

**CAYMAN ISLANDS**



# **BENEFICIAL OWNERSHIP TRANSPARENCY ACT, 2023**

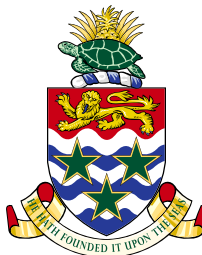
**(Act 13 of 2023)**

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# **BENEFICIAL OWNERSHIP TRANSPARENCY ACT, 2023**

**(Act 13 of 2023)**

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CAYMAN ISLANDS

(Act 13 of 2023)

I Assent,



Jane Owen  
Governor

Date: 7th day of December, 2023

# BENEFICIAL OWNERSHIP TRANSPARENCY ACT, 2023

(Act 13 of 2023)

AN ACT TO PROVIDE FOR THE CONSOLIDATION AND ENHANCEMENT OF THE BENEFICIAL OWNERSHIP LEGISLATIVE FRAMEWORK IN THE ISLANDS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

## PART 1 - PRELIMINARY

### Short title and commencement

- (1) This Act may be cited as the Beneficial Ownership Transparency Act, 2023.
- (2) This Act comes into force on such date as may be appointed by Order made by Cabinet and different dates may be appointed for different provisions of this Act and in relation to different matters.

### Interpretation

- (1) In this Act —  
“**approved stock exchange**” means a stock exchange listed in Schedule 4 of the *Companies Act (2023 Revision)*;  
“**beneficial owner**” in relation to a legal person has the meaning set out under section 4;



“**beneficial ownership register**” means the register established and maintained pursuant to section 13;

“**company**” means a company that is incorporated, formed or registered (including by way of continuation) in the Islands under the laws of the Islands except a foreign company;

“**competent authority**” has the meaning given by section 5;

“**corporate services provider**” means —

- (a) a person that provides registered office services to a legal person under the *Companies Management Act (2021 Revision)*, the *Banks and Trust Companies Act (2021 Revision)*, the *Insurance Act, 2010* or any other regulatory law pursuant to which the person is licensed or permitted to provide registered office services; or
- (b) in the case of an ordinary resident company which has not engaged a person described in paragraph (a), the ordinary resident company itself;

“**exempted limited partnership**” means an exempted limited partnership registered under section 9 of the *Exempted Limited Partnership Act (2021 Revision)*;

“**foreign company**” means a foreign company under Part IX of the *Companies Act (2023 Revision)*;

“**foreign limited partnership**” has the meaning assigned under section 42(1) of the *Exempted Limited Partnership Act (2021 Revision)*;

“**foundation company**” means a company declared as a foundation company under section 5 of the *Foundation Companies Act, 2017*;

“**government entity**” means the government of a jurisdiction, any political subdivision of a jurisdiction, a ministry, department, statutory authority or any wholly owned agency of a jurisdiction;

“**individual**” means a natural person;

“**legal person**” has the meaning given by section 3;

“**licensed financial institution**” means a person that is licensed under a regulatory law;

“**licensed fund administrator**” means a person that holds a Mutual Fund Administrators Licence under the *Mutual Funds Act (2021 Revision)*;

“**limited liability company**” means a limited liability company registered under the *Limited Liability Companies Act (2023 Revision)* except a foreign entity as defined in section 2 of that Act;

“**limited liability partnership**” means a limited liability partnership registered under the *Limited Liability Partnership Act (2023 Revision)* except a foreign limited liability partnership as defined in section 39(21) of that Act;



“**limited partnership**” means a limited partnership registered under the *Partnership Act (2013 Revision)*;

“**Minister**” means the Minister responsible for financial services;

“**ordinary resident company**” means a company which carries on business in the Islands in accordance with section 2(2) of the *Local Companies (Control) Act (2019 Revision)*;

“**partnership interest**” means the interest of a partner in a limited partnership, exempted limited partnership or limited liability partnership in respect of profit, capital and voting or other rights, benefits or obligations to which the partner is entitled or subject pursuant to the partnership agreement;

“**registered shareholder**” means a person who is named as a shareholder of a company or a member of a company on the register of members of the company;

“**registrable beneficial owner**” has the meaning set out in section 7;

“**Registrar**”, in relation to —

- (a) a company, means the person appointed as such under section 3(1) of the *Companies Act (2023 Revision)*;
- (b) an exempted limited partnership, means the person described in section 8 of the *Exempted Limited Partnership Act (2021 Revision)*;
- (c) a limited liability company, means the person described in section 4 of the *Limited Liability Companies Act (2023 Revision)*;
- (d) a limited liability partnership, means the person described in section 44(1) of the *Limited Liability Partnership Act (2023 Revision)*; and
- (e) a limited partnership, means the person described in section 48 of the *Partnership Act (2013 Revision)*;

“**regulatory law**” means a law defined as such in section 2 of the *Monetary Authority Act (2020 Revision)*, other than the *Directors Registration and Licensing Act, 2014*;

“**relevant interest**” means an interest that a person holds in a legal person consisting of —

- (a) a partnership interest or shares or voting rights in the legal person; or
- (b) ultimate effective control over the management of the legal person;

“**reportable legal entity**”, in relation to a legal person, means another legal person, other than a foreign company, foreign entity or a foreign limited partnership, that if it were an individual would be a beneficial owner of the first mentioned legal person;

“**required particulars**” has the meaning set out under section 12;

“**restrictions notice**” means a notice issued under section 19;

“**specified conditions**” means the conditions specified in section 4(1); and

“**ultimate effective control**” includes ownership or control exercised through a chain of ownership or by means of control other than direct control.

- (2) Notwithstanding the provisions of any other law, for the purposes of this Act, the following persons are considered individuals —
- (a) a corporation sole;
  - (b) a government or government department of a country or territory or a part of a country or territory;
  - (c) an international organization whose members include two or more countries or territories (or their governments); and
  - (d) a public authority.

### Meaning of legal person

3. A legal person for the purposes of this Act means —

- (a) a company;
- (b) a limited liability company;
- (c) a limited liability partnership;
- (d) a limited partnership;
- (e) a foundation company;
- (f) an exempted limited partnership; or
- (g) any other legal person that may be prescribed in regulations.

