

CAYMAN ISLANDS



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**THE LIMITED LIABILITY COMPANIES (AMENDMENT) LAW, 2017**

**(LAW 3 OF 2017)**

**THE LIMITED LIABILITY COMPANIES (AMENDMENT) LAW, 2017**

**ARRANGEMENT OF SECTIONS**

1. Short title and commencement
2. Amendment of the Limited Liability Companies Law, 2016 Revision -  
insertion of new Part 12
3. Transitional Provision

CAYMAN ISLANDS

Law 3 of 2017.

I Assent

Helen Kilpatrick

Governor.

Date: 6<sup>th</sup> April, 2017

**A LAW TO AMEND THE LIMITED LIABILITY COMPANIES LAW, 2016 (LAW 2 OF 2016) IN ORDER TO REQUIRE LIMITED LIABILITY COMPANIES REGISTERED IN THE ISLANDS TO ESTABLISH AND MAINTAIN BENEFICIAL OWNERSHIP REGISTERS; TO ENABLE THE REGISTERS TO BE SEARCHED BY THE COMPETENT AUTHORITY DESIGNATED UNDER THE COMPANIES LAW (2016 REVISION); AND FOR INCIDENTAL AND CONNECTED MATTERS**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as The Limited Liability Companies (Amendment) Law, 2017.

Short title and commencement

(2) This Law shall come into force on such date as may be appointed by the Cabinet and different dates may be appointed for different provisions.

2. The Limited Liability Companies Law, 2016 is amended by inserting after Part 11 the following Part -

Amendment of the Limited Liability Companies Law, 2016 (Law 2 Of 2016) - insertion of new Part 12

**“PART 12 - Beneficial Ownership Registers**

**Preliminary**

Interpretation

70. (1) In this Part -

“beneficial owner”, in relation to a limited liability company, has the meaning assigned by sections 73(3), (4) and (5);

“beneficial ownership register” means a register of adequate, accurate and current beneficial ownership information maintained by a limited liability company pursuant to section 78, containing the required particulars of registrable persons in relation to the limited liability company;

(2016 Revision) “competent authority” means the Minister referred to in section 246(1) of the Companies Law (2016 Revision) and includes the person designated by the Minister under that section;

(2003 Revision)  
(2013 Revision)  
(Law 32 of 2010)  
(2016 Revision) “corporate services provider” means an individual or legal entity that provides corporate services under the Companies Management Law (2003 Revision), the Banks and Trust Companies Law (2013 Revision), the Insurance Law, 2010 or any other “regulatory law” as defined in section 2 of the Monetary Authority Law (2016 Revision) pursuant to which the individual or legal entity is licensed or permitted to provide registered office services;

“legal entity” means a company, limited liability company or other body that is a legal person under the law by which it is governed;

“prescribed” means prescribed by regulations made under section 106;

“registrable person” means an individual or relevant legal entity that is a registrable person under section 77;

“relevant interest” means an interest that a person holds in a limited liability company consisting of -

- (a) an LLC interest; or
- (b) the right to appoint or remove a majority of the managers of the limited liability company;

“relevant legal entity”, in relation to a limited liability company, has the meaning assigned by section 74(3);

“required particulars” means particulars in respect of a registrable person required to be kept in a limited liability

company's beneficial ownership register pursuant to sections 79 and 80;

"restrictions notice" means a notice issued under section 91; and

"specified conditions" means the conditions specified in sections 73(3), (4) and (5).

(2) This Part is to be read and have effect as if each of the following were an individual, even if they are legal persons under the laws by which they are governed -

- (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);
- (d) a local authority or local government body.

