

ORDINANCE OF THE STATES: VII of 2023**The Companies (Alderney) Law, 1994
(Amendment) Ordinance, 2023**

<i>Made</i>	<i>26 July 2023</i>
<i>Coming into force</i>	<i>See Section 7</i>

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 26th July 2023^a, and in exercise of the powers conferred upon them by section 164 of the Companies Alderney Law, 1994^b, and all other powers enabling them in that behalf, hereby order:-

Amendments to the Companies (Alderney) Law, 1994.

1. (1) This Ordinance amends the Companies (Alderney) Law, 1994 (the "Law").

(2) In this Ordinance, references to provisions of an enactment are references to provisions of the Law unless the context requires otherwise.

Amendments to Part VII.

2. In section 37 -

(a) for subsection (1)(a), substitute -

"(a) complete an annual return (which shall be in such form as the Registrar directs and which shall contain information current on the 1st January in that year," and

^a Item I of Billet d'Etat 26 July 2023

^b Ordres en Conseil Vol. XXXV(2), p. 777; this enactment has been amended.

- (b) in subsection (2)(d), after "number" insert ", and class,".

Amendments to Part XXIA.

- 3. (1) For section 152H, substitute -

"Disclosure of information by resident agent.

152H. (1) A person listed in subsection (10) may, in the course of exercising his or her functions, serve a notice under this section (an "**information notice**") on the resident agent of a company requiring, within such time as may be specified in the information notice, the disclosure by the resident agent of information falling within subsection (4) and specified in the information notice, including information held by a person other than the resident agent; and for the avoidance of doubt, an information notice is lawful authority for the disclosure to the person serving it of the information specified in it.

(2) For the avoidance of doubt, an information notice may be served by a person acting on behalf of a person listed in subsection (10).

(3) An information notice shall -

- (a) be signed by the person listed in subsection (10) serving it (or by an individual appointed by that person for that purpose, in which case it shall identify the appointing person),
- (b) specify what information is required under it (including to which company it relates),

- (c) state that the information is required by the person listed in subsection (10) serving it (or on whose behalf it is served, as the case may be) for the proper and proportionate exercise of his or her functions,
- (d) state that any person served by the resident agent with a copy of the information notice under subsection (5) and who holds information specified in the information notice is required to provide it to the resident agent, and
- (e) set out the offences at subsection (8).

(4) The information that may be specified in an information notice is -

- (a) any information required by that person which the resident agent is required to hold by virtue of his or her obligations under this Part and any other information he or she holds in respect of the beneficial owners of the company,
- (b) any of the records or copy certificates, notices or other documents specified in paragraphs (a) to (i) of section 32(1A),
- (c) the names and usual residential addresses of the directors of the company,

- (d) a copy of the register of members of the company,
- (e) any other information specified in the notice as being required -
 - (i) to ascertain the identity of the beneficial owners of the company, or
 - (ii) with respect to the prevention, detection, investigation or prosecution of money laundering, drug trafficking, bribery and corruption, the financing of terrorism, the financing of the proliferation of weapons of mass destruction, and any other form of financial crime, and
- (f) any other information in a category specified in regulations made for this purpose by the Committee.

(5) The resident agent shall take reasonable steps to ascertain the information required under an information notice; and if the resident agent does not hold information required under an information notice but knows or reasonably suspects that another person ("P") holds it, the resident agent shall take reasonable steps to serve a copy of the information notice on P and request P to disclose the information to the resident agent, in

order that that the resident agent may disclose the information to the person who served the information notice on the resident agent.

(6) Nothing in this section prejudices any power to disclose or obtain information which exists apart from this section.

(7) The information that may be disclosed under this section includes information obtained before this section came into force.

(8) A resident agent or any other person who, without reasonable excuse -

(a) fails to comply with this section, or

(b) makes a statement, in response to an information notice, which is false, deceptive or misleading in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the Alderney uniform scale.

(9) For the avoidance of doubt, this section is without prejudice to the powers and duties of resident agents under the Beneficial Ownership Law.

(10) The persons referred to in subsection (1) are -

(a) the Director General of the Commission,

(b) His Majesty's Procureur,

- (c) the Chief Officer of Police,
- (d) the Chief Officer of Customs,
- (e) the Director of the Economic and Financial Crime Bureau,
- (f) the Head of the Financial Intelligence Unit,
- (g) the Registrar,
- (h) the Registrar of Limited Liability Partnerships within the meaning of the Limited Liability Partnerships (Guernsey) Law, 2013,
- (i) the Registrar within the meaning of the Companies (Guernsey) Law, 2008 (including in his or her capacity as the Registrar of Foundations and under the Limited Partnerships (Guernsey) Law, 1995),
- (j) the Registrar of Beneficial Ownership within the meaning of the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017,
- (k) His Majesty's Greffier,
- (l) any body or person with the function of implementing or enforcing international sanctions measures within the Bailiwick,

- (m) the Greffier within the meaning of the Government of Alderney Law, 2004 (including in his or her capacity as the Registrar under the Beneficial Ownership Law),
- (n) the Alderney Gambling Control Commission,
- (o) the Director of the Revenue Service,
- (p) the Registrar of Charities and other Non Profit Organisations under the Charities etc. (Guernsey and Alderney) Ordinance, 2021,
- (q) the Registrar of Non Profit Organisations appointed under the Charities and Non Profit Organisations (Registration) (Sark) Law, 2010, and
- (r) any other person specified in regulations made for this purpose by the Committee.