### Meaning of beneficial owner

4. (1) In this Act, “**beneficial owner**” in relation to a legal person means an individual who meets any of the following specified conditions —

- (a) the individual ultimately owns or controls, whether through direct or indirect ownership or control, twenty-five per cent or more of the shares, voting rights or partnership interests in the legal person;
  - (b) the individual otherwise exercises ultimate effective control over the management of the legal person; or
  - (c) the individual is identified as exercising control of the legal person through other means.
- (2) An individual that meets one or more of the specified conditions under subsection (1) is considered a beneficial owner except where that individual operates solely in the capacity of a professional advisor or professional manager.
- (3) Where, in relation to a legal person —
- (a) no individual meets any of the specified conditions under subsection (1); and





- (b) the trustees of a trust meet one of the specified conditions under subsection (1) in relation to the legal person,  
the trustees of the trust are the beneficial owners of the legal person if they have ultimate effective control over the activities of the trust other than solely in the capacity of a professional advisor or professional manager.
- (4) Where there is no individual who meets the definition of a beneficial owner pursuant to subsection (1) or (3), the senior managing official shall be identified as the contact person.
- (5) For the purposes of this section —  
**“professional advisor”** includes —  
 (a) a lawyer;  
 (b) an accountant; or  
 (c) a financial advisor  
 who provides advice or direction in a professional capacity;  
**“professional manager”** includes —  
 (a) a liquidator;  
 (b) a receiver; or  
 (c) a restructuring officer  
 who exercises a statutory function; and  
**“senior managing official”** includes a director or a chief executive officer of the legal person.

### Competent authority

5. The Minister is the competent authority for the purposes of this Act and shall carry out the functions of the competent authority under this Act whether acting alone or through a person designated by the Minister to act for any specific purpose.

## PART 2 - IDENTIFICATION OF REGISTRABLE BENEFICIAL OWNERS

### Duty of legal persons to identify registrable beneficial owners, etc.

6. (1) A legal person that is a category of legal person under section 12(1)(a), (b), (c) or (d) shall provide to its corporate services provider written confirmation of its category and the required particulars.
- (2) A legal person under section 12(1)(e) shall identify —  
 (a) every individual that is a beneficial owner of the legal person;  
 (b) every reportable legal entity; and

- (c) the trustees of a trust referred to in section 4(3).
- (3) A legal person under section 12(1)(e) shall provide in writing to its corporate services provider the current and valid required particulars of registrable beneficial owners in respect of that legal person.
- (4) A legal person under section 12(1)(e) shall inform its corporate services provider in writing as soon as the required particulars have been confirmed.
- (5) For the purposes of this section, the required particulars are considered to have been confirmed if —
  - (a) the individual, the reportable legal entity or legal person to whom the required particulars relate supplied or confirmed the required particulars;
  - (b) another person supplied or confirmed the required particulars with the consent of the individual, the reportable legal entity or legal person to whom the required particulars relate; or
  - (c) the required particulars were included in a statement of initial significant control delivered to the Registrar by subscribers or partners wishing to form a legal person.

### **Registrable beneficial owner**

7. (1) The following are registrable beneficial owners in relation to a legal person —
- (a) an individual that the legal person identifies pursuant to section 6(2)(a) as a beneficial owner of the legal person; or
  - (b) a reportable legal entity identified pursuant to section 6(2)(b) —
    - (i) that directly holds a relevant interest in the legal person or meets one or more of the specified conditions; or
    - (ii) through which any beneficial owner or reportable legal entity indirectly holds a relevant interest in the legal person.
- (2) The question as to whether a person is a registrable beneficial owner shall be determined in such manner as may be prescribed.

### **Duty to give notice to registrable beneficial owners**

8. (1) Subject to subsection (5), a legal person shall give notice in writing to beneficial owners and reportable legal entities identified by the legal person under section 6 and to any person that it knows, or has reasonable cause to believe, is a registrable beneficial owner in relation to it.
- (2) The notice under subsection (1) shall require the persons to whom it is addressed, no later than thirty days after the receipt of the notice —
- (a) to state whether or not they are registrable beneficial owners within the meaning of this Act; and



- (b) if the person is a registrable beneficial owner, to confirm or correct any required particulars that are included in the notice and to supply any required particulars that are missing from the notice.
- (3) A legal person shall also give notice in writing to a person holding a relevant interest in —
  - (a) the legal person; or
  - (b) another legal person that the first mentioned legal person knows or has reasonable cause to believe is a reportable legal entity in relation to that other legal person.
- (4) A notice under subsection (3) shall require the person to whom it is addressed —
  - (a) to state whether or not the person knows the identity of a registrable beneficial owner or any person likely to have that knowledge; and
  - (b) if the person is required to provide a statement under paragraph (a), to supply, at the expense of the legal person, any required particulars in respect of such registrable beneficial owners that are within the addressee's knowledge no later than thirty days after receipt of the notice.
- (5) A legal person is not required to give a notice to an individual or a reportable legal entity if —
  - (a) the legal person knows that the individual or reportable legal entity is not a registrable beneficial owner; or
  - (b) the legal person has already been informed of the individual's or reportable legal entity's status as a registrable beneficial owner in relation to it, and has received all the required particulars.
- (6) A person to which a notice under this section is given is not required by that notice to disclose any information —
  - (a) in respect of which legal professional privilege applies; or
  - (b) that the person is prohibited by any law applicable in the Islands from disclosing.

### **Duty of registrable beneficial owners to supply information**

- 9.** (1) A registrable beneficial owner shall —
- (a) notify the legal person that the said registrable beneficial owner is a registrable beneficial owner in relation to the legal person;
  - (b) state the date, to the best of the person's knowledge, on which the person became a registrable beneficial owner in relation to the legal person; and
  - (c) give the legal person the required particulars.
- (2) This section applies to a person if —

- (a) the person is a registrable beneficial owner in relation to a legal person;
  - (b) the person has no reason to believe that the said person's required particulars are stated in the legal person's beneficial ownership register; and
  - (c) the person has not received a notice from the legal person under section 8.
- (3) The duty under subsection (1) shall be complied with by the end of the period of thirty days beginning with the day on which all of the conditions in subsections (2)(a) through (2)(c) are first met with respect to the person.

