassets, and

(c) any application made under paragraph 10Z7CF(2) in relation to the crypto wallet which has not yet been determined or otherwise disposed of may not be proceeded with.

(12) An order made under this paragraph must provide for notice to be given to persons affected by the order.

(13) No appeal may be made against an order made under this paragraph.

Conversion: existing forfeiture proceedings

10Z7DC (1) Where—

(a) cryptoassets are forfeited under paragraph 10Z7CA or 10Z7CE, and

(b) before the cryptoassets are realised or destroyed in accordance with paragraph 10Z7CI, an order is made under paragraph 10Z7DA requiring the cryptoassets to be converted into money,

paragraph 10Z7DJ(1) applies in relation to the converted cryptoassets as if they had been detained under paragraph 10Z7DD and forfeited under paragraph 10Z7DG (and accordingly paragraph 10Z7CI ceases to apply).

(2) Where—

(a) cryptoassets are forfeited under paragraph 10Z7CA or 10Z7CE, and

(b) before the cryptoassets are realised or destroyed in accordance with paragraph 10Z7CI, an order is made under paragraph 10Z7DB requiring the cryptoassets to be converted into money,

paragraph 10Z7DJ(2) applies in relation to the converted cryptoassets as if they had been detained under paragraph 10Z7DE and forfeited under paragraph 10Z7DG (and accordingly paragraph 10Z7CI ceases to apply).

(3) Where—

(a) an appeal may be made under paragraph 10Z7CG(1) or (2) in relation to the determination of an application under paragraph 10Z7CA(2) for the forfeiture of cryptoassets (including where paragraph 10Z7CD or 10Z7CE applies), and

(b) an order is made under paragraph 10Z7DA or 10Z7DB requiring the cryptoassets to be converted into money,

the appeal may instead be made under paragraph 10Z7DH (within the time allowed by paragraph 10Z7CG(4)) as if it were an appeal against the determination of an application under paragraph 10Z7DG.

(4) Where—

(a) an appeal is made under paragraph 10Z7CG(1) or (2) in relation to the determination of an application under paragraph 10Z7CA(2) for the forfeiture of cryptoassets (including where paragraph 10Z7CD or 10Z7CE applies), and

(b) before the appeal is determined or otherwise disposed of, an order is made under paragraph 10Z7DA or 10Z7DB requiring the cryptoassets to be converted into money,

the appeal is to be treated as if it had been made under paragraph 10Z7DH(1) in relation to the determination of an application under paragraph 10Z7DG for the forfeiture of the converted cryptoassets.

Detained cryptoassets: detention of proceeds of conversion

10Z7DD (1) This paragraph applies where cryptoassets are converted into money in accordance with an order under paragraph 10Z7DA.

(2) The proceeds of the conversion (the "converted cryptoassets") may be detained initially until the end of the period that the cryptoassets could, immediately before the conversion, have been detained under Part 4BA (ignoring the possibility of any extension of that period).

(3) The period for which the converted cryptoassets may be detained may be extended by an order made by the relevant court.

(4) An order under sub-paragraph (3) may not authorise the detention of the converted cryptoassets beyond the end of the period of 2 years beginning with the relevant date; but this is subject to sub-paragraph (5).

(5) The relevant court may make an order for the period of 2 years in sub-paragraph (4) to be extended to a period of up to 3 years beginning with the relevant date.

(6) In sub-paragraphs (4) and (5) "the relevant date" means the date on which the first order under paragraph 10Z7AE or 10Z7AG (as the case may be) was made in relation to the cryptoassets.

(7) An application for an order under sub-paragraph (3) or (5) may be made—

(a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty's Revenue and Customs or an authorised officer;

(b) in relation to Scotland, by a procurator fiscal.

(8) The relevant court may make an order under sub-paragraph (3) only if satisfied that there are reasonable grounds for suspecting that the converted cryptoassets to be further detained—

(a) are within subsection (1)(a) or (b) of section 1, or

(b) are property earmarked as terrorist property.

(9) The relevant court may make an order under sub-paragraph (5) only if satisfied that a request for assistance is outstanding in relation to the cryptoassets mentioned in sub-paragraph (1).

(10) A "request for assistance" in sub-paragraph (9) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the cryptoassets, made—

(a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003, or

(b) by an authorised officer, to an authority exercising equivalent functions in a foreign country.