Application

71. (1) This Part applies in respect of limited liability companies formed and registered, or registered by way of continuation under this Law, except a legal entity or subsidiary of one or more legal entities, each of which is -

(2016 Revision)

(a) listed on the Cayman Islands Stock Exchange or an approved stock exchange in Schedule 4 of the Companies Law (2016 Revision);

(2016 Revision)

(b) registered or holding a licence under a "regulatory law" as defined in section 2 of the Monetary Authority Law (2016 Revision);

(c) managed, arranged, administered, operated or promoted by an approved person as a special purpose vehicle, private equity fund, collective investment scheme or investment fund;

(d) that is a general partner of a vehicle, fund or scheme referred to in paragraph (c) that is managed, arranged, administered, operated or promoted by an approved person; or

(e) exempted by the Regulations.

(2) In this section, “approved person” means a person or a subsidiary of a person that is -

(2016 Revision)

Schedule 3

(2015 Revision)

Schedule 4

(2016 Revision)

(a) regulated, registered or holding a licence in the Islands under a “regulatory law” as defined in section 2 of the Monetary Authority Law (2016 Revision) or regulated in a jurisdiction listed in Schedule 3 of the Money Laundering Regulations (2015 Revision); or

(b) listed on the Cayman Islands Stock Exchange or an approved stock exchange in Schedule 4 of the Companies Law (2016 Revision).

(3) For the purposes of this section, a limited liability company (“S”) is a subsidiary of one or more legal entities described in subsection (1) if -

(a) such legal entities, separately or collectively, hold in excess of 75% of the LLC interests with respect to profit sharing or voting rights in S or distributions of capital from S;

(b) each such legal entity is a member of S and, separately or collectively, such legal entities have the right to appoint or remove a majority of its managers; or

(c) it is a subsidiary of one or more legal entities each of which is itself a subsidiary of one or more legal entities described in subsection (1).

Competent authority

72. The competent authority may do all things necessary or convenient to be done in the performance of the competent authority’s functions under this Part, including executing requests by senior officials referred to in section 88(1) to search for information concerning the beneficial ownership of limited liability companies registered in the Islands.

**Identifying Beneficial Owners, Relevant Legal Entities and Registrable Persons**

Duty of limited liability companies to identify

73. (1) Limited liability companies to which this Part applies shall take reasonable steps to identify any individual

beneficial  
owners

who is a beneficial owner of the limited liability company.

(2) For the purpose of identifying individuals who are beneficial owners under subsection (1), a limited liability company is entitled to rely, without further enquiry, on the response of a person to a notice in writing sent in good faith by the limited liability company, unless it has reason to believe that the response is misleading or false.

(3) An individual (“X”) is a beneficial owner of a limited liability company (“Y”) if the individual meets one or more of the following conditions in relation to the limited liability company -

- (a) X must hold, directly or indirectly, an LLC interest in Y representing a right to share in more than 25% of the capital, or as the case may be, the profits of Y;
- (b) X must hold, directly or indirectly, an LLC interest in Y representing more than 25% of the voting rights in Y;
- (c) X must hold the right, directly or indirectly, to appoint or remove a majority of the managers of Y.

(4) If no individual meets the conditions in subsection (3), X is a beneficial owner of limited liability company Y if X has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over Y through the ownership structure or interests described in subsection (3), other than solely in the capacity of a manager or a professional advisor.

(5) If no individual meets the conditions in subsections (3) and (4) but the trustees of a trust (or the members of a partnership or other entity that, under the law by which it is governed is not a legal person) meet one of those conditions in relation to limited liability company Y in their capacity as such, X is a beneficial owner of Y if X has the absolute and unconditional legal right to exercise, or actually exercises, significant influence or control over the activities of that trust (or partnership or other entity), other than solely in the capacity of a manager or a professional

advisor.

Duty of limited liability companies to identify relevant legal entities

74. (1) A limited liability company to which this Part applies shall take reasonable steps to identify all relevant legal entities that exist in relation to the limited liability company.

(2) For the purpose of identifying relevant legal entities under subsection (1), a limited liability company is entitled to rely, without further enquiry, on the response of a legal entity to a notice in writing sent in good faith by the limited liability company, unless it has reason to believe that the response is misleading or false.