### Exemption

- 10.** (1) The competent authority, if satisfied, having regard to any undertaking given by an individual or a legal person, that there are special reasons for an exemption from compliance with a notice or duty under this Act, may exempt —
- (a) the individual or legal person from complying with a notice issued under section 8;
  - (b) the legal person from taking steps to identify the individual or legal person or give notice under section 8 to, or with respect to, either the individual or legal person;
  - (c) any person from sending a notice or giving information under section 8;
  - (d) the individual or legal person from the duties imposed by sections 9 and 14; or
  - (e) the individual or legal person from being entered on a legal person's beneficial ownership register as a registrable beneficial owner in relation to any legal person.
- (2) The competent authority shall exercise the exemption powers in subsection (1) in accordance with the criteria as may be prescribed.
- (3) A company designated as a company to which section 80 of the *Companies Act (2023 Revision)* applies is exempt from the provisions of this Act.

### Corporate services providers to review particulars

- 11.** (1) A corporate services provider shall —
- (a) review the required particulars provided under section 6 by the legal person; and
  - (b) take reasonable measures to verify the identity of the beneficial owner or reportable legal entity, using information obtained from reliable sources, so as to be satisfied that the required particulars are accurate and current before entering them in the legal person's beneficial ownership register in the prescribed form and manner.



- (2) A corporate services provider shall provide the required particulars referred to in subsection (1) to the competent authority at such intervals as may be prescribed in accordance with section 13(3).
- (3) There is no requirement to enter required particulars concerning an individual or reportable legal entity that is not a registrable beneficial owner.
- (4) For the purposes of this section, reasonable measures are considered to have been undertaken to verify the required particulars if the required particulars have been validated against data from reliable sources.
- (5) For the purposes of this section, “**reliable sources**” means independent source documents or information issued by a government entity, a licensed financial institution or similar originator or issuer of information that is well known and considered reputable.

### **Required particulars and written confirmation required for categories of legal persons**

- 12.** (1) A corporate services provider shall provide the competent authority with written confirmation as to the legal person’s category stating whether the legal person is —
- (a) listed, or is a subsidiary of a listed entity, on the Cayman Islands Stock Exchange or an approved stock exchange;
  - (b) licenced under a regulatory law;
  - (c) a fund registered under the *Private Funds Act (2021 Revision)* or the *Mutual Funds Act (2021 Revision)*;
  - (d) exempted by the Cabinet by virtue of this Act; or
  - (e) another legal person not falling within, or not opting to fall within, paragraphs (a) through (d).
- (2) For the purposes of subsection (1)(a), a legal person is a subsidiary of a listed entity if —
- (a) the listed entity holds seventy-five per cent or more of the shares or voting rights in the subsidiary legal person;
  - (b) the listed entity exercises ultimate effective control over the subsidiary legal person; or
  - (c) the listed entity controls the subsidiary legal person by other means.
- (3) The required particulars for the category of legal person shall be provided by way of the search platform maintained pursuant to section 22 in the form, in the manner and at such intervals as are required of corporate services providers in accordance with section 13(3).
- (4) The written confirmation of the category of legal person shall include the following information —

- (a) for particulars under subsection (1)(a), the name and jurisdiction of the stock exchange;
  - (b) for particulars under subsection (1)(b), the regulatory law under which the legal person is licenced;
  - (c) for particulars under subsection (1)(c), the contact details of a licensed fund administrator or another contact person licensed or registered under a regulatory law for providing beneficial ownership information located within the Islands;
  - (d) for particulars under subsection (1)(d), such information as may be prescribed;
  - (e) for persons under subsection (1)(e), where the registrable beneficial owner is an individual, the required particulars set out in subsection (5) or (6) or, where the registrable beneficial owner is a reportable legal entity, the required particulars set out in subsection (7).
- (5) The required particulars of an individual, except an individual under section 2(2), are —
- (a) full legal name;
  - (b) residential address;
  - (c) an address for service of notices under this Act;
  - (d) date of birth;
  - (e) nationality;
  - (f) information from the individual's unexpired and valid passport, driver's licence or other government-issued document that identifies the individual including —
    - (i) identification number;
    - (ii) country of issue; and
    - (iii) date of issue and of expiry;
  - (g) nature in which the individual owns or exercises control of the legal person; and
  - (h) the date on which the individual became or ceased to be a registrable beneficial owner in relation to the legal person in question.
- (6) The required particulars of an individual under section 2(2) are —
- (a) name;
  - (b) principal office;
  - (c) the legal form of the individual and the law by which the individual is governed; and
  - (d) the date on which the individual became or ceased to be registrable beneficial owner in relation to the legal person in question.



- (7) The required particulars of a reportable legal entity are —
  - (a) corporate or firm name;
  - (b) registered or principal office;
  - (c) the legal form of the entity and the law by which it is governed;
  - (d) the nature of the reportable legal entity’s ownership or its exercise of control of the legal person;
  - (e) the register in which it is entered and its registration number in that register; and
  - (f) the date on which it became or ceased to be a registrable beneficial owner in relation to the legal person in question.
- (8) A licensed fund administrator or the contact person under subsection (4)(c) shall provide the competent authority with the requested beneficial ownership information within twenty-four hours of a request being made or at any other time as the competent authority may reasonably stipulate.
- (9) Where a legal person is being wound up, the corporate services provider or the liquidator shall provide the competent authority with the details of the provisional liquidator, liquidator or joint liquidator along with the details of the registrable beneficial owners as at the date of the appointment of the provisional liquidator, liquidator or joint liquidator as soon as may be reasonably practicable.

