



*At the Court at Buckingham Palace*

THE 15th DAY OF NOVEMBER 2023

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY  
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with the Royal Assent to Legislation and Petitions (Bailiwick of Guernsey) Order 2022 the Committee have considered a Petition of the States of Alderney:

That, at a meeting of the States of Alderney on 26th July, 2023 the States approved a Projet de Loi entitled the Beneficial Ownership of Legal Persons (Alderney) (Amendment) Law 2023 and requested the President to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Beneficial Ownership of Legal Persons (Alderney) (Amendment) Law 2023 and to order that it shall have force of law in the Island of Alderney.

The Committee have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

His Majesty, having taken the report into consideration, was pleased, by and with the advice of His Privy Council, to approve and ratify the Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Alderney; and shall be entered on the Register of the Island of Guernsey and observed accordingly.

His Majesty's Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of His Majesty's Order and to proceed accordingly.

*Richard J. Wilson*

# PROJET DE LOI

ENTITLED

## **The Beneficial Ownership of Legal Persons (Alderney) (Amendment) Law, 2023**

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 26<sup>th</sup> July, 2023<sup>a</sup>, 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 2017 Law.**

1. The Beneficial Ownership of Legal Persons (Alderney) Law, 2017<sup>b</sup> ("**the principal Law**") is amended as follows.

### **Amendment of section 7.**

2. In section 7 of the principal Law, for subsection (3A), substitute the following subsection -

"(3A) The "**required particulars**", in the case of a beneficial owner ("**B**") that is not an individual, means -

(a) B's name,

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<sup>a</sup> Item I of the Billet d'État of 26th July, 2023.

<sup>b</sup> Order in Council No. VII of 2017; this enactment has been amended.

- (b) the date of incorporation of B,
- (c) the place of incorporation of B,
- (d) B's registered address,
- (e) if B became a beneficial owner in respect of the relevant legal person in question after this Part comes into force, the date on which B became a beneficial owner, and
- (f) the grounds on which B is considered to be a beneficial owner."

**Amendment of section 14.**

3. In section 14 of the principal Law, repeal paragraph (c) of subsection (1).

**Amendment of section 19.**

4. In section 19 of the principal Law -
- (a) in subsection (1), after "section 14" insert "or paragraph 4F of the Schedule" and for "States may prescribe by Ordinance" substitute "Committee may prescribe by regulations", and
  - (b) repeal subsections (2), (4) and (5).

**Amendment of section 20.**

5. In section 20 of the principal Law, repeal subsections (1A), (5) and (6).

**Amendment of section 22.**

6. In section 22 of the principal Law, repeal subsection (2).

**Insertion of new sections 22A and 22B.**

7. Immediately after section 22 of the principal Law, insert the following sections -

**"Imposition of applicable sanctions.**

22A. In deciding whether or not to impose an applicable sanction on any person (and, where relevant, the amount or terms thereof), the Registrar must take into consideration the following factors -

- (a) in the case of a contravention of or under any provision of this Law -
  - (i) whether the contravention was brought to the attention of the Registrar by the person concerned,
  - (ii) the seriousness of the contravention, and
  - (iii) the efforts, if any, that have been made to rectify the contravention and to prevent a recurrence,
- (b) the potential financial consequences to the person concerned, and to third parties

including customers and creditors of that person, of imposing an applicable sanction,

- (c) the action taken by the Registrar in relation to applicable sanctions in other cases, and
- (d) any other matter the Registrar considers relevant.

**Notification of proposed sanction.**

**22B.** (1) Where the Registrar proposes to impose an applicable sanction on any person, the Registrar must issue to the person concerned a notice specifying -

- (a) the proposed financial penalty, order, reprimand or statement, and the reasons for the same,
  - (b) the date on which it is proposed to impose the penalty, make the order, issue the reprimand or publish the statement, allowing time for written representations under section 23 (unless dispensed with under section 23(3)), and
  - (c) that person's right to make written representations to the Registrar under section 23 (unless dispensed with under section 23(3)).
- (3) Subsection (1) is subject to section 23A."

