

6. CONSIDERATION OF CLAUSES

**6.1. Beneficial Ownership (Amendment) Bill 2020 –
Clauses considered**

Mr Cannan to move.

1440 **The Speaker:** We turn then to Item 6 and the Beneficial Ownership (Amendment) Bill 2020.
I call on Mr Cannan to move.

Mr Cannan: Mr Speaker, I would like to thank Hon. Members for their comments at the Second Reading of the Bill.

1445 Turning to each clause in the Bill, Mr Speaker, with your permission, I will move clauses 1, 2 and 3 together.

The Speaker: Yes, thank you, Mr Cannan.

1450 **Mr Cannan:** Clauses 1 and 2 are introductory and deal with the Bill's short title and its commencement. The Bill comes into operation on such day or days as the Treasury may by order appoint.

Clause 3 introduces the amendments made by the Bill to the Beneficial Ownership Act 2017, which I will refer to throughout as 'the Act'.

1455 Mr Speaker, I beg to move that clauses 1, 2 and 3 do stand part of the Bill.

The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. I beg to second and reserve my remarks.

1460 **The Speaker:** Thank you.

I put the question that clauses 1, 2 and 3 stand part of the Bill, and I will presume that the motion will be carried unless anyone indicates dissent. Anyone dissenting should indicate now. No dissent being indicated, that motion therefore carries.

Clause 4, Mr Cannan.

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Mr Cannan: Mr Speaker, clause 4 makes grammatical changes to the definitions of 'Authority' and 'Department' and adds a new category to the definition of 'permitted purpose' which provides for the disclosure of statistical data to a Department or Statutory Board in section 3 of the Act.

1470 When 'Department' is used throughout the Act, it means the Department for Enterprise only. However, the change to 'permitted purpose' added by this Bill is to allow a Government Department or Statutory Board to collect statistical data and so refers to 'a Department' as a general term. Accordingly, the amendment to the definition of Department in this clause is to clarify when a reference is to the Department for Enterprise and when it is to a Department, whether that Department is the Department for Enterprise or another Department, accessing the Register for a permitted purpose – in particular in order to collect statistical data.

1475 It is important that anonymised beneficial ownership statistical data can be provided to Departments other than the Department for Enterprise, for example, for the purposes of international reporting.

1480 Mr Speaker, I beg to move that clause 4 do stand part of the Bill.

The Speaker: Mr Shimmins.

1485 **Mr Shimmins:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: If no Member wishes to speak, I will put the question that clause 4 stand part of the Bill and I will presume that the motion will be carried unless anyone indicates dissent. Anyone doing so should indicate now. No dissent being indicated, the motion therefore carries.

Clauses 5, 6 and 7, Mr Cannan.

1490 **Mr Cannan:** Mr Speaker, clauses 5, 6 and 7 deal with the period of time within which a notification of beneficial owner or changes in the beneficial ownership details are to be notified.

1495 Clause 5 amends section 7, 'Notice of appointment of nominated officer', of the Beneficial Ownership Act 2017 and the time period within which notice of the appointment of a nominated officer must be given to the Department from within one month to as soon as reasonably practical, but in any event within 21 days.

1500 Clause 6 amends section 9, 'Duty of legal owners', of the Beneficial Ownership Act 2017. It alters the requirement for a legal owner to supply required beneficial ownership information in certain circumstances to the nominated officer from one month to as soon as reasonably practical, but in any event within 21 days.

1505 Clause 7 amends section 12, 'Changes to required details', of the Beneficial Ownership Act 2017 by substituting the period within which a legal owner must give notice to the nominated officer after learning of or having cause to suspect a change in the required details as defined in section 11 of the Act. The amendment is made for consistency and to move away from the one-month requirement to as soon as reasonably practicable, but in any event within 21 days of the date on which the changes were made.

1510 Mr Speaker, I would just like to refer briefly to a matter raised by the Hon. Member for Ramsey, Mr Hooper during the debate on the Second Reading of the Companies (Amendment) Bill. Mr Hooper noted that filing requirements in this Bill are for 21 days, whilst in the Companies (Amendment) Bill, the requirement is for one month, which is in line with other company filing requirements. In this Bill, the 21-day period anticipates changes currently under consideration within the Financial Action Task Force, the international body responsible for setting standards to tackle money laundering and terrorist financing. The Financial Action Task Force is –

1515 **The Speaker:** Mr Cannan, in the Chamber we lost you at the Financial Action Task Force.