## PART 3 - BENEFICIAL OWNERSHIP REGISTER

### Duty to establish and maintain register

- 13.** (1) A corporate services provider shall establish and maintain a register containing adequate, accurate and current beneficial ownership information in relation to the legal person in the form of required particulars of registrable beneficial owners.
- (2) Where an ordinary resident company does not engage a corporate services provider for the provision of registered office services, the ordinary resident company shall establish and maintain its own beneficial ownership register.
- (3) The corporate services provider shall regularly deposit beneficial ownership information received from the legal person that has engaged the corporate services provider in the form, in the manner and at such intervals as may be prescribed in regulations.
- (4) For the purposes of this section —
- (a) **“adequate beneficial ownership information”** means information that is sufficient to identify an individual who is a beneficial owner and the means

and the mechanisms through which the individual exercises beneficial ownership or control;

- (b) “**accurate beneficial ownership information**” means information which has been verified to confirm its accuracy in keeping with section 11; and
- (c) “**current beneficial ownership information**” means beneficial ownership information which —
  - (i) is as current as possible with the corporate services provider depositing, in accordance with the intervals prescribed by subsection (3); and
  - (ii) is received from the legal person no later than thirty days after the legal person becomes aware of the change occurring in accordance with section 14(1).

### **Duty to keep register current**

- 14.** (1) If a relevant change occurs with respect to a registrable beneficial owner whose required particulars are stated in its beneficial ownership register, the legal person shall give notice to the registrable beneficial owner, as soon as reasonably practicable, (that being no later than thirty days after it learns of the change or had reasonable cause to believe that the change had occurred), requesting confirmation of the change.
- (2) If the registrable beneficial owner to which a notice is sent under subsection (1) confirms the relevant change, the legal person shall record the details of the change and instruct the corporate services provider to enter in the legal person’s beneficial ownership register in the prescribed form and manner the following —
- (a) the details of the relevant change confirmed by the legal person;
  - (b) the date on which the change was made to the beneficial ownership register; and
  - (c) whether there are further alterations to be made.
- (3) For the purposes of sections 14 and 15, a relevant change occurs if —
- (a) the registrable beneficial owner ceases to be a registrable beneficial owner in relation to the legal person; or
  - (b) any other change occurs as a result of which the required particulars stated respecting the registrable beneficial owner in the legal person’s beneficial ownership register are incorrect, incomplete or not current.
- (4) A relevant change with respect to a registrable beneficial owner is considered to have been confirmed if —
- (a) the legal person has given notice to the registrable beneficial owner requesting confirmation, of the relevant change, the date of the change and





- the relevant particulars included in the notice within the period of thirty days from the date of the notice; and
- (b) the details, date and particulars of the change have been supplied or confirmed to the legal person by the registrable beneficial owner, or by another person with the knowledge of the registrable beneficial owner.

### **Duty to notify relevant changes**

- 15.** (1) A registrable beneficial owner to which this section applies shall —
- (a) notify the legal person of a relevant change;
  - (b) state the date on which the relevant change occurred; and
  - (c) give the legal person any information needed to update the legal person's beneficial ownership register.
- (2) This section applies to persons where —
- (a) the person has stated that it is a registrable beneficial owner, within the meaning of this Act, in response to a notice received under section 8; or
  - (b) the registrable beneficial owner has reason to believe that its required particulars are stated in a legal person's beneficial ownership register,
- and any of the following events occur —
- (i) a relevant change, within the meaning of section 14(3), occurs with respect to the registrable beneficial owner;
  - (ii) the registrable beneficial owner knows of the change;
  - (iii) the registrable beneficial owner has no knowledge that the beneficial ownership register has been altered to reflect the change; or
  - (iv) the registrable beneficial owner has not received a notice from the legal person under section 14 by the end of the period of thirty days beginning with the day on which the change occurred.
- (3) The duty under subsection (1) shall be complied with before the end of the period of thirty days beginning with the day on which the person discovered the relevant change.

### **Retention on the register**

- 16.** Where an individual or a reportable legal entity is no longer a registrable beneficial owner of a legal person, the corporate services provider engaged by the legal person shall —
- (a) remove the entry relating to that individual or reportable legal entity from the legal person's beneficial ownership register: and
  - (b) retain the record relating to that individual or reportable legal entity for five years from the date on which the individual or reportable legal entity ceased to be a registrable beneficial owner in relation to the legal person.

**Power of the Grand Court to rectify beneficial ownership register**

17. (1) If —
- (a) the name of any individual or reportable legal entity is, without sufficient cause, entered in or omitted from a legal person's beneficial ownership register as a registrable beneficial owner; or
  - (b) default is made, or unnecessary delay takes place, in entering in a legal person's beneficial ownership register the fact that an individual or reportable legal entity has ceased to be a registrable beneficial owner,
- the person aggrieved, may apply to the Grand Court for rectification of the legal person's beneficial ownership register.
- (2) The Grand Court may —
- (a) refuse the application under subsection (1); or
  - (b) order rectification of the beneficial ownership register and payment by the legal person of any damages sustained by any person aggrieved.
- (3) On an application under this section, the Grand Court may decide any question —
- (a) as to whether the name of any person who is a party to the application should or should not be entered in or omitted from the legal person's beneficial ownership register; and
  - (b) that is necessary or expedient to be decided for rectification of the legal person's beneficial ownership register.
- (4) If the Grand Court makes an order for rectification of a legal person's beneficial ownership register against the legal person, it shall direct that notice of the rectification be given to the competent authority.

**PART 4 - RESTRICTIONS NOTICE****Consequences of failing to disclose beneficial ownership**

18. (1) If a legal person's corporate services provider is of the opinion that the legal person —
- (a) has failed to comply with section 8 or 14 without reasonable excuse; or
  - (b) has made a statement regarding matters relevant to this Act to the corporate services provider that is false or misleading,
- the corporate services provider shall give notice of this to the legal person.
- (2) On receipt of a notice under subsection (1), the legal person shall provide the corporate services provider with —



- (a) the missing required particulars under section 12 pertaining to registrable beneficial owners; and
  - (b) a justification and a correction respecting any statement identified as being false or misleading in the notice.
- (3) If the legal person fails to provide the missing particulars referred to in subsection (2)(a) by the end of the period of thirty days beginning with the date of receipt of the notice, the corporate services provider shall —
- (a) subject to section 19, issue a restrictions notice to the legal person whose particulars are missing with regard to the shares or other relevant interest; and
  - (b) send a copy of the restrictions notice to the competent authority within fourteen days of issuing it.