Frozen crypto wallets: detention of proceeds of conversion

10Z7DE (1) This paragraph applies where cryptoassets held in a crypto wallet subject to a crypto wallet freezing order are converted into money in accordance with an order under paragraph 10Z7DB.

(2) The proceeds of the conversion (the "converted cryptoassets") may be detained initially until the end of the period that the crypto wallet freezing order was, immediately before the conversion, due to have effect under Part 4BB (ignoring the possibility of any extension of that period).

(3) The period for which the converted cryptoassets may be detained may be extended by an order made by the relevant court.

(4) An order under sub-paragraph (3) may not authorise the detention of the converted cryptoassets beyond the end of the period of 2 years beginning with the day on which the crypto wallet freezing order was made; but this is subject to sub-paragraph (5).

(5) The relevant court may make an order for the period of 2 years in sub-paragraph (4) to be extended to a period of up to 3 years beginning with the day on which the crypto wallet freezing order was made.

(6) An application for an order under sub-paragraph (3) or (5) may be made—

(a) in relation to England and Wales and Northern Ireland, by the Commissioners for His Majesty's Revenue and Customs or an authorised officer;

(b) in relation to Scotland, by a procurator fiscal.

(7) The relevant court may make an order under sub-paragraph (3) only if satisfied that there are reasonable grounds for suspecting that the converted cryptoassets to be further detained—

(a) are within subsection (1)(a) or (b) of section 1, or

(b) are property earmarked as terrorist property.

(8) The relevant court may make an order under sub-paragraph (5) only if satisfied that a request for assistance is outstanding in relation to the cryptoassets mentioned in sub-paragraph (1).

(9) A "request for assistance" in sub-paragraph (8) means a request for assistance in obtaining evidence (including information in any form or article) in connection with the cryptoassets, made—

(a) by a judicial authority in the United Kingdom under section 7 of the Crime (International Co-operation) Act 2003, or

(b) by an authorised officer, to an authority exercising equivalent functions in a foreign country.

Release of detained converted cryptoassets

10Z7DF (1) This paragraph applies while any converted cryptoassets are detained under paragraph 10Z7DD or 10Z7DE.

(2) The relevant court may, subject to sub-paragraph (7), direct the release of the whole or any part of the converted cryptoassets if the following condition is met.

(3) The condition is that, on an application by the relevant person, the court is not satisfied that there are reasonable grounds for suspecting that the converted cryptoassets to be released—

(a) are within subsection (1)(a) or (b) of section 1, or

(b) are property earmarked as terrorist property.

(4) In sub-paragraph (3) "the relevant person" means—

(a) in the case of converted cryptoassets detained under paragraph 10Z7DD, the person from whom the cryptoassets mentioned in sub-paragraph (1) of that paragraph were seized, and

(b) in the case of converted cryptoassets detained under paragraph 10Z7DE, any person affected by the crypto wallet freezing order mentioned in sub-paragraph (1) of that paragraph.

(5) A person within sub-paragraph (6) may, subject to sub-paragraph (7) and after notifying the magistrates' court or sheriff under whose order converted cryptoassets are being detained, release the whole or any part of the converted cryptoassets if satisfied that the detention is no longer justified.

(6) The following persons are within this sub-paragraph—

(a) in relation to England and Wales or Northern Ireland, an authorised officer;

(b) in relation to Scotland, a procurator fiscal.

(7) Converted cryptoassets are not to be released under this paragraph (and so are to continue to be detained)—

(a) if an application for their forfeiture under paragraph 10Z7DG is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;

(b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the converted cryptoassets are connected, until the proceedings are concluded.

Forfeiture

10Z7DG (1) This paragraph applies while any converted cryptoassets are detained under paragraph 10Z7DD or 10Z7DE.

(2) An application for the forfeiture of some or all of the converted cryptoassets may be made—

(a) to a magistrates' court by, the Commissioners for His Majesty's Revenue and Customs or an authorised officer;

(b) to the sheriff, by the Scottish Ministers.

(3) The court or sheriff may order the forfeiture of some or all of the converted cryptoassets if satisfied that the converted cryptoassets to be forfeited—

(a) are within subsection (1)(a) or (b) of section 1, or

(b) are property earmarked as terrorist property.

(4) But in the case of property which belongs to joint tenants, one of whom is an excepted joint owner, the order may not apply to so much of it as the court thinks is attributable to the excepted joint owner's share.

(5) Where an application for forfeiture is made under this paragraph, the converted cryptoassets are to continue to be detained under paragraph 10Z7DD or 10Z7DE (and may not be released under any power conferred by this Part) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.