(3) A “relevant legal entity”, in relation to a limited liability company, is a legal entity that -

- (a) is incorporated, formed or registered (including by way of continuation or as a foreign company) in the Islands under the laws of the Islands; and
- (b) would be a beneficial owner of the limited liability company if it were an individual.

Duty of limited liability companies to give notice to registrable persons

75. (1) Subject to subsection (5), a limited liability company to which this Part applies shall give notice in writing to beneficial owners and relevant legal entities identified by the limited liability company under sections 73 and 74 and to any person that it knows or has reasonable cause to believe is a registrable person in relation to it.

(2) The notice shall require the persons to whom it is addressed, within one month of the date of receipt of the notice -

- (a) to state whether or not they are registrable persons, within the meaning of this Part; and
- (b) if they are registrable persons, to confirm or correct any required particulars that are included in the notice and supply any required particulars that are missing from the notice.

(3) A limited liability company may also give notice in writing to a member or a legal entity that it knows or has

reasonable cause to believe is a relevant legal entity in relation to that limited liability company (or would be a relevant legal entity if it were registered under this Law), if the limited liability company knows or has reasonable cause to believe that such member or legal entity knows the identity of a registrable person.

(4) A notice under subsection (3) may require the persons to whom it is addressed -

- (a) to state whether or not they know the identity of a registrable person or any person likely to have that knowledge; and
- (b) if so, within one month of receipt of the notice, to supply, at the expense of the limited liability company, any required particulars respecting such registrable persons that are within the addressee's knowledge, and to state whether the particulars are being supplied with or without the knowledge of the person concerned.

(5) A limited liability company is not required to give a notice to an individual or a relevant legal entity if -

- (a) the limited liability company knows that the individual or entity is not a registrable person; or
- (b) the limited liability company has already been informed of the person's status as a registrable person in relation to it, and has received all the required particulars.

(6) A person to whom a notice under this section is given is not required by that notice to disclose any information -

- (a) in respect of which a claim to legal professional privilege could be maintained in legal proceedings; or
- (b) that the person is prohibited by any law applicable in the Islands from disclosing.

Duty of  
beneficial  
owners and  
relevant legal

76. (1) This section applies to a person if -

- (a) the person is a registrable person in respect

entities to supply  
information

- to a limited liability company to which this Part applies;
- (b) the person knows the facts referred to in paragraph (a);
- (c) the person has no reason to believe that the person's required particulars are stated in the limited liability company's beneficial ownership register;
- (d) the person has not received a notice from the limited liability company under section 75; and
- (e) the circumstances described in paragraphs (a), (b), (c) and (d) have continued for a period of at least one month.

(2) The person shall -

- (a) notify the limited liability company of the person's status as a registrable person in relation to the limited liability company;
- (b) state the date, to the best of the person's knowledge, on which the person acquired that status; and
- (c) give the limited liability company the required particulars.

(3) The duty under subsection (2) must be complied with by the end of the period of one month beginning with the day on which the conditions in subsection (1)(a), (b) and (c) were first met with respect to the person.

Individuals and  
relevant legal  
entities that are  
registrable  
persons

77. (1) The following are registrable persons in relation to a limited liability company -

- (a) an individual whom the limited liability company identifies pursuant to section 73 as a beneficial owner; and
- (b) a relevant legal entity identified by the limited liability company pursuant to section 74 that -
  - (i) directly holds an LLC interest in the limited liability company or meets one or more of the specified conditions directly in respect of that limited liability company; and

- (ii) through which any beneficial owner or relevant legal entity indirectly owns an LLC interest in the limited liability company.

(2) Whether a person holds an LLC interest in a limited liability company or meets a specified condition in relation to it directly or indirectly shall be determined in accordance with the Regulations.

### **Establishing Beneficial Ownership Registers**

Duty to establish and maintain beneficial ownership register

78. A limited liability company to which this Part applies by virtue of section 71(1) shall -

- (a) keep its beneficial ownership register at the limited liability company's registered office; and
- (b) engage a corporate services provider to establish and maintain its beneficial ownership register.