### **Issue of restrictions notice by corporate services provider**

- 19.** (1) The corporate services provider of a legal person to which this Act applies shall send a restrictions notice to the legal person concerning a relevant interest in that legal person if, by the end of the period of thirty days beginning with the date of receipt of the notice —
- (a) a notice under section 8 or 14 was served on the legal person;
  - (b) the legal person has not —
    - (i) received compliance with the notice; or
    - (ii) provided the corporate services provider with a valid reason sufficient to justify the legal person's failure to comply with the notice; or
  - (c) where the relevant interest is subject to a pre-existing security interest granted to a third party who is not affiliated with the legal person, the restrictions notice shall not take effect.
- (2) In deciding whether to send a restrictions notice, the corporate services provider shall have regard to the effect of the notice on the rights of persons in respect of the relevant interest, including third parties, persons with a security interest over the relevant interest, registered shareholders and other beneficial owners.
- (3) A corporate services provider that issues a restrictions notice to a legal person shall, by notice, withdraw the restrictions notice if —
- (a) it is satisfied that there is a valid reason to justify the person's failure to comply with the notice served under section 8 or 14;
  - (b) the notice served under section 8 or 14 is complied with; or
  - (c) the corporate services provider discovers that the rights of a third party in respect of the relevant interest are being unfairly affected by the restrictions notice.

- (4) A legal person to whom a restrictions notice is issued under this section may apply to the Grand Court to set aside any restriction imposed by the notice.

### **Effect of restrictions notice**

- 20.** (1) The effect of a restrictions notice with respect to a relevant interest is as follows —
- (a) any transfer or agreement to transfer the relevant interest is void;
  - (b) no rights are exercisable in respect of the relevant interest;
  - (c) no relevant interests may be issued in respect of the relevant interest or in pursuance of an offer made to the person holding the relevant interest;
  - (d) other than in a liquidation, no payment may be made of sums due from the legal person in respect of the relevant interest, whether in respect of capital or otherwise; and
  - (e) other than in a liquidation, an agreement to transfer any of the following associated rights in relation to the relevant interest is void —
    - (i) a right to be issued with any shares issued in respect of the relevant interest; or
    - (ii) a right to receive payment of any sums due from the legal person in respect of the relevant interest.
- (2) This section does not apply to an agreement to transfer a relevant interest referred to in subsection (1)(a) or to an associated right referred to in subsection (1)(e), if the agreement results from the making of an order referred to in section 21(4)(b).

### **Applications to the Grand Court**

- 21.** (1) The Grand Court may, on an application by any person aggrieved by a decision of a corporate services provider under section 19, make an order giving directions for the purpose of protecting the rights of third parties, persons with a security interest over the relevant interest, shareholders or other beneficial owners in respect of a relevant interest, if the Court is satisfied that a restrictions notice unfairly affects those rights.
- (2) An order under subsection (1) —
- (a) shall direct, subject to such terms as the Court thinks fit, that certain acts do not constitute a breach of the restrictions placed on the relevant interest by the restrictions notice;
  - (b) shall specify the acts that do not constitute a breach of the restrictions; and
  - (c) may confine the direction to cases where those acts are done by persons, or for purposes, described in the order.
- (3) A corporate services provider that issues a restrictions notice, or any person aggrieved by such notice, may apply to the Grand Court for an order directing



that the relevant interest cease to be subject to restrictions contained in the restrictions notice.

- (4) The Grand Court may only make an order under subsection (3) if —
  - (a) the Court is satisfied that the information required by the notice served under section 8 or 14 has been disclosed to the legal person and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure; or
  - (b) the relevant interest is to be transferred for valuable consideration and the Court approves the transfer.
- (5) An order made by virtue of subsection (4)(b) may continue, in whole or in part, the restrictions referred to in sections 20(1)(c) and (d) insofar as they relate to a right acquired or offer made before the transfer.
- (6) Where any restrictions continue in force by virtue of subsection (5) —
  - (a) an application may be made under this section for an order directing that the relevant interest cease to be subject to those restrictions; and
  - (b) subsection (4) does not apply in relation to the making of such an order.
- (7) On the application by a corporate services provider that issues a restrictions notice, the Grand Court may order that the relevant interest that is subject to restrictions be sold on the condition that the Court approves the sale.
- (8) A Court that makes an order under subsection (7) may make such further order relating to the sale or transfer of the interest as it thinks fit on application by —
  - (a) the corporate services provider that issued the restrictions notice;
  - (b) the person appointed in pursuance of the order to effect the sale; or
  - (c) any person with an interest in the relevant interest.
- (9) On making an order under subsection (7) or (8), the Court may order that the applicant's costs be paid from the proceeds of sale.
- (10) If a relevant interest is sold pursuant to an order under subsection (7), (8) or (9), the proceeds of the sale, less the costs of the sale, shall be paid into the Grand Court for the benefit of persons who are beneficially interested in the relevant interest.
- (11) A person who is beneficially interested in the relevant interest may apply to the Grand Court for the whole or part of those proceeds to be paid to that person.
- (12) On an application under subsection (11), the Court shall order the payment to the applicant of —
  - (a) the whole of the proceeds of sale together with any interest on the proceeds; or
  - (b) if another person was also beneficially interested in the relevant interest at the time of the sale, such proportion of the proceeds (and any interest) as

the value of the applicant's interest bears to the total value of the relevant interest.

- (13) Where the Court has ordered under subsection (9) that the costs of an applicant be paid from the proceeds of sale, the applicant is entitled to payment of those costs before any person receives any part of the proceeds under this section.

