



Isle of Man

Ellan Vannin

AT 7 of 2021

**BENEFICIAL OWNERSHIP (AMENDMENT)
ACT 2021**



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**Isle of Man***Ellan Vannin*

BENEFICIAL OWNERSHIP (AMENDMENT) ACT 2021

<i>Signed in Tynwald:</i>	<i>15 June 2021</i>
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<i>Announced to Tynwald:</i>	<i>15 June 2021</i>

AN ACT 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 2021.

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 “Authority”, for ““Authority””, substitute **33** “the Authority””;
- (b) in the definition of “Department”, for ““Department””, substitute **33** “the Department””; and
- (c) in paragraph (a) of the definition of “permitted purpose”—
 - (i) at the end of subparagraph (iv), omit “and”; and
 - (ii) after subparagraph (v), insert —
 - 33**(vi) the disclosure of statistical data relating to beneficial ownership information and the Database to a Department or Statutory Board; and **32**.

5 Section 7 (notice of appointment of nominated officer) amended

In section 7(3) (notice of appointment of nominated officer), for “within one month”, substitute **33** as soon as reasonably practicable but in any event within 21 days **32**.

6 Section 9 (duty of legal owners) amended

In section 9 (duty of legal owners) —

- (a) in subsection (2), for “Subsection (3)”, substitute **33** Subsection (3)(b) **32**; and
- (b) for subsection (3), substitute —
 - 33**(3) The legal owner must as soon as reasonably practicable but in any event within 21 days of —
 - (a) the incorporation of the legal entity; and
 - (b) the date of a 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. **32**.

7 Section 12 (changes to required details) amended

In section 12(2) (changes to required details), for “within one month after”, substitute **33** as soon as reasonably practicable but in any event within 21 days of the date on which **32**.

8 Section 14 (further consequences of failure to disclose beneficial ownership) amended

In section 14(5) (further consequences of failure to disclose beneficial ownership), for “2 weeks”, substitute **14** 14 days **14**.

9 Section 15 (disclosure of beneficial ownership information by nominated officer) amended

In section 15(4) (disclosure of beneficial ownership information by nominated officer) —

- (a) in paragraph (c), for “as soon as possible”, substitute **15** as soon as reasonably practicable **15**; and
- (b) in subparagraph (c)(ii), for “within one month”, substitute **15** within 21 days **15**.

10 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 —

20 (1A) The Department may by regulations make further provision about the steps referred to in subsection (1).

Tynwald procedure — negative.

- (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 12(1) (changes to required details); or
- (b) under section 10(2) (duty of beneficial owners and intermediate owners to assist), where the nominated officer considers a beneficial owner or an intermediate owner has failed to comply with section 10. **20**;

- (b) at the end of subsection (5)(a)(ii), omit “and”;
- (c) at the end of subsection (5)(b), for the full stop, substitute **20**; and **20**;
- (d) after subsection (5)(b), insert —

20 (c) a statement of confirmation —

- (i) if any regulations have been made under subsection (1A), that the regulations have been complied with; and

- (ii) where the circumstances specified in subsection (2)(a) or (b) apply, the steps specified in that subsection have been taken. **22**;
- (e) in subsection (6)(b), for “within one month”, substitute **23** as soon as reasonably practicable but in any event within 21 days **22**
- (f) for subsection (7), substitute —
 - 23**(7) In relation to a legal entity coming into existence after this subsection comes into operation, the nominated officer must submit the information to the Department under subsection (3) as soon as reasonably practicable but in any event within 21 days —
 - (a) of the information being notified to the nominated officer under section 9(3)(a) (duty of legal owners); or
 - (b) of —
 - (i) information being notified to the nominated officer under section 9(3)(b) (duty of legal owners) or assistance being provided to the legal owner or nominated officer under section 10(2) (duty of beneficial owners and intermediate owners to assist); or
 - (ii) notice being given to the nominated officer under section 12 (changes to required details),
 - (as the case may be). **22**;
- (g) immediately after subsection (16) insert —
 - 23** Tynwald procedure — negative. **22**; and
- (h) omit subsection (17).

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

In section 21 (voluntary submission of non-registrable beneficial ownership information) —

- (a) after subsection (1), insert —
 - 23**(1A) The Department may by regulations make further provision about the information referred to in subsection (1).
 - Tynwald procedure — negative. **22**; and
- (b) for subsection (2), substitute —
 - 23**(2) Submission of information under subsection (1) must —
 - (a) be in accordance with any regulations made under subsection (1A);
 - (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). **22**.

12 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 —
 - 22**(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) Where the Department takes any action under subsection (2)(b), it must notify the nominated officer of the relevant legal entity.
 - (4) 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.
 - (5) Without limiting subsection (4), regulations may provide for —
 - (a) the information the Department may request; and
 - (b) the retention of such information. **22**.

13 New section 26A inserted

After section 26, insert —

22 26A Requirement to notify errors in the Database

- (1) A person specified in section 26(2)(d) or (e) who accesses the Database must notify the Department within one week if the person knows or suspects any entry on the Database is materially incorrect.
- (2) A person who, without reasonable excuse, fails to comply with subsection (1) commits an offence.
 - Maximum penalty (summary) - a fine not exceeding level 5 on the standard scale. **22**.

14 Section 32 (regulations) amended

In section 32 (regulations), for “Authority or Department”, in both places, substitute **22** the Authority or the Department **22**.

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

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

- (a) in the section heading, omit “in annual returns”;
- (b) for subsection (1), substitute —

22(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; and
 - (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. **22**; and

- (c) omit subsection (2).

16 Schedule 1 (oversight by the Authority) amended

In paragraph 8 of Schedule 1 (civil penalties) —

- (a) for subparagraph (1), substitute —

22(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 false, inaccurate or misleading in a material particular,

it may require the person to pay a civil penalty. **22**; 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 assist”; and
 - (iii) in paragraph (e), after “required details”, insert “and verifying information”;
- (c) in subparagraphs (4) and (6), for “this section” substitute “this paragraph”; and
- (d) after subparagraph (8) insert —
- “(8A) Regulations under subparagraph (6) must not come into operation unless approved by Tynwald.”

Closing provisions

17 Consequential amendments

Omit the following provisions —

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

ENDNOTES

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