(6) For the purposes of this paragraph—

(a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against them) be earmarked, and

(b) references to the excepted joint owner's share of property are to so much of the property as would have been theirs if the joint tenancy had been severed.

Forfeiture: appeals

10Z7DH (1) Any party to proceedings for an order for the forfeiture of converted cryptoassets under paragraph 10Z7DG who is aggrieved by an order under that paragraph or by the decision of the court not to make such an order may appeal—

(a) from an order or decision of a magistrates' court in England and Wales, to the Crown Court;

(b) from an order or decision of the sheriff, to the Sheriff Appeal Court;

(c) from an order or decision of a magistrates' court in Northern Ireland, to a county court.

(2) An appeal under sub-paragraph (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.

(3) The court hearing the appeal may make any order it thinks appropriate.

(4) If the court upholds an appeal against an order forfeiting the converted cryptoassets, it may, subject to sub-paragraph (5), order the release of some or all of the converted cryptoassets.

(5) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the converted cryptoassets are connected, the converted cryptoassets are not to be released under this paragraph (and so are to continue to be detained) until the proceedings are concluded.

Extended time for appealing in certain cases where deproscription order made

10Z7DI (1) This paragraph applies where—

(a) a successful application for an order under paragraph 10Z7DG relies (wholly or partly) on the fact that an organisation is proscribed,

(b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,

(c) the converted cryptoassets forfeited by the order under paragraph 10Z7DG were converted from cryptoassets which were seized under this Schedule on or after the date of the refusal of that application,

(d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,

(e) a deproscription order is made accordingly, and

(f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.

(2) Where this paragraph applies, an appeal under paragraph 10Z7DH against the making of an order under paragraph 10Z7DG may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.

(3) In this paragraph a "deproscription order" means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

Application of forfeited converted cryptoassets

10Z7DJ (1) Converted cryptoassets detained under paragraph 10Z7DD and forfeited under paragraph 10Z7DG, and any accrued interest on them, must be applied as follows—

(a) first, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the safe storage of the cryptoassets mentioned in paragraph 10Z7DD(1) during the period the cryptoassets were detained under Part 4BA;

(b) second, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the conversion of those cryptoassets under paragraph 10Z7DA(6);

(c) third, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the detention of the converted cryptoassets under this Part;

(d) fourth, they must be paid—

(i) if forfeited by a magistrates' court in England and Wales or Northern Ireland, into the Consolidated Fund, and

(ii) if forfeited by the sheriff, into the Scottish Consolidated Fund.

(2) Converted cryptoassets detained under paragraph 10Z7DE and forfeited under paragraph 10Z7DG, and any accrued interest on them, must be applied as follows—

(a) first, they must be applied in making any payment of reasonable expenses incurred by an authorised officer in connection with the detention of the converted cryptoassets under this Part;

(b) second, they must be paid—

(i) if forfeited by a magistrates' court in England and Wales or Northern Ireland, into the Consolidated Fund, and

(ii) if forfeited by the sheriff, into the Scottish Consolidated Fund.

(3) But converted cryptoassets are not to be applied or paid under sub-paragraph (1) or (2)—

(a) before the end of the period within which an appeal under paragraph 10Z7DH may be made, or

(b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

Victims etc

10Z7DK (1) This paragraph applies where converted cryptoassets are detained under this Part.

(2) Where this paragraph applies, a person ("P") who claims that the relevant cryptoassets belonged to P immediately before—

(a) the relevant cryptoassets were seized, or

(b) the crypto wallet freezing order was made in relation to the crypto wallet in which the relevant cryptoassets were held,

may apply to the relevant court for some or all of the converted cryptoassets to be released to P.

(3) The application may be made in the course of proceedings under paragraph 10Z7DD, 10Z7DE or 10Z7DG or at any other time.

(4) The relevant court may, subject to sub-paragraph (9), order the converted cryptoassets to which the application relates to be released to the applicant if it appears to the relevant court that the condition in sub-paragraph (5) is met.

(5) The condition in this sub-paragraph is that—

(a) the applicant was deprived of the relevant cryptoassets, or of property which they represent, by criminal conduct,

(b) the relevant cryptoassets the applicant was deprived of were not, immediately before the applicant was deprived of them, property obtained by or in return for criminal conduct and nor did they then represent such property, and

(c) the relevant cryptoassets belonged to the applicant immediately before—

(i) the relevant cryptoassets were seized, or

(ii) the crypto wallet freezing order was made in relation to the crypto wallet in which the relevant cryptoassets were held.