## PART 5 - ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

### Access to beneficial ownership information

22. (1) The competent authority shall maintain a search platform by means of which the persons specified in subsection (2) may be provided with access to information on all beneficial ownership registers maintained on behalf of legal persons subject to this Act.
- (2) For the purposes of subsection (1), the competent authority may provide access to the information on the search platform to —
- (a) the Royal Cayman Islands Police Service;
  - (b) the Financial Reporting Authority, established under section 3 of the *Proceeds of Crime Act (2020 Revision)*;
  - (c) the Cayman Islands Monetary Authority established under section 5 of the *Monetary Authority Act (2020 Revision)*;
  - (d) the Anti-Corruption Commission established under section 3 of the *Anti-Corruption Act (2019 Revision)*;
  - (e) the Tax Information Authority, designated under section 4 of the *Tax Information Authority Act (2021 Revision)*;
  - (f) the Maritime Authority of the Cayman Islands established under section 3 of the *Maritime Authority Act (2013 Revision)*;
  - (g) the Civil Aviation Authority of the Cayman Islands established under section 3 of the *Civil Aviation Authority Act (2015 Revision)*;
  - (h) the Registrar of Lands appointed under section 5 of the *Registered Lands Act (2018 Revision)*;
  - (i) an entity undertaking procurement in accordance with the *Procurement Act (2023 Revision)*; and
  - (j) any other body which is —
    - (i) assigned responsibility under section 4(9) of the *Proceeds of Crime Act (2020 Revision)* for monitoring compliance with money laundering regulations made under the *Proceeds of Crime Act (2020 Revision)*;



- (ii) a licensed financial institution; or
  - (iii) a designated non-financial business and profession under regulation 55A of the *Anti-Money Laundering Regulations (2023 Revision)*.
- (3) The competent authority may charge the prescribed fees for access to the information on the search platform.
- (4) Subject to subsection (5), the competent authority, in respect of the beneficial ownership register of a legal person, may —
  - (a) provide information to;
  - (b) provide access to; or
  - (c) execute a search on behalf of,the bodies specified in subsections (2)(a) through (i) and subsection (2)(j)(i) in accordance with this Act for the purpose of —
  - (i) the performance of its functions under this Act;
  - (ii) assisting with the prevention and detection of crime;
  - (iii) furthering the interest of national security;
  - (iv) enabling those listed in subsections (2)(a) through (g) and subsection (2)(j)(i) to fulfil their statutory obligations including statutory obligations with respect to international cooperation; or
  - (v) statistics and preparation of statistical reports.
- (5) The Cayman Islands Monetary Authority may, in its discretion or upon request, share information with the competent authority in accordance with section 50A of the *Monetary Authority Act (2020 Revision)*.
- (6) The Cabinet may, subject to affirmative resolution in the Parliament, make Regulations empowering the competent authority to provide access to members of the public to any of the following —
  - (a) for an individual who is a registrable beneficial owner —
    - (i) name;
    - (ii) country of residence;
    - (iii) nationality;
    - (iv) month or year of birth or both; and
    - (v) nature of control; and
  - (b) for a reportable legal entity —
    - (i) name;
    - (ii) registered office;
    - (iii) legal form;
    - (iv) registration number; and

- (v) nature of control.
- (7) The competent authority or the Registrar may restrict or prohibit access to any information on the search platform to the extent that the competent authority or the Registrar sees fit.

### **No disclosure of information**

- 23.** (1) Where access is provided to the search platform in accordance with sections 22(2)(a) through (i) and 22(2)(j)(i), neither the competent authority nor any employee, servant or agent of the competent authority shall disclose information relating to the search, including the fact that the search was carried out, to any person other than the authorized personnel of the competent authority except where the disclosure is for statistical or reporting purposes.
- (2) Information maintained by a corporate services provider or the Registrar in respect of the beneficial ownership of a legal person is deemed to be confidential information under the *Confidential Information Disclosure Act, 2016* however the disclosure of such information in accordance with this Act does not constitute a breach of the duty of confidence.
- (3) Subject to sections 18 and 19 of the *Tax Information Authority Act (2021 Revision)*, information deemed to be confidential under subsection (2) shall only be disclosed in accordance with the *Confidential Information Disclosure Act, 2016*.

## **PART 6 - POWERS AND ENFORCEMENT**

### **Competent authority or the Registrar may request information**

- 24.** (1) The competent authority or the Registrar may request, by notice in writing, any information or documentation from a legal person or corporate services provider for the purposes of —
- (a) carrying out their respective functions under this Act;
  - (b) verifying the accuracy of beneficial ownership information;
  - (c) assisting with the prevention and detection of crime or furthering the interests of national security; or
  - (d) enabling those bodies listed in sections 22(2)(a) through (g) and (2)(j)(i) to fulfil their statutory obligations.
- (2) A legal person or corporate services provider which receives a notice of request for information under subsection (1) shall comply with the notice within the period and in the manner specified in the request.





**Duty of the corporate services provider to forward correspondence**

- 25.** (1) Where the competent authority or Registrar sends correspondence or documentation to a legal person or an individual connected to that legal person at the address of its corporate services provider, the corporate services provider shall forward the correspondence or documentation to the legal person or individual to whom it is addressed without delay.
- (2) Correspondence or documentation under subsection (1) includes requests for information sent by the competent authority under section 24 and administrative fines notices sent by the Registrar under section 26.

**Administrative fines**

- 26.** (1) The Registrar may impose an administrative fine on a person who commits a prescribed breach.
- (2) The fine for a breach is five thousand dollars.
- (3) The Registrar may —
- (a) in addition to the fine for the initial breach, impose a further fine of one thousand dollars for every month that the breach continues, until one of the following occurs —
- (i) the breach stops or is remedied;
- (ii) payment of the initial fine and all fines imposed for the continuing breach; or
- (iii) the total of the initial fine and all fines for the continuing breach amounts to twenty-five thousand dollars; and
- (b) reduce an administrative fine in circumstances as may be prescribed.
- (4) A fine —
- (a) may be imposed for a breach that is not an offence; and
- (b) shall not be imposed by the Registrar where criminal proceedings have commenced or have been concluded in relation to the acts that constitute the breach.
- (5) The penalty for a breach which is also an offence under this Act or any regulations made under this Act is not limited by the fine under this section or by the penalties under sections 6(2)(ii) and 8 of the *Criminal Procedure Code (2021 Revision)*.
- (6) The Registrar shall not impose a fine after the expiration of six months after the date on which the Registrar became aware of the occurrence of the breach.
- (7) The Registrar becomes aware of the breach when the information is first received from which the breach could reasonably have been inferred.