Role of corporate services provider

79. (1) A limited liability company to which this Part applies shall provide in writing to a corporate services provider the required particulars of registrable persons in respect of that limited liability company, once those particulars have been confirmed.

(2) The limited liability company shall instruct the corporate services provider to enter the required particulars of registrable persons in the limited liability company's beneficial ownership register in the prescribed form and manner, or if no registrable persons are identified to enter a nil return.

(3) Particulars need not be entered concerning an individual or relevant legal entity that is not a registrable person.

(4) For the purposes of this section, particulars are considered to have been confirmed if -

- (a) the limited liability company has reasonable grounds to believe that they were supplied or confirmed by the individual or entity to

- whom the particulars relate;
- (b) another person supplied or confirmed them to the limited liability company, and the limited liability company has reasonable grounds to believe that this was done with the knowledge of the individual or entity to whom the particulars relate; or
- (c) the particulars were included in a statement of initial significant control delivered to the Registrar by persons wishing to form the limited liability company.

Required  
particulars

80. (1) The required particulars of an individual are -

- (a) full legal name;
- (b) residential address and, if different, an address for service of notices under this Law;
- (c) date of birth;
- (d) information identifying the individual from their passport, driver's licence or other government-issued document, including -
  - (i) identifying number;
  - (ii) country of issue; and
  - (iii) date of issue and of expiry; and
- (e) the date on which the individual became or ceased to be a registrable person in relation to the limited liability company in question.

(2) In the case of a person in relation to whom this Part has effect by virtue of section 70(2), the required particulars are -

- (a) name;
- (b) principal office;
- (c) the legal form of the person and the law by which the person is governed; and
- (d) the date on which the person became or ceased to be a registrable person in relation to the legal entity in question.

(3) The required particulars of a relevant 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) if applicable, the register of limited liability companies in which it is entered and its registration number in that register; and
- (e) the date on which it became or ceased to be a registrable person in relation to the limited liability company in question.

Duty of limited liability company to keep register up to date

81. (1) If a limited liability company to which this Part applies becomes aware of a relevant change with respect to a registrable person whose required particulars are stated in its beneficial ownership register, the limited liability company shall give notice to the registrable person, as soon as reasonably practicable after it learns of the change or first has reasonable cause to believe that the change has occurred, requesting confirmation of the change.

(2) If the person to which a notice is sent under subsection (1) confirms the relevant change, the limited liability company shall record the details of the change and instruct the corporate services provider to enter in the limited liability company's beneficial ownership register in the prescribed form and manner -

- (a) the details of the relevant change confirmed by the limited liability company;
- (b) the date on which the change was made; and
- (c) whether there are further alterations to be made.

(3) For the purposes of this section, a relevant change occurs if -

- (a) the registrable person ceases to be a registrable person in relation to the limited liability company; or
- (b) any other change occurs as a result of which the required particulars stated respecting the registrable person in the limited liability company's beneficial ownership register are materially incorrect or incomplete.

(4) A relevant change with respect to a registrable person is considered to have been confirmed if -

- (a) the limited liability company has given

notice to the person requesting confirmation, within the period of one month from the date of the notice, of the relevant change, the date of the change and the required particulars included in the notice; and

- (b) the details, date and required particulars of the change have been supplied or confirmed to the limited liability company by the registrable person, or by another person, with the knowledge of the registrable person.

Consequences of failure to disclose beneficial ownership

82. (1) If a corporate services provider engaged by a limited liability company is of the opinion that the limited liability company has failed to comply with section 79 or 81 without reasonable excuse or has made a statement to the corporate services provider that is false, deceptive or misleading in respect of a material particular, the corporate services provider shall give notice of the opinion to the limited liability company.

(2) On receipt of a notice under subsection (1), the limited liability company shall provide the corporate services provider with -

- (a) the missing particulars required under section 79 or 81 pertaining to registrable persons; and
- (b) a justification or correction respecting any statement identified in the notice.