(6) If sub-paragraph (7) applies, the relevant court may, subject to sub-paragraph (9), order the converted cryptoassets to which the application relates to be released to the applicant or to the person from whom the relevant cryptoassets were seized.

(7) This sub-paragraph applies where—

(a) the applicant is not the person from whom the relevant cryptoassets were seized,

(b) it appears to the relevant court that the relevant cryptoassets belonged to the applicant immediately before—

(i) the relevant cryptoassets were seized, or

(ii) the crypto wallet freezing order was made in relation to the crypto wallet in which the relevant cryptoassets were held,

(c) the relevant court is satisfied that the release condition is met in relation to the converted cryptoassets, and

(d) no objection to the making of an order under sub-paragraph (6) has been made by the person from whom the relevant cryptoassets were seized.

(8) The release condition is met—

(a) if the conditions in this Part for the detention of the converted cryptoassets are no longer met, or

(b) in relation to converted cryptoassets which are subject to an application for forfeiture under paragraph 10Z7DG, if the court or sheriff decides not to make an order under that paragraph in relation to the converted cryptoassets.

(9) If (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the converted cryptoassets are connected, the converted cryptoassets are not to be released under this paragraph (and so are to continue to be detained) until the proceedings are concluded.

(10) Where sub-paragraph (2)(b) applies, references in this paragraph to a person from whom relevant cryptoassets were seized include a reference to a person by or for whom the crypto wallet mentioned in that provision was administered immediately before the crypto wallet freezing order was made in relation to the crypto wallet.

(11) In this paragraph "the relevant cryptoassets" means—

(a) in relation to converted cryptoassets detained under paragraph 10Z7DD, some or all of the cryptoassets mentioned in sub-paragraph (1) of that paragraph, and

(b) in relation to converted cryptoassets detained under paragraph 10Z7DE, some or all of the cryptoassets mentioned in sub-paragraph (1) of that paragraph.

Compensation

10Z7DL (1) This paragraph applies if no order is made under paragraph 10Z7DG in respect of converted cryptoassets detained under this Part.

(2) Where this paragraph applies, the following may make an application to the relevant court for compensation—

(a) a person to whom the relevant cryptoassets belonged immediately before they were seized;

(b) a person from whom the relevant cryptoassets were seized;

(c) a person by or for whom the crypto wallet mentioned in paragraph 10Z7DE(1) was administered immediately before the crypto wallet freezing order was made in relation to the crypto wallet.

(3) If the relevant court is satisfied that—

(a) the applicant has suffered loss as a result of—

(i) the conversion of the relevant cryptoassets into money, or

(ii) the detention of the converted cryptoassets, and

(b) the circumstances are exceptional,

the relevant court may order compensation to be paid to the applicant.

(4) The amount of compensation to be paid is the amount the relevant court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

(5) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for His Majesty's Revenue and Customs.

(6) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by a constable, the compensation is to be paid as follows—

(a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;

(b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;

(c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.

(7) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by a counter-terrorism financial investigator, the compensation is to be paid as follows—

(a) in the case of a counter-terrorism financial investigator who was—

(i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or

(ii) a member of staff of the City of London police force,

it is to be paid out of the police fund from which the expenses of the police force are met;

(b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.

(8) If the relevant cryptoassets were seized, or the relevant crypto wallet freezing order was applied for, by an immigration officer, the compensation is to be paid by the Secretary of State.

(9) This paragraph does not apply if the relevant court makes an order under paragraph 10Z7DK.

(10) In this paragraph—

"the relevant cryptoassets" means—

(a) in relation to converted cryptoassets detained under paragraph 10Z7DD, the cryptoassets mentioned in sub-paragraph (1) of that paragraph;

(b) in relation to converted cryptoassets detained under paragraph 10Z7DE, the cryptoassets mentioned in sub-paragraph (1) of that paragraph;

"the relevant crypto wallet freezing order", in relation to converted cryptoassets detained under paragraph 10Z7DE, means the crypto wallet freezing order mentioned in sub-paragraph (1) of that paragraph."

3 In Part 1, in paragraph 1(1) (terrorist cash), for "and 4B" substitute "to 4BD".

4 In Part 4B (forfeiture of terrorist money held in bank and building society accounts), after paragraph 10Z6 insert—

"Victims etc

10Z6A (1) A person who claims that money in respect of which an account freezing order has been made belongs to them may apply to the relevant court for the money to be released.

