

CERTIFIED:  
ATTORNEY GENERAL

18/07/2023  
AMENDMENTS TO THE COMPANIES AMENDMENT ACT BILL

[B. 7 OF 2023]

Directorate Legislative  
Drafting, Ministry of Justice,  
Namibia  
Certified by: HILMA  
KUDUVA

Date: 03/07/2023

**THAT:**

**In clause 122A** – Substitute subclauses (9) and (10) and add the subsequent subclauses as follows:

“(9) A company must keep and maintain records of the information of the beneficial owner of the company and the nature and extent of the beneficial ownership for a period of at least five years after the date on which the record was made.

(10) The administrator or liquidator of a company under dissolution and any other person involved in the dissolution of a company must keep and maintain records of the information of the beneficial owner of the company 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.

(11) If the Registrar has reasonable grounds to believe that a company or a person -

- (a) has failed or fails to keep and maintain a register of beneficial owners referred to in subsection (1); or
- (b) has failed or fails to comply with any time period referred to in subsection (3), (9) or (10),

the Registrar must in writing issue a directive to the company instructing the company to comply with subsection (1), (3), (9) or (10) within a period of seven days from the date of receiving the directive.

(12) If a company or person refuses or fails to comply with a directive issued under subsection (11), the Registrar may impose the administrative penalties set out in subsection (14).

(13) In determining an appropriate administrative penalty, the Registrar must consider the following factors -

- (a) the nature, duration, seriousness and extent of the relevant non-compliance;
- (b) whether the company has previously failed to comply with this section; and
- (c) any remedial steps taken by the company to prevent a recurrence of the non-compliance.

(14) After considering the factors referred to in subsection (13), the Registrar may impose any of the following administrative penalties on the company or person -

- (a) if the company or person has failed to keep and maintain a register or the time periods referred to in subsection (1), (3), (9) or (10) a financial penalty not exceeding N\$50 000; and
- (b) if the company or person after receiving a directive referred in subsection (11), fails to comply with the directive, in addition to the penalty imposed under paragraph (a), a financial penalty which does not exceed N\$ 1000 for every day during which the contravention continues.

(15) The Registrar must list a company that fails to comply with subsection (1), (3), (9) or (10) on an inactive list and thereafter deregister the company after six months from the date the company was listed.

(16) On imposing the administrative penalties under subsection (14), the Registrar must in writing notify the company –

- (a) of the decision and the reasons for the decision; and
- (b) of the amount payable as a penalty and any interest that may become payable and the interest rate, and the period within which the penalty must be paid.

(17) Any financial penalty imposed under subsection (14) must be paid to the Registrar.

(18) A company or a person who -

- (a) contravenes or fails to comply with subsection (1), (2), (3), (4), (9) or (10);
- (b) knowingly provides false or misleading information of the beneficial owner or the nature and extent of the beneficial ownership;
- (c) knowingly withholds information of the beneficial owner that must be entered into the register referred to in subsection (1); or
- (d) knowingly makes a 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.

(19) The Registrar may impose an administrative penalty under this Act irrespective of any criminal liability or penalty to which the company or a person may be subjected to, but where the company or a person has been sentenced to a fine following a conviction for an offence, the Registrar must take the fine imposed into account when assessing an administrative penalty payable under this section.”

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