

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT REGISTER OF OVERSEAS ENTITIES (DEFINITION OF FOREIGN LIMITED PARTNER, PROTECTION AND RECTIFICATION) REGULATIONS 2023

Monday 24 April 2023

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The Committee consisted of the following Members:

Chair: YVONNE FOVARGUE

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| † Black, Mhairi (<i>Paisley and Renfrewshire South</i>) (SNP) | Mayhew, Jerome (<i>Broadland</i>) (Con) |
| † Brereton, Jack (<i>Stoke-on-Trent South</i>) (Con) | † Owatemi, Taiwo (<i>Coventry North West</i>) (Lab) |
| † Clarke-Smith, Brendan (<i>Bassetlaw</i>) (Con) | † Penrose, John (<i>Weston-super-Mare</i>) (Con) |
| Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op) | † Simmonds, David (<i>Ruislip, Northwood and Pinner</i>) (Con) |
| † David, Wayne (<i>Caerphilly</i>) (Lab) | † Whittaker, Craig (<i>Calder Valley</i>) (Con) |
| † Drax, Richard (<i>South Dorset</i>) (Con) | † Winter, Beth (<i>Cynon Valley</i>) (Lab) |
| † Hollinrake, Kevin (<i>Parliamentary Under-Secretary of State for Business and Trade</i>) | † Wood, Mike (<i>Dudley South</i>) (Con) |
| † Loder, Chris (<i>West Dorset</i>) (Con) | Zereena Arshad, Stella-Maria Gabriel,
<i>Committee Clerks</i> |
| † McDonnell, John (<i>Hayes and Harlington</i>) (Lab) | |
| † Malhotra, Seema (<i>Feltham and Heston</i>) (Lab/Co-op) | † attended the Committee |

First Delegated Legislation Committee

Monday 24 April 2023

[YVONNE FOVARGUE *in the Chair*]

Draft Register of Overseas Entities (Definition of Foreign Limited Partner, Protection and Rectification) Regulations 2023

4.30 pm

The Parliamentary Under-Secretary of State for Business and Trade (Kevin Hollinrake): I beg to move,

That the Committee has considered the draft Register of Overseas Entities (Definition of Foreign Limited Partner, Protection and Rectification) Regulations 2023.

It is a pleasure to speak with you in the Chair, Ms Fovargue.

The regulations were laid before the House on 15 March 2023. They form part of a series of secondary legislation that is needed to implement effectively the register of overseas entities. The register was created under part 1 of the Economic Crime (Transparency and Enforcement) Act 2022, which gained Royal Assent last year.

The register will crack down on dirty Russian money in the UK and other foreign corporate elites abusing our open economy. The register requires overseas entities owning or buying property in the UK to give information about their beneficial owners and/or managing officers to Companies House. The register provides more information for law enforcement to help it to track down those using UK property as a money laundering vehicle.

The register went live on 1 August 2022, and the deadline for registration was set for 31 January this year. There has been a relatively high rate of compliance, with more than 27,500 overseas entities registered so far. Over 700 have provided details to Companies House as they had disposed of all their interests in land before the end of the transitional period. That means that over 28,000 entities have complied with the requirements. While that leaves probably a few thousand entities still to register, some of the unregistered entities are believed to have been dissolved or struck off, and others have not kept their address details up to date with the Land Registry. Companies House continues to work to increase compliance even further and is now also assessing cases for compliance action.

The first tranche of regulations was laid last year. Today we are considering the first regulations in the latest tranche that are subject to the affirmative procedure. Other instruments are in preparation, and they will ensure that the register can function even more effectively. The regulations we are considering have three main elements: they prescribe the characteristics of a foreign limited partner for the purposes of the 2022 Act; they allow for information held on the register to be removed on application under certain circumstances; and they

amend the protection element of the Register of Overseas Entities (Verification and Provision of Information) Regulations 2022.

The first part of the instrument sets out the characteristics of a foreign limited partner for the purposes of the register. The regulations require that such individuals must participate in a foreign limited partnership, or hold shares or an interest, either directly or indirectly, in a legal entity that participates in a foreign limited partnership. The regulations also define exactly what is meant by a foreign limited partnership and how an individual would qualify as a participant in a limited liability partnership. These provisions will assist overseas entities to decide who are registrable and beneficial owners under the legislation for the register of overseas entities.