(2) The application may be made in the course of proceedings under paragraph 10S or 10Z2 or at any other time.

(3) The court may, subject to sub-paragraph (7), order the money to which the application relates to be released to the applicant if it appears to the court that—

(a) the applicant was deprived of the money to which the application relates, or of property which it represents, by criminal conduct,

(b) the money the applicant was deprived of was not, immediately before the applicant was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and

(c) the money belongs to the applicant.

(4) If sub-paragraph (5) applies, the court may, subject to sub-paragraph (7), order the money to which the application relates to be released to the applicant.

(5) This sub-paragraph applies where—

(a) the applicant is not the person from whom the money to which the application relates was seized,

(b) it appears to the court that the money belongs to the applicant,

(c) the court is satisfied that the release condition is met in relation to the money, and

(d) no objection to the making of an order under sub-paragraph (4) has been made by the person from whom the money was seized.

(6) The release condition is met—

(a) in relation to money held in a frozen account, if the conditions for making an order under paragraph 10S in relation to the money are no longer met, or

(b) in relation to money held in a frozen account which is subject to an application for forfeiture under paragraph 10Z2, if the court or sheriff decides not to make an order under that paragraph in relation to the money.

(7) Money is not to be released under this paragraph—

(a) if an account forfeiture notice under paragraph 10W is given in respect of the money, until any proceedings in pursuance of the notice (including any proceedings on appeal) are concluded;

(b) if an application for its forfeiture under paragraph 10Z2, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;

(c) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded.

(8) In relation to money held in an account that is subject to an account freezing order, references in this paragraph to a person from whom money was seized include a reference to a person by or for whom the account was operated immediately before the account freezing order was made."

5 In Part 6, in paragraph 19(1), at the appropriate places insert—

""cryptoasset" has the meaning given by paragraph 10Z7A(1);";

""crypto wallet" has the meaning given by paragraph 10Z7A(1);";

""justice of the peace", in relation to Northern Ireland, means lay magistrate;";

""terrorist cryptoasset" has the meaning given by paragraph 10Z7A(1);".

Part 2

Amendments to the Terrorism Act 2000

6 The Terrorism Act 2000 is amended as follows.

7 In Schedule 6 (financial information)—

(a) in paragraph 6(1) (meaning of financial institution)—

(i) omit the "and" after paragraph (ha), and

(ii) after paragraph (i) insert—

(b) after sub-paragraph (1AA) insert—

"(1AB) For the purposes of sub-paragraph (1)(j), "cryptoasset exchange provider" means a firm or sole practitioner who by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—

(a) exchanging or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,

(b) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or

(c) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets.

(1AC) For the purposes of sub-paragraph (1)(k), "custodian wallet provider" means a firm or sole practitioner who by way of business provides services to safeguard, or to safeguard and administer—

(a) cryptoassets on behalf of its customers, or

(b) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets.

(1AD) For the purposes of sub-paragraphs (1AB) and (1AC), "cryptoasset" means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically.

(1AE) For the purposes of sub-paragraph (1AB)—

(a) "cryptoasset" includes a right to, or interest in, the cryptoasset;

(b) "money" means—

(i) money in sterling,

(ii) money in any other currency, or

(iii) money in any other medium of exchange,

but does not include a cryptoasset.

(1AF) The Secretary of State may by regulations amend the definitions in sub-paragraphs (1AB) to (1AE)."

8 In section 123 (orders and regulations), after subsection (6ZE) insert—

"(6ZF) Regulations under paragraph 6(1AF) of Schedule 6 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."'—*(Tom Tugendhat.)*

Part 1 of this Schedule amends the Anti-terrorism, Crime and Security Act 2001 to make provision for a civil recovery regime in relation to terrorist cryptoassets. Part 2 of this Schedule amends the Terrorism Act 2000 to make provision about financial institutions and cryptoassets.

Brought up, read the First and Second time, and added to the Bill.

Bill, as amended, to be reported.

11.21 am

Committee rose.

Written evidence reported to the House

ECCTB 30 Dr Samantha Bourton

ECCTB 31 The Payments Association (further submission)

ECCTB 32 Michael Barron, Director, Michael Barron Consulting Limited, and Tim Law, Director, Engaged Consulting Limited (joint submission)