

C

**i
e**

V02

**BENEFICIAL OWNERSHIP (AMENDMENT) BILL
2020**

C

BENEFICIAL OWNERSHIP (AMENDMENT) BILL 2020

Index

Section	Page
<hr/>	
	<i>Introductory</i>
	5
1	Short title 5
2	Commencement 5
	<i>Amendments to the Beneficial Ownership Act 2017</i>
	5
3	Beneficial Ownership Act 2017 amended 5
4	Section 3 (interpretation) amended 5
5	Section 5 (legal entities to which this Act applies) amended 6
6	Section 9 (duty of legal owners) amended 6
7	Section 10 (duty of beneficial owners and intermediate owners to assist) amended 6
8	Section 20 (compulsory submission of registrable beneficial ownership information to the Department) amended 7
9	Section 21 (voluntary submission of non-registrable beneficial ownership information) amended 8
10	Section 25 (Department not liable for accuracy of information submitted) amended 8
11	New section 26A inserted 8
12	Section 32 (regulations) amended 9
13	Section 42 (statement of compliance in annual returns) amended 9
14	Schedule 1 (oversight) amended 9
	<i>Closing provisions</i>
	10
15	Consequential amendments 10

C

BENEFICIAL OWNERSHIP (AMENDMENT) BILL 2020

A **BILL** to amend the Beneficial Ownership Act 2017 in accordance with the recommendations of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and Financing of Terrorism and so as to separate the requirement to submit an annual statement of compliance from the requirement to submit an annual return under other specified Acts; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

Introductory

1 Short title

The short title of this Act is the Beneficial Ownership (Amendment) Act 2020.

2 Commencement

- (1) This Act (other than section 1 and this section) comes into operation on such day or days as the Treasury may by order appoint.
Tynwald procedure — laying only.
- (2) An order under subsection (1) may include such consequential, incidental, supplementary, transitional and transitory provision as the Treasury considers necessary or expedient.

Amendments to the Beneficial Ownership Act 2017

3 Beneficial Ownership Act 2017 amended

The *Beneficial Ownership Act 2017* is amended as follows.

4 Section 3 (interpretation) amended

In section 3(1) (interpretation) —

- (a) in the definition of “Department”, for ““Department””, substitute “the Department”; and
- (b) in paragraph (a) of the definition of “permitted purpose” —
 - (i) at the end of subparagraph (iv), omit “and”; and
 - (ii) after subparagraph (v), insert —

«(vi) the disclosure of statistical data relating to beneficial ownership information and the Database to a Department or Statutory Board (within the meaning of the *Interpretation Act 2015*); and».

5 Section 5 (legal entities to which this Act applies) amended

In section 5(2) (legal entities to which this Act applies) —

- (a) omit paragraph (c);
- (b) at the end of paragraph (d), omit “or”;
- (c) at the end of paragraph (e) for the full stop, substitute «; or»; and
- (d) after paragraph (e), insert —
 - «(f) a company which is a wholly owned subsidiary of —
 - (i) a legal entity referred to in paragraph (b) or (e); or
 - (ii) a limited partnership.».

6 Section 9 (duty of legal owners) amended

In section 9 (duty of legal owners) —

- (a) in subsection (2), for “Subsection (3)”, substitute «Subsection (3)(b)»; and
- (b) for subsection (3), substitute —
 - «(3) The legal owner must —
 - (a) within one week of the date of incorporation of the legal entity; or
 - (b) within one month of the date of the notice received under subsection (2),
 give notice to the legal entity’s nominated officer of the required details specified in section 11 in respect of each beneficial owner of the legal owner’s interest.».

7 Section 10 (duty of beneficial owners and intermediate owners to assist) amended

In section 10 (duty of beneficial owners and intermediate owners to assist) —

- (a) in the section heading, after “owners to”, insert «notify and»; and
- (b) for subsection (2), substitute —
 - «(2) A beneficial owner and an intermediate owner must —
 - (a) notify the legal owner within one week of —
 - (i) becoming or ceasing to be a beneficial owner or an intermediate owner (as the case may be) of the legal owner’s interest in the legal entity; and
 - (ii) becoming aware of any changes to the beneficial ownership of that interest; and
 - (b) assist the legal owner or the nominated officer, within one month of a request from the legal owner or the nominated

officer to do so, to ascertain the beneficial owner of the legal owner's interest in the legal entity.».

8 Section 20 (compulsory submission of registrable beneficial ownership information to the Department) amended

In section 20 (compulsory submission of registrable beneficial ownership information to the Department) —

(a) for subsection (2), substitute —

«(1A) The Department may by regulations make further provision about the steps referred to in subsection (1).