(3) If the limited liability company fails, due to the failure of a registrable person to comply with their obligations under this Law, to provide the missing particulars referred to in subsection (2)(a) within one month of receipt of the notice, the limited liability company shall -

- (a) issue a restrictions notice to the registrable persons whose particulars are missing with regard to the LLC interest or other relevant interest of such registrable persons in the limited liability company; and
- (b) send a copy of the notice to the competent authority within two weeks of issuing it.

(4) A person to whom a restrictions notice is issued

under this section may apply to the Grand Court to set aside any restriction or cancellation imposed by the notice.

Duty of other persons to update register

83. (1) This section applies to persons if -
- (a) they have stated that they are registrable persons, within the meaning of this Part, in response to a notice received under section 75 or they have reason to believe that their required particulars are stated in a limited liability company's beneficial ownership register;
  - (b) a relevant change, within the meaning of section 81(3), occurs with respect to the person;
  - (c) they know of the change;
  - (d) they have no knowledge that the beneficial ownership register has been altered to reflect the change; and
  - (e) they have not received a notice from the limited liability company under section 81 by the end of the period of one month beginning with the day on which the change occurred.
- (2) A person to which this section applies shall -
- (a) notify the limited liability company of the relevant change;
  - (b) state the date on which it occurred; and
  - (c) give the limited liability company any information needed to update the limited liability company's beneficial ownership register.
- (3) The duty under subsection (2) shall be complied with by the end of the period of one month beginning with the day on which the person discovered the relevant change.

Removal of entries from limited liability company's beneficial ownership register

84. A limited liability company may cause an entry relating to a person that is no longer a registrable person to be removed from its beneficial ownership register on the expiration of five years from the date on which the person ceased to be a registrable person in relation to the limited liability company.

Power of Grand  
Court to rectify  
beneficial  
ownership  
register

85. (1) If -

- (a) the name of any individual or relevant legal entity is, without sufficient cause, entered in or omitted from a limited liability company's beneficial ownership register as a registrable person; or
- (b) default is made or unnecessary delay takes place in entering on a limited liability company's beneficial ownership register the fact that the individual or relevant legal entity has ceased to be a registrable person,

the person aggrieved, or any individual or relevant legal entity that is a registrable person in relation to the limited liability company, may apply to the Grand Court for rectification of the limited liability company's beneficial ownership register.

(2) The Grand Court may -

- (a) refuse the application; or
- (b) order rectification of the beneficial ownership register and payment by the limited liability company 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 limited liability company's beneficial ownership register; and
- (b) that is necessary or expedient to be decided for rectification of the limited liability company's beneficial ownership register.

(4) If the Grand Court makes an order for rectification of a limited liability company's beneficial ownership register against the limited liability company, it shall direct notice of the rectification to be given to the competent authority.

**Access to Beneficial Ownership Information**

Duty of competent authority to establish search platform of 86. (1) The competent authority shall establish a search platform by means of which access may be provided to information on all beneficial ownership registers maintained on behalf of limited liability companies subject to this Part by corporate services providers.

- (2) The search platform must -
  - (a) be secure and accessible only by the competent authority;
  - (b) be able to search all limited liability company beneficial ownership information provided to the competent authority by corporate service providers by the name of an individual, legal entity or limited liability company; and
  - (c) prevent communication to any person of the fact that a search is being made or has taken place, except where the competent authority expressly discloses such communication.

Duties of corporate services providers 87. A corporate services provider engaged by a limited liability company pursuant to section 78 shall offer the limited liability company an information technology solution, either directly or through another corporate services provider, that enables the corporate services provider -

- (a) to establish and maintain the limited liability company's beneficial ownership register on behalf of the limited liability company; and
- (b) to provide information on the beneficial ownership register to the competent authority by means of the search platform established by the competent authority pursuant to section 86.

