

PROJET DE LOI

ENTITLED

The Beneficial Ownership and Companies (Amendment) (Alderney) Law, 2022

THE STATES, in pursuance of their Resolution of the 16th day of March, 2022, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

Amendment of the Beneficial Ownership Law.

1. (1) The Beneficial Ownership of Legal Persons (Alderney) Law, 2017^a is amended as follows.

(2) In section 2 -

(a) at the end of paragraph (c) omit "and",

(b) at the end of paragraph (d) for "." substitute ", and",
and

(c) after paragraph (d) insert -

"(e) to ensure the accuracy of information relating

^a Order in Council No. VII of 2017. This enactment has been amended.

to nominee relationships in respect of non-regulated relevant legal persons."

(3) After section 7(3), insert -

"(3A) The "**required particulars**" in any other case means the beneficial owner's -

- (a) name,
- (b) date of incorporation, and
- (c) place of incorporation."

(4) Section 7(5) is repealed.

(5) After section 20(1), insert -

"(1A) In deciding whether or not to make a resident agent disqualification order under this section and, if so, the terms thereof, the Registrar must take into consideration the following factors -

- (a) whether the contravention was brought to the attention of the Registrar by the person concerned,
- (b) the seriousness of the contravention,
- (c) whether or not the contravention was

inadvertent,

- (d) what efforts, if any, have been made to rectify the contravention and to prevent a recurrence,
- (e) the potential financial consequences to the person concerned, and to third parties including customers and creditors of that person, of publishing a statement,
- (f) the action taken by the Registrar under this section in other cases, and
- (g) any other matter the Registrar considers relevant."

(6) After section 31, insert -

"Bearer securities.

31A. (1) Without prejudice to section 85(5) of the Companies Law, an application to register or incorporate a company or other legal person in Alderney (including an application to register or incorporate in Alderney an external company or other legal person presently registered or incorporated outside Alderney) must be refused if its constitutive documents empower it to issue bearer securities.

(2) For the purposes of this section, "**bearer securities**" means shares, warrants and any other form of instrument entitling the holder to subscribe for or convert their interest into shares where, in each case,

ownership of such shares, warrants or instruments and the right to exercise the rights attaching thereto is determined solely by possession of the physical certificate or instrument relating thereto."

(7) For section 34(3), substitute -

"(3) In this Law, a "**regulated relevant legal person**" means a relevant legal person which -

- (a) is administered, controlled or operated by a regulated person in the course of his or her activities, or by a person acting in the course of his or her duties as an employee of a regulated person, or
- (b) otherwise has a resident agent which is a regulated person or which is a person acting in the course of his or her duties as an employee of a regulated person,

and a "**non-regulated relevant legal person**" means a relevant legal person which is not a regulated relevant legal person (including, for the avoidance of doubt, a relevant legal person which was, but is no longer, a regulated relevant legal person)."

(8) In paragraph 3 of the Schedule, for the paragraph heading substitute "Power of Commission, Director of Revenue Service and Economic Crime Division to inspect Register.", and in paragraph (1) for "the Commission and the Economic Crime Division", substitute "the Commission, the Director of the Revenue

Service and the Economic Crime Division".

(9) In paragraph 4(1) of the Schedule, for "may reasonably require" to the end, substitute -

"may reasonably require -

- (a) for the performance of his or her functions, or
- (b) to enable him or her (of his or her own volition or at the request of the Committee, the States of Guernsey Policy and Resources Committee or any authority within the Bailiwick with functions in respect of financial crime) to obtain information relating to legal persons so that he or she can identify, assess and understand risks to the Bailiwick of money laundering, terrorist financing and all other forms of financial crime."

(10) In paragraph 4(2) of the Schedule -

- (a) for "on a person other than a regulated person or a regulated relevant legal person" substitute "on an administrator, provisional liquidator or liquidator appointed in respect of a company, on an equivalent person appointed in respect of another legal person, or on any other person other than a regulated person or a regulated relevant legal person", and

(b) for "reasonably required" to the end, substitute -

"reasonably required by the Registrar -

(i) for the performance of his or her functions, or

(ii) to enable him or her (of his or her own volition or at the request of the Committee, the States of Guernsey Policy and Resources Committee or any authority within the Bailiwick with functions in respect of financial crime) to obtain information relating to legal persons so that he or she can identify, assess and understand risks to the Bailiwick of money laundering, terrorist financing and all other forms of financial crime."

Amendment of the Companies Law.

2. In the Companies (Alderney) Law, 1994^b, after section 152K , insert -

^b Order in Council No. XXXIV of 1994. This enactment has been amended.

"PART XXIB

THE REGISTRAR

Functions of Registrar.

152L. (1) The functions of the Registrar are -

- (a) to establish and maintain the Register of Companies, and otherwise to exercise the powers and undertake the duties conferred on him or her by this Law,
- (b) to communicate with -
 - (i) any authority appearing to the Registrar to exercise, in a place outside Alderney, functions corresponding to his or hers, and
 - (ii) such other persons as he or she thinks fit,

for the purposes of assisting them and promoting and enhancing the Register of Companies,

- (c) to exercise such other functions as may be assigned or transferred to him or her by or under this Law or any other enactment.

(2) Subsection (1)(b) does not authorise the Registrar to disclose confidential information.

Ancillary powers of Registrar.

152M. (1) The Registrar has power to do anything that appears to him or her to be necessary or expedient for the purpose of exercising his or her functions under this Law including, without limitation, power -

- (a) to request the production of and otherwise obtain such documents, accounts and information from such persons and within such periods and at such times and intervals as he or she thinks fit,
- (b) subject to any provision to the contrary in this Law or any other enactment, to publish information, guidance, reports and other documents, and
- (c) to request advice from Her Majesty's Procureur in relation to the exercise of any of his or her functions.

(2) The Registrar may also, without limitation, exercise the power at subsection (1)(a) for the purpose of enabling him or her (of his or her own volition or at the request of the Committee, the States of Guernsey Policy & Resources Committee or any authority within the Bailiwick with functions in respect of financial crime) to obtain information relating to

companies so that he or she can identify, assess and understand risks to the Bailiwick of money laundering, terrorist financing and all other forms of financial crime.

(3) Section 149 applies to a person of whom a request is made under subsection (1)(a) in the same way as to a person of whom a requirement is made by an inspector.

Disclosure and publication of confidential information.

152N. (1) Any confidential information held by the Registrar shall not be disclosed or published by him or her except in accordance with the provisions of this Law, any other enactment or any rule of law.

(2) For the purposes of this Part, "**confidential information**" means a person's residential address, and any other information that the Committee may prescribe by regulation.

Disclosure and publication of non-confidential information.

152O. Any information held by the Registrar, other than confidential information, may be disclosed or published by him or her -

- (a) in accordance with the provisions of this Law, any other enactment or any rule of law, or
- (b) if no such provision is made, in such manner, subject to such conditions and for such purposes as he or she thinks fit."

Citation.

3. This Law may be cited as the Beneficial Ownership and Companies

(Amendment) (Alderney) Law, 2022.

Commencement.

4. This Law shall come into force on the day appointed by Ordinance of the States; and different dates may be appointed for different provisions and for different purposes.