

**REPUBLIC OF NAMIBIA**

**NATIONAL ASSEMBLY**

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**COMPANIES ACT  
AMENDMENT BILL**

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*(As read a First Time)*

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*(Introduced by the Minister of Industrialisation and Trade)*

**EXPLANATORY NOTE:**

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing provisions.

[ ] Words in bold type in square brackets indicate omissions from existing provisions.

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**BILL**

**To amend the Companies Act, 2004 so as to insert new definitions; to repeal certain provisions authorising public companies with share capital to issue warrants entitling bearers of share capital to shares or stock specified in the warrants, to require bearers of share warrants to convert the share warrants into ordinary par value shares; to require companies to keep and maintain registers of beneficial owners; and to provide for incidental matters.**

*(Introduced by the Minister of Industrialisation and Trade)*

**BE IT ENACTED** as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

**Amendment of section 1 of Act No. 28 of 2004 as amended by section 32 of Act No. 8 of 2016**

**1.** Section 1 of the Companies Act, 2004 (Act No. 28 of 2004) (hereinafter referred to as the “principal Act”) is amended by -

(a) the insertion after the definition of “auditor” of the following definition:

““beneficial owner” means the beneficial owner as defined in section 1 of the Financial Intelligence Act, 2012 (Act No. 13 of 2012);”;

(b) the insertion after the definition of ““books or papers” and “books and papers” of the following definition:

““Centre” means Financial Intelligence Centre as defined in section 1 of the Financial Intelligence Act, 2012 (Act No. 13 of 2012);”.

(c) the insertion after the definition of “company” of the following definition:

““competent authority” means the competent authority as defined in section 1 of the Financial Intelligence Act, 2012 (Act No. 13 of 2012);”.

**Repeal of section 107 of Act No. 28 of 2004**

**2.** Section 107 of the principal Act is repealed.

### **Amendment of section 108 of Act No. 28 of 2004**

3. Section 108 of the principal Act is amended by the addition after subsection (3) of the following sections:

“(4) Where a company has issued a share warrant to a bearer before the commencement of this provision, the bearer of such share warrant must, within 30 days from the date of commencement of this provision, convert the share warrant into an ordinary par value share.

(5) A bearer of a share warrant who fails to comply with subsection (4) commits an offence and is liable to a fine which does not exceed N\$40 for every day during which the contravention continues.”.

### **Insertion of section 122A in Act No. 28 of 2004**

4. The principal Act is amended by the insertion after section 122 of the following section:

#### **“Register of beneficial owners**

**122A.** (1) Every company, at its incorporation and thereafter, must keep and maintain an accurate and up-to-date register of the beneficial owners of the company and the register must be kept in Namibia at the same office at which the register of members is kept.

(2) Every company must record in the register referred to in subsection (1) the following information:

- (a) in respect of each beneficial owner of the company -
  - (i) the first name and surname and any former first name and surname of the beneficial owner;
  - (ii) the date of birth and identification number appearing on the national identity document of the beneficial owner;
  - (iii) full particulars of residential address, business address, email address and postal address of the beneficial owner;
  - (iv) contact details of the beneficial owner;
  - (v) the nationality of the beneficial owner; and
  - (vi) the nature and extent of the beneficial ownership; and
- (b) in respect of a director or shareholder of the company, who is a nominee of a beneficial owner, information referred to in paragraph (a).

(3) Every company must, on a prescribed form, file with the Registrar accurate and up-to-date information of the beneficial owner recorded in terms of subsection (2), and where the information has changed the company must within seven days file with the Registrar the changes to the information.

(4) A company or the Registrar, upon request by a competent authority, must make available the information of the beneficial owner held and maintained by the company or filed with the Registrar in terms of subsection (2).

(5) A company must appoint a person residing in Namibia who is -

- (a) responsible for the safe keeping of the register of the beneficial owners; and
- (b) authorised by the company to make the information of the beneficial owner recorded in terms of subsection (2) available to a competent authority under subsection (4).

(6) The information of the beneficial owner and other information regarding a company held by the Registrar are public information and upon request must be made available by the Registrar for inspection by members of the public, whether electronically or physically, but the information of the beneficial owner is limited to the full name of the beneficial owner and the nature and extent of beneficial ownership.

(7) Notwithstanding any other law to the contrary, the Registrar on his or her own, the Centre on its own or the Registrar or the Centre on behalf of a competent authority may -

- (a) request information of the beneficial owner or any other information regarding a company from; or
- (b) provide the information referred to in paragraph (a) to,

an authority in a foreign state that has similar powers and duties as those of the Registrar or the Centre for purposes of investigation of money laundering, financing of terrorism or proliferation activities.

(8) The Registrar, the Centre or a competent authority that requested or provided information of the beneficial owner or other information regarding a company under subsection (7) must keep record of the information provided or requested.

(9) A company, administrators, liquidators or other persons involved in the dissolution of the company must keep and maintain records of the information of the beneficial owner and the nature and extent of the beneficial ownership for a period of at least five years after the date on which the company is dissolved or otherwise ceases to exist.

(10) A company or a person who -

- (a) contravenes or fails to comply with subsection (1), (2), (3), (4) or (9);
- (b) provides false information of the beneficial owner or the nature and extend of the beneficial ownership;

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- (c) withholds information of the beneficial owner from being entered into the register referred to in subsection (1); or
  - (d) makes false entry into the register referred to in subsection (1),

commits an offence and is liable on conviction to a fine not exceeding N\$ 10 000 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.”.

**Short title**

- 5.** This Act is called the Companies Amendment Act, 2023.
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