Mr Cannan: Sorry, I will start again –

The Speaker: Just from the Financial Action Task Force, please. Thank you.

1520 **Mr Cannan:** Okay ... under consideration within the Financial Action Task Force, the international body responsible for setting standards to tackle money laundering and terrorist financing. The Financial Action Task Force is expected to agree in July what is considered to be a timely period for such filings. In other words, the number of days within which beneficial ownership information should be updated. The only countries which to date have received a positive evaluation for the filing of beneficial ownership information require this information to be updated within 21 days or less. For example, the equivalent filing requirement for the UK is 14 days, hence the references to 21 days throughout this Bill.

1530 In the Companies (Amendment) Bill, the one-month filing period seeks to deliver a timelier update of information to the Companies Registry, harmonising the filing requirements in the Companies Act 2006 with those which are already in place in the Companies Act 1931.

Mr Speaker, I beg to move that clauses 5, 6 and 7 do stand part of the Bill.

The Speaker: Thank you.
Mr Shimmins.

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Mr Shimmins: Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Mr Hooper.

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Mr Hooper: Thank you very much, Mr Speaker.

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I would like to thank the Minister for clarifying the position around the timescales. It is interesting that he said that he is *expecting* the FATF to make a decision in July around this. I would just like to ask why is it that we are moving ahead and changing timescales instead of actually waiting for what the decision is and then making sure our timescales align to whatever it is the FATF happen to decide in July? It almost feels like we are making a change now that could very well have to be changed again in less than six months' time if the FATF decide on a different timeframe, or a longer timeframe or a shorter timeframe. So it feels very strange to be trying to pre-empt a decision being made by an international body.

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The Speaker: Minister to reply.

Mr Cannan: Thank you, Mr Speaker.

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I think that what we are trying to do is to probably fall in line more so with the Moneyval requirements on this and to comply to the fullest extent, as much as we can, with international standards. So I think that we have assessed the situation and believe that actually, in order for us to continue to be evaluated as highly as possible by these various bodies, we should try and seek the highest possible standards in this particular area.

I beg to move.

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The Speaker: Thank you.

I put the question that clauses 5, 6 and 7 stand part of the Bill, and I presume the motion will be carried unless anyone indicates dissent. Anyone indicating dissent should do so now. No dissent having been indicated, the motion therefore carries.

Clauses 8 to 17, Mr Cannan.

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Mr Cannan: Thank you, Mr Speaker.

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Clause 8 amends section 14, 'Further consequences of failure to disclose beneficial ownership', of the Beneficial Ownership Act 2017 by replacing a reference to two weeks to one of 14 days in section 14(5). This is to ensure consistency of drafting style throughout the section, as the term '14 days' is used previously at section 14(3).

Mr Speaker, I beg to move that clause 8 do stand part of the Bill.

The Speaker: Sorry, are you just moving clause 8, Minister?

Mr Cannan: Yes. I am moving 8, 9, 10 and on as separate clauses.

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The Speaker: Oh, right. Okay.

Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. I beg to second and reserve my remarks.

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The Speaker: Thank you.

No one wishes to speak, then I presume the motion will be carried unless anyone indicates dissent. Anyone doing so should indicate now. No dissent being indicated, the motion therefore carries.

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Clause 9.

1590 **Mr Cannan:** Clause 9 amends section 15, 'Disclosure of beneficial ownership information by a nominated officer', of the Beneficial Ownership Act 2017. The requirement for the nominated officer to supply to a Government body when served with a notice information regarding non-registrable beneficial owners is reduced from one month to within 21 days. This is consistent with the other time limits within the Act for supply of information within 21 days.

Mr Speaker, I beg to move that clause 9 do stand part of the Bill.

1595 **The Speaker:** Mr Shimmins.

Mr Shimmins: Thank you. I beg to second and reserve my remarks.

1600 **The Speaker:** If no one wishes to speak, I put the question that clause 9 stand part of the Bill, and I will presume that the motion will be carried unless anyone indicates dissent. Anyone doing so should indicate now. No dissent being indicated, the motion therefore carries.

Clause 10, Mr Cannan.

1605 **Mr Cannan:** Clause 10 amends section 20, 'Compulsory submission of registrable beneficial ownership information to the Department', of the Beneficial Ownership Act 2017. By inserting a new subsection (1A), the Department for Enterprise may make regulations in connection with reasonable steps a nominated officer must take in order to comply with section 20(1) and the compulsory submission of registrable beneficial ownership information. This allows for the Department for Enterprise to further expand upon what is considered to be the taking of reasonable steps without resorting to primary legislation.