- (8) If a breach under this Act is an offence, a fine for the breach shall not preclude a prosecution for the offence or liability for any prescribed fees.
- (9) Where an administrative fine remains unpaid for ninety days after imposition of the fine, the Registrar may strike or remove the legal person off the register in accordance with the relevant provision as follows —
  - (a) Part VI of the *Companies Act (2023 Revision)*;
  - (b) section 40 of the *Limited Liability Companies Act (2023 Revision)*; or
  - (c) section 31 of the *Limited Liability Partnership Act (2023 Revision)*,and the legal person shall thereupon be dissolved.
- (10) An administrative fine may be recovered as a debt due to the Crown.
- (11) A person who is aggrieved by a decision of the Registrar to impose an administrative fine under this section may appeal in accordance with the prescribed procedure.
- (12) The Cabinet may make Regulations providing for appeals, including appeals against decisions of the Registrar to impose an administrative fine, to strike off or remove the legal person from the register or for the competent authority to vary the amount of the fine imposed on appeal.

### **Criminal penalties**

- 27.** (1) A legal person that contravenes section 6 or 14(2) or fails to issue a notice as required by section 8 or 14, commits an offence and is liable on summary conviction for each such contravention —
- (a) in the case of a first offence, to a fine of twenty-five thousand dollars; or
  - (b) in the case of a second or subsequent offence, to a fine of one hundred thousand dollars.
- (2) Where a legal person, other than a limited partnership, is convicted of a third offence under subsection (1), the court may order that the legal person be struck off the register by the Registrar in accordance with Part VI of the *Companies Act (2023 Revision)*, section 31 of the *Limited Liability Partnership Act (2023 Revision)* or section 37 of the *Exempted Limited Partnership Act (2021 Revision)* as if it is a legal person that the Registrar has reasonable cause to believe is not carrying on business or is not in operation.
- (3) A corporate services provider who contravenes section 11 or 13 or fails to issue a notice as required by section 19(1) commits an offence and is liable on summary conviction —
- (a) in the case of a first offence, to a fine of twenty-five thousand dollars; or
  - (b) in the case of a second or subsequent offence, to a fine of one hundred thousand dollars.



- (4) A person to whom a notice under section 8 or 14 is addressed commits an offence if the person —
  - (a) fails to comply with the notice; or
  - (b) in purported compliance with the notice —
    - (i) makes a statement that the person knows to be false; or
    - (ii) recklessly makes a statement that is false.
- (5) A person who commits an offence under subsection (4) is liable —
  - (a) on conviction on indictment —
    - (i) in the case of a first offence, to a fine of twenty-five thousand dollars; or
    - (ii) in the case of a second or subsequent offence, to a fine of fifty thousand dollars or to imprisonment for a term of two years, or to both; or
  - (b) on summary conviction to a fine of five thousand dollars or to imprisonment for a term of twelve months, or to both.
- (6) A person does not commit an offence under subsection (4)(a) if the person proves that the requirement to give information was frivolous or vexatious.
- (7) A person commits an offence if the person —
  - (a) fails to comply with a duty under section 9 or 15 within the time required by the respective section; or
  - (b) in purported compliance with such a duty —
    - (i) makes a statement that the person knows to be false; or
    - (ii) recklessly makes a statement that is false.
- (8) A person who commits an offence under subsection (7) is liable —
  - (a) on conviction on indictment —
    - (i) in the case of a first offence, to a fine of twenty-five thousand dollars; or
    - (ii) in the case of a second or subsequent offence, to a fine of fifty thousand dollars or to imprisonment for a term of two years, or to both; or
  - (b) on summary conviction to a fine of five thousand dollars or to imprisonment for a term of twelve months, or to both.
- (9) A person who conducts a search of a legal person’s beneficial ownership register contrary to section 22(4) or discloses beneficial ownership information contrary to section 23 commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for twelve months, or to both.

- (10) A person commits an offence who knowing that a relevant interest is subject to restriction —
- (a) exercises or purports to exercise any right to dispose of the relevant interest;
  - (b) exercises or purports to exercise any right to dispose of any right to be issued with the relevant interest; or
  - (c) votes in respect of the relevant interest (whether as holder of the interest or as proxy) or appoints a proxy to vote in respect of the relevant interest.
- (11) A person commits an offence if the person —
- (a) has a relevant interest that the person knows to be subject to restrictions or is entitled to an associated right; and
  - (b) enters into an agreement that is void by virtue of section 20(1)(a) or 20(1)(e).
- (12) A person who commits an offence under subsection (11) is liable on summary conviction to a fine of five thousand dollars.
- (13) A person does not commit an offence if the person contravenes subsection (10) or (11) in compliance with a direction of the Grand Court given under section 21.
- (14) Subject to a direction given by the Grand Court under section 21(1), a legal person that issues interests or shares in contravention of a restriction imposed by virtue of a restrictions notice, commits an offence and is liable on summary conviction to a fine of five thousand dollars.
- (15) Where a legal person commits an offence under this Act, and it is proved that the offence was committed with the consent or connivance of, or was attributable to wilful default on the part of a manager, director, member or other officer concerned in the management of the legal person, the manager, director, member or other officer commits the same offence and is liable to the same penalty as the legal person.

## PART 7 - MISCELLANEOUS

### Competent authority may issue guidance

28. (1) The competent authority may issue guidance for the purpose of giving practical guidance with respect to this Act, including guidance —
- (a) to assist with the interpretation of “**beneficial ownership**” and “**ultimate effective control**”; and
  - (b) on the enforcement of administrative fines under this Act.



- (2) A legal person, a corporate services provider and a registrable beneficial owner shall have regard to the guidance issued under subsection (1).
- (3) The competent authority shall publish the guidance issued under subsection (1) in any manner that the competent authority considers will bring the guidance to the attention of the persons who are most likely to be affected by it.
- (4) The competent authority may revise guidance issued under subsection (1) from time to time and any reference to guidance includes a reference to revised guidance.