(11) In this section, "**information**" includes documents.

Disclosure of information by resident agent: supplementary.

152HA.(1) A person listed in section 152H(10) ("P"), or a person acting on P's behalf, may, by notice in writing, require a resident agent to attend at such times and places as may be specified in the notice, and to answer such questions as P requires the resident agent to answer in respect of, or arising out of any response to, an information notice served under section 152H on the resident agent by or on behalf of P.

- (2) A person who, without reasonable excuse -
 - (a) fails to comply with a notice served under subsection (1), or fails to answer a question asked under subsection (1), or
 - (b) makes a statement, in response to a notice served or questions asked under subsection (1), which is false, deceptive or misleading in a material particular,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the Alderney uniform scale."

- (2) In section 152I -
 - (a) in the section heading, after "Tipping off" insert "information notice", and
 - (b) in subsection (1), the first time it appears, for "a certificate" substitute "an information notice", and the second time it appears for "certificate" substitute "notice".

Amendments to Schedule 3.

- 4. After paragraph 1, insert -

- "1A. (1) A company is a large company if -

- (a) any two of the qualifying conditions set out in subparagraph (2) are met in a financial year and in the preceding financial year, and
- (b) the company does not fall into any of the classes of company set out in paragraph 1B.

(2) The qualifying conditions are -

- (a) the company has an annual net turnover of £10.2 million or greater,
- (b) the company has a net balance sheet of £5.1 million or greater,
- (c) the company has an average number of employees of 50 or more.

1B. The following classes of company are not large companies regardless of whether they otherwise meet the qualifying conditions set out in paragraph 1A(2) -

- (a) companies with 10 or fewer members,
- (b) companies -
 - (i) which are licenced insurers within the meaning of the Insurance Business (Bailiwick of Guernsey) Law, 2022, and

- (ii) in respect of which the Commission has, by notice in writing served on them under section 35(6) of that Law, agreed to the preparation of their accounts in a form other than a form specified by the provisions of section 35 or any requirements thereunder.

1C. In paragraph 1A -

- (a) "**net**" in relation to turnover or balance sheet means the turnover or balance sheet total after any set-offs or other adjustments made to eliminate group transactions in accordance with generally accepted accounting principles or other international reporting standards,
- (b) "**number of employees**" means the average number of persons employed by the company in the financial year determined as follows -
 - (i) find for each month in the financial year the number of persons employed by the company in that month -
 - (A) under contracts of employment, and
 - (B) on a full time basis or the equivalent thereof in terms of

contracted hours required to
be worked,

- (ii) add together the monthly totals, and
- (iii) divide by the number of months in the financial year.

1D. (1) The members of a company which is a large company are prohibited from making an agreement under paragraph 1(b) other than in accordance with subparagraph (2).

(2) Where during the course of a financial year the members of a large company are satisfied that the company will not meet the qualifying conditions in that financial year then they may make an agreement in writing revoking the appointment of the auditor.

(3) The Committee may make regulations specifying the circumstances in, purposes for and extent to which an agreement under paragraph 1(b) made before this paragraph comes into force, by the members of a company which is a large company, shall be deemed to be of no effect."

5. In paragraph 2(1), for "An agreement" substitute "Subject to paragraph 1D, an agreement".

Repeal.

6. The following enactments are repealed -

- (a) Companies (Alderney) Law (External Companies) Ordinance, 1998^c,
- (b) External Companies (Fees) Regulations, 2009^d,
- (c) External Companies (Fees) Regulations, 2013^e.

Citation.

6. This Ordinance may be cited as the Companies (Alderney) Law, 1994 (Amendment) Ordinance, 2023.

Commencement.

7. (1) Subject to subsection (2), this Ordinance shall come into force on 29th July, 2023.
- (2) Section 4 of this Ordinance, shall come into force on 13th October, 2023.

DAVID KNIGHT
Alderney Greffier

Alderney legislation is available online at
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- ^c Alderney Ordinance No. IX of 1998.
 - ^d A.S.I. No. 8 of 2009.
 - ^e A.S.I. No. 8 of 2013.