Limits on searches that may be executed 88. (1) The competent authority shall execute a search of a limited liability company's beneficial ownership register by means of the search platform if formally requested to do so -

- (a) by a senior official referred to in section 262(1) of the Companies Law (2016 Revision), provided that the senior official

(2016 Revision)

- certifies that the request meets the conditions referred to in section 262(2) of that Law; or
- (b) by the Financial Crime Unit of the Royal Cayman Islands Police Service, provided that a senior official of the Unit certifies that the request meets the conditions referred to in section 262(3) of the Companies Law (2016 Revision).

(2016 Revision)

(2) No person shall use the search platform to search a limited liability company's beneficial ownership register except the competent authority.

Disclosure of beneficial ownership information by the Cayman Islands Monetary Authority

(2016 Revision)

89. (1) The Cayman Islands Monetary Authority may, on request by the competent authority, disclose any information in its possession respecting a limited liability company or a subsidiary of a limited liability company registered or holding a licence under a "regulatory law" as defined in section 2 of the Monetary Authority Law (2016 Revision) that the limited liability company or subsidiary would be required to provide under this Part as required particulars, if this Part applied to it.

(2) For greater certainty, section 50(1) of the Monetary Authority Law (2016 Revision) does not apply to a disclosure made under this section.

Non-disclosure of information concerning requests for beneficial ownership information

90. (1) Neither the competent authority nor any employee, servant or agent of the competent authority shall disclose any information relating to a request for beneficial ownership information referred to in section 88, including the fact that such a request was made or that a search was carried out, to any person other than the authorized personnel of the competent authority or the law enforcement agency that requested the search.

(2) Information maintained by a corporate service provider in respect of beneficial ownership of a limited liability company is deemed to be confidential information under the Confidential Information Disclosure Law, 2016.

(Law 23 of 2016)

(2016 Revision) (3) Subject to sections 18 and 19 of the Tax Information Law (2016 Revision), information deemed to be

(Law 23 of 2016)

confidential under subsection (2) shall only be disclosed in accordance with the Confidential Information Disclosure Law, 2016.

## Enforcement

### *Restrictions Notices*

Right to issue restrictions notice

91. (1) A limited liability company to which this Part applies may send a restrictions notice to a person who has a relevant interest in that limited liability company if -

- (a) a notice under section 75 or 81 was served on the person;
- (b) the person has not, by the end of the period of one month beginning with the date of receipt of the notice -
  - (i) complied with the notice; or
  - (ii) provided the limited liability company with a valid reason sufficient to justify the person's failure to comply with the notice; and
- (c) the relevant interest is not subject to a security interest granted to a third party who is not affiliated with the person.

(2) In deciding whether to send a restrictions notice, the limited liability company 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, other holders of an LLC interest and other beneficial owners.

Effect of restrictions notice

92. (1) The effect of a restrictions notice with respect to a relevant interest is as follows -

- (a) any transfer or agreement to transfer the interest is void;
- (b) no rights are exercisable in respect of the interest;
- (c) no additional rights may be granted in respect of the interest or in pursuance of an offer made to the interest-holder;
- (d) except in a liquidation, no payment may be

made of sums due from the limited liability company in respect of the 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 granted additional rights in respect of the relevant interest; or
  - (ii) a right to receive payment of any sums due from the limited liability company 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 96(2)(b).

Protection of  
third party rights

93. (1) The Grand Court may, on application by any person aggrieved, give a direction for the purpose of protecting the rights of third parties, persons with a security interest over the relevant interest, holders of an LLC interest 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 this section -

- (a) shall direct, subject to such terms as the Court thinks fit, that certain acts will not constitute a breach of the restrictions placed on the relevant interest by the restrictions notice;
- (b) shall specify the acts that will 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.

Breach of  
restrictions an  
offence

94. (1) A person commits an offence who, knowing that a relevant interest is subject to restrictions -

- (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.

(2) A person who has a relevant interest that the person knows to be subject to restrictions commits an offence if the person -

- (a) knows a person to be entitled (apart from the restrictions) to vote in respect of the interest, whether as holder or as proxy;
- (b) does not know the person to be aware of the fact that the interest is subject to restrictions; and
- (c) fails to notify the person of that fact.