Regulation 4 of the instrument sets out the grounds for rectification of the register. There may be occasions when information submitted to the registrar and visible on the register is factually incorrect, forged, or submitted without the consent of the overseas entities. It therefore allows for rectification of the register through the removal of such information.

Regulation 5 establishes the criteria for those entitled to receive notice on an application for rectification. In addition, the regulation specifies the information that must be included in the notice. The regulation also covers particulars of recipients' rights and obligations under the provision. Accordingly, regulation 6 lays down the grounds for interested parties objecting to such an application. It also confirms how an objection should be made and the time limit for making one. Without these regulations, it would be impossible to know how to make an application to remove inaccurate or false information from the register, which would affect the register's utility and accuracy.

Regulation 7 sets out the details of an amendment to the existing protection regime, which covers protecting personal information from public inspection. However, as things stand, protection can be granted only on an application subject to strict criteria. Applicants must provide evidence that they or a person they live with are at risk of serious violence or intimidation if their details are publicly disclosed. Such a disclosure must result directly from their link with the overseas entity.

The amending provision will remove the requirement to demonstrate the risk of violence or intimidation arising directly from the individual's association with the overseas entity. The measure will subsequently allow applications for protection that are necessary because an individual is at serious risk. They would still need to demonstrate the risk before protection is granted, but the risk would no longer need to be linked to the overseas entity.

The amendment will also allow for a relevant individual's usual residential address to be protected. For example, if the individual provided their usual address as a service address, not realising that it would be displayed on the public register, the person would have to provide an alternative address to protect their usual residential address. Protected information must still be provided to Companies House and will be available to law enforcement. The changes are being made because it has become apparent that the current criteria are not flexible enough. Without these changes, there is a real risk that some people will be in danger of serious violence or intimidation

following the public disclosure of their details, given the ease with which that link could potentially be made to their usual address.

I emphasise that the regulations are crucial for the effective operation of the register of overseas entities. I hope that Members will support the measures and their objectives. I commend the draft regulations to the Committee.

4.37 pm

Seema Malhotra (Feltham and Heston) (Lab/Co-op): It is a pleasure to serve under your chairship today, Ms Fovargue.

I thank the Minister for his opening remarks, but the statutory instrument reflects the Government's response to economic crime and corporate transparency. The Minister may or may not agree that it has been too slow and very reactive, but for years we have seen a blind eye turned to corruption and dirty money.

The Foreign Affairs Committee stated in 2020 that the Government had allowed the UK to become a "laundromat" for dirty money, and estimates suggest that economic crime could cost our economy hundreds of billions of pounds a year. In 2016, the then Prime Minister, David Cameron—that seems like a very long time ago—made what would turn out to be the first of many promises to introduce a register of overseas owners of UK property, saying that

"foreign companies that already hold or want to buy property in the UK will be forced to reveal who really owns them".

Yet here we are, seven years later, finally taking the steps to implement the register.

The SI defines the characteristics of a foreign limited partner and allows for the removal of incorrect or fraudulent information from the register, as well as making changes to protected information. The changes are common sense and, as the Minister will know from our previous debates, the Opposition will support them, but the changes are also long overdue. It took the devastating Russian invasion of Ukraine to force the Government into action. As a result, last year's legislation to provide a basis for a register of overseas entities had to be rushed through on an expedited timetable, and questions remain about the effectiveness of the register in preventing economic crime.

I turn to the specific measures in the SI. As the Minister noted, they amend the register of overseas entities created by the Economic Crime (Transparency and Enforcement) Act 2022. In 2016, the UK implemented a register of beneficial ownership of UK companies called the "people with significant control" register, which provides information to Companies House about who holds significant control of UK companies. However, there was still the issue of overseas entities owning property in the UK to obscure their identities when concealing illicit funds or laundering money through UK property. The register was therefore introduced last year to provide a means by which overseas entities owning or buying property in the UK provide prescribed information to Companies House, specifically about their beneficial owners. The aim of the register is to increase transparency and deter crime; deter money laundering; preserve the integrity of the financial system; and require the same transparency of overseas entities as is required from UK companies.