**Amendment of section 23.**

8. In section 23 of the principal Law -

- (a) in the heading, for "**prior to civil penalty, etc**", substitute "**and notice of decision**",
- (b) in subsection (1), for "The person on whom a notice is served under section 19(4) or section 20(5)", substitute "Subject to subsection (3), the person to whom a notice is issued under section 22B",
- (c) in subsection (2), in the words following subparagraph (iv), for "inform", substitute "give written notice to", and
- (d) for subsection (3), substitute the following subsections -

"(3) The period of 28 days mentioned in subsection (1) may be reduced in any case in which the Registrar considers it necessary to do so in the interests of the public or the reputation of the Bailiwick as a finance centre; and if by reason of those interests the Registrar considers that the decision in question needs to be taken immediately as a matter of urgency then, with the prior written authorisation of His Majesty's Procureur the procedure prescribed in subsection (1) may be dispensed with altogether.

(4) If the period of 28 days is reduced, or the procedure prescribed in subsection (1) dispensed with altogether, the Registrar must specify this in the notice under section 22B.

(5) A written notice of the Registrar's decision under subsection (2) must include a statement of the right to apply to the Court under section 26.

(6) This section is subject to section 23A."

**Insertion of new section 23A.**

9. Immediately after section 23 of the principal Law, insert the following section -

**"Court may order sanctions with immediate effect.**

23A. If, at any time, the Registrar decides that it is necessary or desirable to impose an applicable sanction on any person with immediate effect -

- (a) in the interests of the public, or
- (b) in the interests of the reputation of the Bailiwick as a financial centre,

the Registrar may apply to the Court for an order under this section directing that the applicable sanction should, without prejudice to any application under section 26, have immediate effect; and the Court may make an order under this subsection on any terms and conditions it thinks just."

**Insertion of new section 24A.**

10. Immediately after section 24 of the principal Law, insert the following section -

**"Interpretation of Part 4.**

**24A.** In this Part, "**applicable sanction**" means -

- (a) a financial penalty under section 19,
- (b) a private reprimand under section 21,
- (c) a public statement under section 22, or
- (d) in the case of a resident agent of a non-regulated relevant legal person, a resident agent disqualification order under section 20."

**Amendment of section 33.**

**11.** In section 33(1) of the principal Law -

- (a) insert the following definitions in the appropriate alphabetical order -

""**applicable sanction**": see section 24A,"

""**Head of the FIU**" has the meaning given in section 4 of the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022", and

""**the supervisory Laws**" has the meaning given in section 2(b) of the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020," and

- (b) repeal the definitions of "**Economic Crime Division**", "**Financial Intelligence Unit**", and "**the regulatory Laws**".

**Amendment of section 34.**

12. In section 34(2)(a) of the principal Law, for "regulatory", substitute "supervisory".

**Amendment of the Schedule.**

13. In the Schedule to the principal Law -

(a) in paragraph 2(1), for "regulatory", substitute "supervisory",

(b) in paragraph 3 -

(i) in the heading, for "and Economic Crime Division" substitute ", Head of FIU and Director of EFCB", and

(ii) in subparagraph (1), for "and the Economic Crime Division" substitute ", the Head of the FIU and the Director of the Economic and Financial Crime Bureau".

**Transitional provision for duty of resident agent to keep records.**

14. (1) Section 14(2)(b) of the principal Law has effect as if section 7 of the principal Law had not been amended by section 2 of this Law.

(2) Subsection (1) ceases to have effect on the 28<sup>th</sup> day following the day on which this Law comes into force.

**Transitional provision for civil penalties, etc. proposed before commencement.**

15. (1) This section applies where, before the commencement of this Law -

(a) the Registrar has notified a person of a proposal to impose a financial penalty on the person, under section 19(4) of the principal Law, but has not yet imposed the financial penalty (or another financial penalty) on the person, or

(b) the Registrar has notified a person of a proposal to make a resident agent disqualification order, issue a private reprimand under section 21 of the principal Law or publish a statement under section 22 of the principal Law, under section 20(5) of the principal Law, but has not yet made the resident agent disqualification order (or another resident agent disqualification order), issued the private reprimand (or another private reprimand) or published the statement (or another statement).

(2) Where this section applies, the Registrar may impose the financial penalty (or another financial penalty), make the resident agent disqualification order (or another resident agent disqualification order), issue the private reprimand (or another private reprimand) or (as the case may require) publish the statement (or another statement) under the principal Law as if the principal Law had not been amended by this Law.

**Citation.**

16. This Law may be cited as the Beneficial Ownership of Legal Persons (Alderney) (Amendment) Law, 2023.

**Commencement.**

17. This Law shall come into force on the day appointed for this purpose by regulations made by the Committee; and different days may be appointed for different provisions.