EXPLANATORY MEMORANDUM TO

THE REGISTER OF OVERSEAS ENTITIES (PROTECTION AND TRUSTS) (AMENDMENT) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Business and Trade and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Justin Madders, Parliamentary Under-Secretary of State for Employment Rights, Competition and Markets at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Nis Bandara, Deputy Director for Company Law & Transparency at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Vanessa Holondo at the Department for Business and Trade Telephone: 07745 736396 or email: clgcorrespondence@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 Expands the category of individuals who can apply to Companies House to have their information protected in case where it may be disclosed under the Register of Overseas Entities (ROE).

4.2 Allows trust information on the Register of Overseas Entities (ROE) that is currently restricted from public inspection to be accessed by application, subject to meeting certain requirements.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom

5. Policy Context

What is being done and why?

5.1 The Register of Overseas Entities (ROE) was established in August 2022 under the Economic Crime (Transparency and Enforcement) Act 2022 ("the Act"). Its main purpose is to enhance transparency regarding the beneficial ownership of overseas

entities (i.e. companies or other corporate bodies governed by the law of a country or territory outside of the UK) holding land in the UK.

5.2 The Act requires overseas entities owning or buying property in the United Kingdom to provide information to the Registrar of companies, including about their beneficial owners or managing officers. The Act contains various regulation-making powers which allow the Secretary of State to prescribe further technical details of the requirements and operation of the Register.

5.3 The register also allows for protection of information of those at serious risk of violence or intimidation.

5.4 This instrument expands the ROE protection regime by enabling anyone whose information could be published or disclosed by the registrar under ROE to make an application for protection. This was not previously possible as under the old regulations, a protection application could only be made by a registrable beneficial owner or managing officer if they, or anyone they live with, would be at serious risk of intimidation or violence if the information about them is published.

5.5 Most information given to Companies House about overseas entities, beneficial owners and managing officer is publicly available. Currently, the only information displayed publicly on the register in relation to a trust is the name of the registrable beneficial owner who is a trustee. However, the Registrar can disclose trust information to other public bodies such as HMRC and law enforcement agencies.

5.6 During the passage of the Economic Crime and Corporate Transparency Act 2023, the Government introduced a regulation making power to make information on trusts available to individuals on application. This instrument provides a mechanism by which anyone can apply to the registrar for disclosure of trust information. It also establishes instances where the registrar may set conditions on the use of the released information.

What was the previous policy, how is this different?

5.7 Previously, it was not possible for protection application to be made by or on behalf of those connected with a trust (except for registrable beneficial owners who are trustees). This is because all other information related to trusts is suppressed from public inspection.

5.8 The previous regulations did not allow for applications to be made to access trust information. These regulations make provisions for the disclosure of trust information by application.

6. Legislative and Legal Context

How has the law changed?

6.1 These regulations are laid before Parliament under section 25 of the Economic Crime (Transparency and Enforcement) Act 2022, and s.23 of the Economic Crime and Corporate Transparency (ECCT) Act 2023.

6.2 Part 2 amends the Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022 (S.I. 2022/870) to allow for anyone to make an application for protection whose information could be published or disclosed by the registrar under ROE. This is because Part 3 will allow for information about trusts to be disclosed which could not otherwise be. Therefore regulation 3(2)(a) and (b) allows for a wider range of people to make an application and regulation 6 includes

additional grounds under which an application for protection may be made. Part 2 also removes reference to "specified public authorities" in the 2022 Regulations as this has been superseded by section 25 (6) of the Economic Crime (Transparency and Enforcement) Act 2022, which was substituted by section 168 of the Economic Crime and Corporate Transparency Act 2023.

6.3 Part 3 allows for anyone to apply to the registrar for disclosure of trust information. Regulation 4(2) imposes a condition that applicants have to demonstrate they have a legitimate interest, set out in regulation 4(3)(f), if they want to make a bulk application or if the information relates to minors. Regulation 4(3) sets out the information that needs to be included in an application. Regulation 4(4) allows for the registrar to tell an applicant that they need to satisfy the condition in regulation 4(2). This is because an applicant may not know when first making the application that it would result in the disclosure of information relating to minors. Regulation 4(5) sets out the reasons the registrar may refuse an application and regulation 4(8) that the registrar may impose conditions on relating to the disclosure.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Part 3 of the SI which details the application requirements and circumstances in which the Registrar will disclose information relating to a trust on ROE is made using the power at section 23 of the Economic Crime (Transparency and Enforcement) Act 2022 (as inserted by the Economic Crime and Corporate Transparency Act 2023). This power requires consultation with Devolved Governments. All devolved issues have been settled. Consultation has been carried out with Northern Ireland and Scottish Governments.

8. Applicable Guidance

8.1 Guidance will be made available for overseas entities, professional service providers and any interested parties. The guidance will explain who is able to apply for protection and under what circumstances can a searcher access trusts information held on the Register. In addition to what further information overseas entities will be required to provide.

8.2 Communication plans to raise awareness about the Register of Overseas Entities include highlighting the new requirements on overseas entities via Companies House website

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the costs and benefits to beneficial owners who apply to the protection regime were considered in the Corporate Transparency and Companies House Register Reform IA (No: BEIS016(F)-22-BF) and the Register of Overseas Entities IA (No: BEIS009(F)-22-BF).

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because, on the basis of the assessments above, applying to the protection regime, whilst potentially costly, is optional. Therefore, we expect that individuals would only choose to incur that cost where the benefits exceeded the costs.

9.3 More widely, however, the change introduced by this instrument will help prospective beneficial owners have greater confidence that their personal information could be protected should they be concerned about serious risks of harm.

9.4 Whilst the legislation will apply to small or micro businesses, as outlined above, it would not impose any impact on those businesses.

9.5 The most significant impact on the public sector is likely to be on Companies House. Companies House will be responsible for the implementing the change as part of the wider Companies House transformation programme. It is not possible however to disentangle the specific cost to Companies House related to this addition from wider transformation costs, but we expect this to be small.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Department for Business and Trade and Companies House will monitor all the reforms to Companies House enabled through the 2023 Act and will periodically publish research on their impact.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Justin Madders has made the following statement:

"A statutory review clause is not included in the instrument since the additional requirements are not extensive and are considered to meet the Government's 'de minimis' regulatory impact criteria, meaning no impact assessment is required."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Justin Madders, Parliamentary Under Secretary of State for Employment Rights, Competition and Markets at the Department for Business and Trade, has made the following statement regarding Human Rights:

"In my view the provisions of the Register of Overseas Entities (Protection and Trusts) (Amendment) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").