The SI makes certain technical changes to the operation of the register. First, as the Minister has outlined, it defines the meaning of "foreign limited partner". Under the 2022 Act, if a foreign limited partner meets certain criteria, they qualify as a beneficial owner needing to provide information to the registrar, but the Act does not provide a complete definition of what constitutes a foreign limited partner. Has the Department made any estimate of the number of foreign limited partners who up to this point have not provided information on the register due to this missing definition? Have overseas entities faced any repercussions for not providing information on foreign limited partners in the time when there has been no definition?

The SI additionally introduces new provisions allowing for the rectification of the register through the removal of any inaccurate or misleading information from the register. That is a welcome provision, but will the Minister expand on whether already false or fraudulent information has been supplied to the register? If so, has any action been taken against the entities responsible? Finally, the SI amends the requirements for the protection of personal information from public inspection in particular circumstances of serious risk and the need to demonstrate that risk. We support that change.

To sum up, this SI reflects years of delay and inaction from successive Conservative Governments on economic crime. It is disappointing that we are still debating and amending legislation a year after it came before the House. It is important to put on the record the fact that there are still issues with the register of overseas entities not covered by this SI. Some 32,000 overseas companies were required to register with Companies House by 31 January. The Minister said that a majority have done so, but according to a written ministerial statement of 1 February, as of the 31 January deadline, around 7,000 companies required to register had not done so. The Minister told us that that might relate to companies that had been struck off and said that there may be other reasons why companies had not registered, but it would be helpful to know whether the figure has come down since the written ministerial statement of 1 February. How many companies do the Government feel still need to register? Will the Minister confirm whether companies have faced penalties for not registering by the legal deadline if they have not given a clear reason why?

I would also welcome clarity on further issues with the register. The Chartered Institute of Taxation has also argued that setting a beneficial ownership registration threshold of ownership of at least 25% of the shares in an overseas entity could easily be avoided—for example, by having a family of six say that they each own 16.67% of the shares in a company. Do the Government have any plans to re-evaluate the threshold?

The SI also does nothing to address a major loophole in the register: the use of opaque offshore trusts, which offer overseas entities a layer of protection, enabling them to access UK property and financial markets from behind a cloak of anonymity. A recent Transparency International report found that almost 52,000 UK properties are still owned anonymously, despite the register of overseas entities. That represents over half—56%—of the estimated foreign ownership of UK assets. Can the Minister explain why the Government are not doing more to ensure that overseas entities cannot hide behind trusts?

[Seema Malhotra]

It is vital that the Government get their act together on dealing with economic crime, the scale of it, and the means by which it is happening. While the Opposition support the changes introduced by the SI, it is important that we continue to work at speed and that loopholes are closed, because continuing loopholes will make a mockery of the aims of the register, which we have spoken about today.

4.46 pm

Wayne David (Caerphilly) (Lab): I do not claim to be an expert in this quite complicated area, but I would like to ask a very basic and fundamental question. We all support clamping down on money laundering, and we all know the stories about London being the capital for Russian money laundering and illicit activity, but I wonder whether the Minister can explain what exactly is meant by “protection”. As I understand the explanatory memorandum, protection is the withholding of personal information from public inspection—but surely we would all agree that there is a need for as much public inspection and transparency as possible.

Will the Minister explain why the SI will allow applications for so-called protection, needed because an individual is at serious risk but the risk would no longer need to be linked to the overseas entity? What exactly is the risk, and who would make the determination? Would it be a civil servant, or would there be ministerial oversight or intervention involved in assessing whether the withholding of information is appropriate and justified?

4.48 pm

Kevin Hollinrake: I thank members of the Committee for their valuable contributions to the debate. As the Committee knows, the Government are committed to ensuring that the register of overseas entities is robust and effective at tackling the illicit use of UK property to launder money. The draft regulations provide the mechanics that ensure the effective operation of the register.

The hon. Member for Caerphilly made a very good point. Clearly, sometimes individuals are under threat from other people for a variety of reasons. For example, a celebrity or public figure may not want their identity to be public because of potential risks posed by individuals to them or their families. That might be the case for a host of reasons—stalkers, for example. Where there is serious risk of violence or intimidation of that nature, which has to be proven to the registrar, the person is allowed not to disclose their address, particularly when it is a residential address, although the information is still held by Companies House and is available to law enforcement agencies. The protection regime is not a way of circumventing the purpose of the legislation; it applies in situations where there is proven potential for harm to the individual.

