

## The UK Transparency Bill - extending the requirement for...

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I have been writing about the [UK Corporate and Individual Tax and Financial Transparency Bill](#) and its requirements. One particularly important requirement is in section 9 — which extends many of the obligations of the Bill to the Crown Dependencies and British Overseas Territories that operate as tax havens.

The UK Corporate and Individual Tax and Financial Transparency Bill requires that UK based companies disclose their beneficial ownerships and that this information is made available to regulatory authorities in the UK to make sure that tax is paid in the UK in the right place at the right time. This action is important, but it would be undermined if that obligation could be easily circumvented by incorporating a company in the UK Crown Dependencies or Overseas Territories, where very similar limited liability companies are readily available for use.

There has also been considerable demand, from people like Chancellor Angela Merkel of Germany, that the UK ensure that the secrecy made available by the UK's Crown Dependencies and Overseas Territories be brought to an end so that they cannot be used to undermine the tax systems of other states.

Section 9 makes sure that the obligations created by the UK Corporate and Individual Tax and Financial Transparency Bill are replicated in those Crown Dependencies and Overseas Territories that are used by the financial services industry. As a result the Bill requires that in all such territories all companies will be required to identify their beneficial owners and advise that ownership to the local money laundering regulatory authority. That authority is then tasked with publishing that information and the annual accounts of the company in question if it is shown that any beneficial owner of the company is resident outside the jurisdiction in question.

This last point is important: the UK has decided that it will not, unless exceptional circumstances apply, legislate for the domestic affairs of these places but it does, by common consent, have a duty to uphold law and order in all these jurisdictions and is responsible for their external relations. By excluding local companies from disclosure the requirements of section 9 become solely a matter relating to the upholding of tax

law internationally. As such this section relates solely to the external relations of these places.

It is also important to note that the UK has the right to legislate on this issue. As was noted in a Foreign and Commonwealth Office white paper in June 2012:

*The UK, the Overseas Territories and the Crown Dependencies form one undivided Realm, which is distinct from the other States of which Her Majesty The Queen is monarch. Each Territory has its own Constitution and its own Government and has its own local laws. As a matter of constitutional law the UK Parliament has unlimited power to legislate for the Territories.*

Section 9 requires that the law be imposed by way of an Order in Council — that is an Order of the Privy Council passed with the consent of the Queen. In each case these have legal power in the jurisdictions in question.

This section does as a result prevent UK domestic abuse of the provisions within the UK Corporate and Individual Tax and Financial Transparency Bill whilst at the same time ensuring that the UK's Crown Dependencies and Overseas Territories can no longer be used to provide a secretive environment behind which tax abuse and other crime can be hidden. Since all the jurisdictions in question have declared themselves opposed to the use of their company regulation for this purpose they will, no doubt, welcome these provisions.