### **Registrar's rule-making power**

**29.** The Registrar may, by rules published in the *Gazette*, provide for —

- (a) aggravating and mitigating factors in relation to the imposition of administrative fines; and
- (b) the publishing of details related to enforcement actions, including administrative fines, imposed in accordance with this Act.

### **Regulations**

**30.** The Cabinet may make regulations for the effective implementation of this Act including regulations —

- (a) providing for anything required to be prescribed under this Act;
- (b) specifying criteria for the exercise of the competent authority's exemption powers under section 10;
- (c) respecting the giving of notices under section 8 or 14, including the form, content and manner of giving such notices;
- (d) regarding the addition to or removal from any of the lists of required particulars;
- (e) requiring additional matters to be included in a legal person's beneficial ownership register including the reporting of dual or multiple nationalities;
- (f) providing for applications to require the competent authority, the Registrar, a corporate services provider or a legal person to refrain from using or disclosing particulars of a prescribed kind from a legal person's beneficial ownership register (or to refrain from doing so except in prescribed circumstances) where an application is made to the competent authority requesting them to refrain from so doing;
- (g) prescribing fees —
  - (i) for the applications under paragraph (f), including fees for the filing of documents in support of an application;
  - (ii) for access to the information on the search platform under section 22(3); and

- (iii) for the provision of administrative services by the competent authority or the Registrar;
- (h) specifying the manner and form in which a legal person shall keep its beneficial ownership register;
- (i) respecting the procedure to be followed by corporate services providers issuing and withdrawing restrictions notices, including regulations providing for —
  - (i) the form and content of restrictions notices, and the manner in which they are to be given;
  - (ii) the factors to be taken into account in deciding what is to be considered as a reason sufficient to justify a person’s failure to comply with a notice issued under section 8 or 14; and
  - (iii) the effect of withdrawing a restrictions notice on matters that are pending with respect to the relevant interest when the notice is withdrawn;
- (j) requiring the reporting of discrepancies in beneficial ownership information to the competent authority by every person who, by virtue of section 22(2) or (6), has access to this information;
- (k) respecting the interpretation of the terms “**beneficial owner**”, “**registrable beneficial owner**” and “**specified conditions**”;
- (l) respecting the replacement of any or all references in section 4 to a percentage with references to a larger or smaller percentage;
- (m) adjusting the specified conditions in section 4 so as to include circumstances that give individuals a level of control over a legal person broadly similar to the level of control given by the other specified conditions;
- (n) specifying the circumstances in which a person holds an interest in a legal person or meets a specified condition in relation to the legal person directly or indirectly through any number of persons or arrangements of any description;
- (o) providing for actions that may be taken by the competent authority following receipt of a report of discrepancies in beneficial ownership information;
- (p) adding or removing from the list of bodies in section 22(2); and
- (q) any other matter required to be prescribed or for the better carrying out of the objects and purposes of this Act.

### Amendments by order

31. The Cabinet may by order —



- (a) amend any of the definitions or interpretations of terms set out in section 2; and
- (b) add the name of any territory or country to the Schedule or delete the name of any territory or country from it.

### **Protection of civil servants from liability**

**32.** No civil servant shall be liable in damages for anything done or omitted in the discharge of the civil servant's functions unless it is shown that the act or omission was in bad faith.

### **Conflict**

- 33.** (1) In the event of an inconsistency between this Act and any relevant legislation, this Act prevails to the extent of the inconsistency.
- (2) In this section, “**relevant legislation**” means any of the following legislation —
- (a) the *Companies Act (2023 Revision)*;
  - (b) the *Limited Liability Companies Act (2023 Revision)*;
  - (c) the *Partnership Act (2013 Revision)*;
  - (d) the *Limited Liability Partnership Act (2023 Revision)*; and
  - (e) the *Exempted Limited Partnership Act (2021 Revision)*.

### **Agreements regarding sharing of information**

- 34.** The competent authority shall execute a search of a beneficial ownership register by means of the search platform if formally requested to do so by the Financial Crime Unit of the Royal Cayman Islands Police Service (“the Unit”) where a senior official of the Unit certifies that the request for the search is in response to a request from a jurisdiction listed in the Schedule that has entered into an agreement with the Government respecting the sharing of beneficial ownership information made —
- (a) by a law enforcement official designated by the agreement; and
  - (b) in compliance with that agreement.

### **Savings and transitional**

- 35.** (1) The Cabinet may make regulations to provide for such savings, transitional and consequential provisions to have effect in connection with the coming into force of any provision of this Act as may be necessary or expedient.
- (2) Regulations made under subsection (1) may be given retrospective operation to a day no earlier than the day that subsection (1) comes into force.
- (3) The words “**beneficial owner**” when used in relation to —
- (a) a company, shall have the same meaning as in section 244 of the *Companies Act (2023 Revision)*;

- (b) a limited liability company, shall have the same meaning as in section 73 of the *Limited Liability Companies Act (2023 Revision)*; and
  - (c) a limited liability partnership, shall have the same meaning as in section 54 of the *Limited Liability Partnership Act (2023 Revision)*,  
up until the day immediately preceding the commencement of section 4 of this Act.
- (4) A legal person that is exempt from the requirement to identify and file information with respect to registrable beneficial owners shall continue to be exempt —
- (a) in relation to a legal person under the *Companies Act (2023 Revision)*, in accordance with section 245 of that Act;
  - (b) in relation to a legal person under the *Limited Liability Companies Act (2023 Revision)*, in accordance with section 71 of that Act; and
  - (c) in relation to a legal person under the *Limited Liability Partnership Act (2023 Revision)*, in accordance with section 52 of that Act,  
up until the day immediately preceding the commencement of sections 12(1) through (3) of this Act.





## **SCHEDULE**

*(section 34)*

### **COUNTRIES OR TERRITORIES THAT HAVE ENTERED INTO AGREEMENTS WITH THE GOVERNMENT FOR THE SHARING OF BENEFICIAL OWNERSHIP INFORMATION**

1. United Kingdom.

**Passed by the Parliament the 23rd day of November, 2023.**

**Hon. Sir Alden McLaughlin**  
*Speaker*

**Zena Merren-Chin**  
*Clerk of the Parliament*