1610 The amendments to section 20 also require, where such regulations have been made, that the information to be provided includes a statement confirming that the regulations have been complied with. The amendments also add an additional requirement when the nominated officer supplies information that an entity has no registrable beneficial owners to the Department for Enterprise. It must be certified that if any departmental regulations have been issued on taking reasonable steps to ascertain that position, these regulations have been adhered to. It also requires the nominated officer to certify whether or not they have had to issue a notice to establish that position. This further ensures that data submitted to the Register is accurate.

1615 Lastly, clause 10 adds into subsection (7) that with regard to the changes brought in by this Bill required details are to be submitted to the Department for Enterprise by time limits which will meet emerging international standards regarding timeliness as soon as reasonably practical, but within any event within 21 days.

Mr Speaker, I beg to move that clause 10 do stand part of the Bill.

The Speaker: Mr Shimmins.

1625 **Mr Shimmins:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Mr Hooper.

Mr Hooper: Thank you, Mr Speaker.

1630 Just one thing to touch on the Minister did not mention. It looks like in the amendment they are also changing the Tynwald procedure for these regulations. So in the Bill as it stands, I just wanted to check what the rationale is for that. Is this just a clarification of the existing process or is the Tynwald process itself being changed?

1635 **The Speaker:** Minister to reply.

Mr Cannan: I am not aware, Mr Speaker, that we are actually changing the process, but it is merely a clarification. But I will just confirm that to the Hon. Member just to make sure that I am actually correct with my understanding that it is purely a clarification.

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The Speaker: Thank you.

I put the question that clause 10 stand part of the Bill. I presume that that motion will be carried unless anyone indicates dissent. Anyone dissenting should do so now. No dissent being indicated, the motion therefore carries.

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Clause 11, Mr Cannan.

Mr Cannan: Mr Speaker, clause 11 amends section 21, 'Voluntary submission of non-registrable beneficial ownership information', of the Beneficial Ownership Act 2017 by inserting a power under which the Department for Enterprise may make regulations regarding the voluntary submission of non-registrable information by a nominated officer and where such regulations are made a requirement to comply with them is imposed on a nominated officer. It gives the Department for Enterprise the power to issue regulations on the information relating to non-registrable beneficial owners.

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I would explain that non-registrable beneficial ownership information is that which relates to a beneficial owner who owns 25% or below of that legal entity. The nominated officer is only required to –

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The Speaker: Sorry, Mr Cannan. Again, you cut out. The nominated officer is only required ...?

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Mr Cannan: ... to provide information regarding beneficial owners who own more than 25% of the entity's shareholding to the Beneficial Ownership Register. However, some entities prefer that their full beneficial ownership details are recorded upon the Register to assist third parties they may be doing business with to carry out their 'know your customer' requirements.

The clause also adds in requirements that if a voluntary submission is made, it is accompanied by the same information as is stipulated for registrable beneficial ownership. This is necessary, as third parties might use the voluntary information for verification purposes. So it is important it is maintained to the same standards as compulsory, required information.

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Mr Speaker, I beg to move that clause 11 do stand part of the Bill.

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The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: No one wishes to speak. I put the question that clause 11 stand part of the Bill and I presume the motion will be carried unless anyone indicates dissent. Anyone dissenting should indicate now. There being no dissent, the motion therefore carries.

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Clause 12, Mr Cannan.

Mr Cannan: Mr Speaker, clause 12 amends section 25, 'Department not liable for accuracy of information submitted', of the Beneficial Ownership Act 2017 by renumbering the existing text as subsection (1) and inserting additional subsections. The new subsections give the Department powers to make enquiries to establish the accuracy of the information submitted to the Database and where it considers such information is false, inaccurate or misleading, it may remove, correct or annotate the information. However, if these powers are used, the Department must give notice of such to the nominated officer of the relevant legal entity. It also provides that the Department may make regulations to give effect to the aforementioned powers to make enquiries. These additional powers are necessary for the Isle of Man to meet the international requirements to identify and verify the information on its Database is timely and accurate.

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Mr Speaker, I beg to move that clause 12 do stand part of the Bill.

1690 **The Speaker:** Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. I beg to second and reserve my remarks.

1695 **The Speaker:** If no Member wishes to speak, I will put the question that clause 12 stand part of the Bill, and I presume the motion will be carried unless anyone indicates dissent. Anyone wishing to do so should do so now. There being no dissent indicated, the motion therefore carries. Clause 13, Mr Cannan.