(2) Without limiting subsection (1A), the steps referred to in subsection (1) must include issuing a notice to obtain the information specified in subsection (5) —

(a) under section 9(2) (duty of legal owners), where the nominated officer considers a legal owner has failed to comply with section 9; or

(b) under section 10(2) (duty of beneficial owners and intermediate owners to notify and assist), where the nominated officer considers a beneficial owner or an intermediate owner has failed to comply with section 10.»;

(b) at the end of subsection (5)(a)(ii), omit “and”;

(c) at the end of subsection (5)(b), for the full stop, substitute «; and»;

(d) after subsection (5)(b), insert —

«(c) a statement of confirmation that —

(i) any regulations made under subsection (1A) have been complied with; and

(ii) the steps specified in subsection (2) have been taken.»;

(e) for subsection (7), substitute —

«(7) In relation to a legal entity coming into existence after this section comes into operation, the nominated officer must submit the information to the Department under subsection (3) —

(a) within one week of the incorporation of the legal entity; or

(b) within one month of information being notified to the nominated officer under section 9 (duty of legal owners), assistance being provided to the legal owner or nominated officer under section 10(2)(b) (duty of beneficial owners and intermediate owners to notify and assist) or notice being given to the nominated officer under section 12 (changes to required details) (as the case may be).»; and

(f) in subsection (17), after “Regulations under subsection”, insert «(1A) and».

9 Section 21 (voluntary submission of non-registrable beneficial ownership information) amended

For section 21(2) (voluntary submission of non-registrable beneficial ownership information), substitute —

- «(2) Submission of information under subsection (1) must —
 - (a) be in accordance with regulations made under section 20(1A) (compulsory submission of registrable beneficial ownership information to the Department);
 - (b) include a statement of confirmation referred to in section 20(5)(c); and
 - (c) be in accordance with section 22 (beneficial ownership information to be submitted online).».

10 Section 25 (Department not liable for accuracy of information submitted) amended

In section 25 (Department not liable for accuracy of information submitted) —

- (a) renumber the existing text as subsection (1); and
- (b) after subsection (1), insert —
 - «(2) Despite subsection (1), the Department may —
 - (a) make such enquiries as it considers appropriate in the circumstances to establish the accuracy of any such information; and
 - (b) remove, correct or annotate any information submitted to the Database which the Department considers to be false, inaccurate or misleading in any way.
 - (3) To give effect to subsection (2)(a), the Department may make regulations in connection with the enquiries it may make to establish the accuracy of information submitted to it.
 - Tynwald procedure — approval required.
 - (4) Without limiting subsection (3), regulations may provide for —
 - (a) the information the Department may request; and
 - (b) the retention of such information.».

11 New section 26A inserted

After section 26, insert —

«26A Requirement to notify errors in the Database

- (1) A person who accesses the Database must notify the Department within one week if the person knows, suspects or reasonably ought to know or suspect any entry on the Database is incorrect.
- (2) A person who fails to comply with subsection (1) commits an offence.
 - Maximum penalty (summary) - a fine not exceeding level 5 on the standard scale.».

12 Section 32 (regulations) amended

In section 32 (regulations), for “Authority or Department”, in both places, substitute «the Authority or the Department».

13 Section 42 (statement of compliance in annual returns) amended

In section 42 (statement of compliance in annual returns) —

- (a) for subsection (1), substitute —
 - «(1) By the date by which a legal entity to which this Act applies is due to submit its annual return, an annual statement must be submitted to the Department —
 - (a) by the legal entity, which confirms that —
 - (i) the entity has complied with its obligations under this Act;
 - (ii) the required details in respect of any beneficial owner have been submitted to the nominated officer; and
 - (b) by the nominated officer in relation to the entity, which confirms that —
 - (i) the officer has complied with his or her obligations under this Act;
 - (ii) without limiting subparagraph (i), the required details in respect of any registrable beneficial owner have been submitted to the Department; and
 - (iii) all information entered on the Database in relation to the legal entity is up to date and correct.»; and
- (b) omit subsection (2).

14 Schedule 1 (oversight) amended

In Schedule 1, paragraph 8 (civil penalties) —

- (a) for subparagraph (1), substitute —
 - «(1) If the Authority is satisfied that a relevant person has —
 - (a) committed an offence under paragraph 7(3);
 - (b) contravened a provision specified in subparagraph (2); or
 - (c) knowingly or recklessly furnished the Authority or the Department, as the case may be, with information that is materially false, inaccurate or misleading,
 it may require the person to pay a civil penalty.»; and
- (b) in subparagraph (2) —
 - (i) in paragraph (b), for “9(5)”, substitute «9(3)»;
 - (ii) in paragraph (c), for “duty of intermediate owners to assist”, substitute « duty of beneficial owners and intermediate owners to notify and assist»; and
 - (iii) in paragraph (e), after “required details”, insert « and verifying information».

*Closing provisions***15 Consequential amendments**

- (1) Omit section 109A of the *Companies Act 1931* (annual return: statement concerning beneficial ownership).
- (2) Omit section 85(3A) of the *Companies Act 2006* (annual return to be made by a company).
- (3) Omit section 10(2A) of the *Limited Liability Companies Act 1996* (annual returns).
- (4) Omit section 51(1D) of the *Partnership Act 1909* (registration of changes in partnerships).
- (5) Omit section 44(3A) of the *Foundations Act 2011* (foundation to make annual return).