I think the shadow Minister, the hon. Member for Feltham and Heston, was a little unfair in some of her comments. The Government have certainly never turned a blind eye to some of the corruption that goes on in society. She says the Government have not acted, but as someone who has often spoken out about the need for stronger measures to deal with economic crime, I would say that Governments of all persuasions have not dealt

with this issue in the past. She points to the fact that David Cameron stood up in 2015 and talked about the need for these kinds of measures. I agree with both him and her, but this country has failed to introduce appropriate measures for decades, and now we are doing so.

The hon. Lady points to Russia’s invasion of Ukraine bringing this issue into public consciousness. We parliamentarians react to public concern and we have concerns in the House about the invasion, which brought these kinds of issues into stark relief and provided the impetus to deal with them. We should all welcome the fact that we are dealing with them now. This SI is one of a number of measures we are taking forward that will make it much more difficult to use either properties or companies to launder ill-gotten gains through our society.

Seema Malhotra: The Minister has a track record in Parliament on this, but I think it is important to say that over the last seven years things have not been moving as quickly as they should have done. It is important to put on the record that various Committees in Parliament have raised this issue. We welcome things moving forward more quickly, but we have to keep our foot on the accelerator. That is extremely important.

Kevin Hollinrake: We are in violent agreement on moving things forward more quickly. I absolutely agree that we should have moved more quickly, but we are where we find ourselves. We have the momentum to act now, so let us make the best use of that opportunity.

The hon. Lady asks what Companies House is doing. As far as I am aware, 7,000 entities have not complied with the legislation. Some of them will no longer be entities that we need to worry about—they may well have closed down, and an address may have changed because there is no more purpose to an entity—but we are clearly keen to find out such information. Companies House has written to tens of thousands of organisations to ask them to register and to point out that there are now restrictions on being able to rent or sell land. There are meaningful measures in place to restrict the use of land and property, which is important. Companies House is also preparing cases for enforcement, which is another important message that we send to people who have not complied with the legislation. I am keen to make sure that the measures are taken forward as quickly as possible, and I am prepared to take personal oversight of making sure they are properly implemented.

The hon. Lady asked about how the measures can be avoided, such as by sharing ownership between a family of six. A beneficial owner is a beneficial owner regardless of how the ownership is distributed, and even if there are proxies. We had this discussion on the economic crime legislation, too. I think it is fair to say that if somebody is determined to avoid the rules by giving false evidence, they will do so, but there are significant penalties for doing that, which are a key part of the legislation.

The register of overseas entities provides a novel approach, and it is important to recognise that we are setting a new global standard. By setting up a register and introducing transparency, we are at the front of the pack with the legislation, so although the Opposition constantly put forward a fair challenge by saying that we are not going far enough, we are going further than any other jurisdiction I am aware of.

Seema Malhotra: It is not just the Opposition who are raising this issue. The Minister will know that many of the organisations with which he has worked in the past have also raised concerns about the threshold. I want to probe him on the threshold being 25%. It was not clear from his answer whether he was saying that any threshold, even a low one, would have people working around it. It feels fairly high for this purpose.

Kevin Hollinrake: We think it is at the appropriate level. We can perhaps have a discussion about it at length on another occasion, but as I say, the idea behind this is that the beneficial owner is disclosed. I will probably write to the hon. Lady to clarify this, but as I understand it, even if somebody put a proxy or nominee in place for the ownership of a property, it would still not get them off the hook in terms of whether they are actually the beneficial owner of the property. Perhaps I can write to her to confirm that.

The register is a crucial part of the Government's fight against illicit finance. The Economic Crime and Corporate Transparency Bill, which is before Parliament,

features substantial changes to UK company and partnership law, and complements the Economic Crime (Transparency and Enforcement) Act 2022. The Bill will introduce amendments to the Act that provide further operational detail to the register of overseas entities. For example, new measures in the Bill will require more information about overseas entities, including the title numbers of the properties held by overseas entities, and put in place minimum age limits for managing officers, to ensure that details of a person over 16 years of age must always be provided. The Bill will also make further provisions for registrable beneficial owners in cases involving trusts, and it includes an anti-avoidance mechanism to ensure that those in scope of the register at the time that the Act was first published as a Bill to Parliament cannot circumvent the requirements. The laying of the draft regulations complements the measures in the Bill to ensure that the register is as effective as possible, and I commend them to the Committee.

Question put and agreed to.

4.56 pm

Committee rose.