(3) 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 92(1)(a) or (e).

(4) A person who commits an offence under this section is liable on summary conviction to a fine of five thousand dollars.

(5) No person commits an offence who contravenes subsections (1) to (3) in compliance with a direction of the Grand Court given under section 93 or 96.

Limited liability company issuing LLC interests in breach of restriction

95. Subject to a direction given under section 93 or 96, a limited liability company that issues LLC interests 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.

Relaxation of restrictions

96. (1) A limited liability company 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.

(2) The Grand Court may only make an order under this section if -

- (a) the Court is satisfied that the information required by the notice served under section 75 or 83 has been disclosed to the limited liability company 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.

(3) An order made by virtue of subsection (2)(b) may continue, in whole or in part, the restrictions mentioned in section 92(1)(c) and (d) so far as they relate to a right acquired or offer made before the transfer.

(4) Where any restrictions continue in force by virtue of subsection (3) -

- (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 (2) does not apply in relation to the making of such an order.

Orders for sale

97. (1) On application by a limited liability company that issues a restrictions notice, the Grand Court may order that the relevant interest subject to restrictions be sold, provided that the Court approves the sale.

(2) A Court that makes an order under subsection (1) may make such further order relating to the sale or transfer of the interest as it thinks fit on application by -

- (a) the limited liability company 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.

(3) On making an order under subsection (1) or (2), the Court may order that the applicant's costs be paid from the proceeds of sale.

Proceeds of sale  
of relevant  
interest

98. (1) If a relevant interest is sold pursuant to an order under section 97, the proceeds of the sale, less the costs of the sale, must be paid into the Grand Court for the benefit of persons who are beneficially interested in the relevant interest.

(2) 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.

(3) On an application under subsection (2), 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.

(4) Where the Court has ordered under section 97(3) 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.

Limited liability  
company may  
withdraw  
restrictions  
notice

99. A limited liability company that issues a restrictions notice to a person shall by notice withdraw the restrictions notice if -

- (a) it is satisfied that there is a valid reason sufficient to justify the person's failure to comply with the notice served under section 75 or 81;
- (b) the notice served under section 75 or 81 is complied with; or
- (c) the limited liability company discovers that the rights of a third party in respect of the

relevant interest are being unfairly affected by the restrictions notice.

*Offences*

Failure of a limited liability company to establish or maintain beneficial ownership register

100. A limited liability company that knowingly contravenes section 73(1), 74(1), 78, 79(1) or 81(2) or knowingly and willfully fails to issue a notice as required by section 75, 81 or 82(3) commits an offence and is liable on summary conviction for each such contravention -

- (a) to a fine of twenty-five thousand dollars; and
- (b) if the offence is a continuing one, to a fine of five hundred dollars for each day or part of a day during which the offence continues, up to a maximum of twenty-five thousand dollars.

Failure to comply with notices

101. (1) A person to whom a notice under section 75 or 81 is addressed commits an offence if the person -

- (a) knowingly 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 in a material particular; or
  - (ii) recklessly makes a statement that is false in a material particular.

(2) A person does not commit an offence under subsection (1)(a) if the person proves that the requirement to give information was frivolous or vexatious.

(3) A person guilty of an offence under this section is liable -

- (a) on conviction on indictment, to imprisonment for a term of two years or a fine of ten thousand dollars, or to both;
- (b) on summary conviction to imprisonment for a term of twelve months or a fine of five thousand dollars, or to both.

Failure to provide information

102. (1) A person commits an offence if the person -

- (a) knowingly fails to comply with a duty under section 76 or 83 within the time required by

- that section; or
- (b) in purported compliance with such a duty -
    - (i) makes a statement that the person knows to be false in a material particular; or
    - (ii) recklessly makes a statement that is false in a material particular.

(2) A person guilty of an offence under this section is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine of ten thousand dollars, or to both;
- (b) on summary conviction to imprisonment for a term of twelve months or to a fine of five thousand dollars, or to both.

Unlawful search or disclosure of beneficial ownership information

103. A person who conducts a search of a limited liability company's beneficial ownership register contrary to section 88(1) or (2) or who discloses beneficial ownership information contrary to section 90 commits an offence and is liable on summary conviction to a fine of ten thousand dollars or imprisonment for twelve months, or to both.

Offences by officers and managers

104. Where a limited liability company or a legal entity is guilty of an offence under this Part and it is proved that the offence was committed with the consent or connivance of, or was attributable to willful default on the part of a manager or other officer concerned in the management of the limited liability company or legal entity, the manager or other officer is guilty of the same offence and liable to the same penalty as the limited liability company or legal entity.

### **Supplementary Provisions**

Exemptions

105. (1) The competent authority, if satisfied, having regard to any undertaking given by an individual or a legal entity, that there are special reasons for an exemption from compliance with a notice or duty under this Part, may exempt -

- (a) the individual or legal entity from complying with a notice issued under section 75 or 81;

- (b) a limited liability company from taking steps to identify that individual or legal entity or give notice under sections 75 or 81 to or with respect to them;
- (c) anyone from sending a notice or giving information pursuant to a notice under section 75(3);
- (d) the individual or legal entity from the duties imposed by sections 76 and 81 ; or
- (e) the individual or legal entity from being entered on a limited liability company's beneficial ownership register as a registrable person in relation to any limited liability company.

(2) The competent authority shall exercise the exemption powers in subsection (1) in accordance with the prescribed criteria.

Regulations

106. (1) The Cabinet may make regulations respecting anything required to carry out this Part or prescribing anything required to be prescribed under this Part, including regulations -

- (a) specifying criteria for the exercise of the competent authority's exemption powers under section 105;
- (b) respecting the giving of notices under section 75 or 81, including the form, content and manner of giving such notices;
- (c) to add to or remove from any of the lists of required particulars, including specifying the particulars required respecting the nature of control of a person referred to in section 80 over the limited liability company referred to in the particulars;
- (d) requiring additional matters to be noted in a limited liability company's beneficial ownership register;
- (e) requiring the competent authority or a corporate services provider or a limited liability company to refrain from using or disclosing particulars of a prescribed kind from a limited liability company'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;

- (f) specifying the manner and form in which a limited liability company shall keep its beneficial ownership register;
- (g) respecting the procedure to be followed by limited liability companies issuing and withdrawing restrictions notices, including regulations providing for -
  - (i) the form and content of restrictions notices, and the manner in which they must be given;
  - (ii) the factors to be taken into account in deciding what counts as a reason sufficient to justify a person's failure to comply with a notice issued under section 75 or 81; 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.

(2) The Cabinet may make regulations respecting the interpretation of the terms “beneficial owner”, “significant influence or control”, “specified conditions”, “registrable person” and “relevant interest”, including regulations -

- (a) to replace any or all references in section 73(3) to a percentage figure with references to some other (larger or smaller) percentage figure;
- (b) to change or supplement the specified conditions in section 73(3) so as to include circumstances (for example, circumstances involving more complex structures) that give individuals a level of control over limited liability company Y broadly similar to the level of control given by the other specified conditions; and
- (c) specifying the circumstances in which a person holds an interest in a limited liability

company or meets a specified condition in relation to it directly or indirectly through any number of persons or arrangements of any description.

(3) The Cabinet may, by affirmative resolution, make regulations to add to, remove from or otherwise revise the list of legal entities or subsidiaries of legal entities to which this Part applies or does not apply under section 71(1)(e).

Transitional provision

3. No prosecution may be commenced against a limited liability company for an offence under section 100, as enacted by section 2 of this Law, unless the act or omission that constituted the offence took place at least one year after the coming into force of that section.

Passed by the Legislative Assembly the 27<sup>th</sup> day of February, 2017.

Juliana O'Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.