1700 **Mr Cannan:** Mr Speaker, clause 13 inserts a new section 26A, 'Requirement to notify errors in the Database', into the Beneficial Ownership Act 2017, by which a person specified in section 26(2)(d) or (e) of the Act who accesses the Database must notify the Department for Enterprise within one week if that person knows or suspects that any entry on the Database is materially incorrect. Failure to do so without reasonable excuse is an offence punishable by a maximum fine of level 5 on the standard scale. This mirrors requirements that have already been put in place by
1705 the UK and is to help ensure the accuracy of the information on the Database.

Mr Speaker, I beg to move that clause 13 do stand part of the Bill.

The Speaker: Mr Shimmins.

1710 **Mr Shimmins:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Thank you.

1715 No one wishes to speak. I will put the question that clause 13 stand part of the Bill and I presume the motion will be carried unless anyone indicates dissent. Anyone wishing to do so should do so now. No dissent being indicated, the motion therefore carries. Clause 14, Mr Cannan.

1720 **Mr Cannan:** Mr Speaker, clause 14 makes grammatical amendments to section 32, the Regulations of the Beneficial Ownership Act. Any references to 'Department' and 'Authority' in this section are amended to read '*the* Department' and '*the* Authority' to fit with the revised definitions, as I explained when moving clause 4.

Mr Speaker, I beg to move that clause 14 do stand part of the Bill.

The Speaker: Mr Shimmins.

1725 **Mr Shimmins:** Thank you. I beg to second.

1730 **The Speaker:** If no Member wishes to speak, I put the question that clause 14 stand part of the Bill and I presume the motion will be carried unless anyone indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries. Clause 15, Mr Cannan.

1735 **Mr Cannan:** Mr Speaker, clause 15 amends section 42, 'Statement of compliance in annual returns', of the Beneficial Ownership Act 2017 so as to require a legal entity and its nominated officer to submit separate statements of compliance by the date on which the annual return is due to be filed but not *with* the annual return. This replaces the requirement that a statement of compliance signed jointly by the legal entity and its nominated officer is submitted with the annual return.

1740 The amendments to section 42 more clearly separate the respective responsibilities of the legal entity and the nominated officer in relation to the statements of compliance. This amendment is initiated by the intended move to a fully digitalised registry and the problems such a system would have in receiving documents which require dual certification. In such digitalised systems, one person normally goes online and can certify a document and then it is automatically submitted. Unless the second certifier was seated with them, dual certification could not take place. Having separate certification means that the legal entity and the nominated officers do not have to physically meet every time in the same place when such documents are required to be filed.

1745 Mr Speaker, I beg to move that clause 15 do stand part of the Bill.

The Speaker: Mr Shimmins.

1750 **Mr Shimmins:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Thank you.

If no Member wishes to speak, I will put the question that clause 15 stand part of the Bill and I presume the motion will be carried unless anyone indicates dissent, which they should do now.
1755 No dissent being indicated, the motion therefore carries.

Clause 16, Mr Cannan.

Mr Cannan: Mr Speaker, clause 16 makes a number of amendments to paragraph (8) of Schedule 1 to the Beneficial Ownership Act 2017 entitled 'Civil penalties', including the addition of a Tynwald procedure in relation to regulations made under subparagraph (6) of that paragraph, regarding civil penalties. It amends the offence which may be subject to a civil penalty of furnishing information that is false, inaccurate or misleading to stipulating that the furnishing must have been knowingly or recklessly carried out. The other amendments are minor ones for drafting purposes to ensure accuracy of reference.

1765 Mr Speaker, I beg to move that clause 16 do stand part of the Bill.

The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. I beg to second and reserve my remarks.

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The Speaker: Thank you.

If no Member wishes to speak, I will put the motion that clause 16 stand part of the Bill and I presume the motion will be carried unless anyone indicates dissent, which they should do so now. No dissent being indicated, the motion therefore carries.

1775 Clause 17, Mr Cannan.

Mr Cannan: Mr Speaker, clause 17 makes consequential amendments to a number of enactments as a result of the amendment to section 42 of the Beneficial Ownership Act 2017 in relation to the separation of the respective responsibilities of the legal entity and the nominated officer concerning the statements of compliance.

1780 Mr Speaker, I beg to move that clause 17 do stand part of the Bill.

The Speaker: Mr Shimmins.

Mr Shimmins: Thank you, Mr Speaker. I beg to second and reserve my remarks.

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The Speaker: Now, if no Member wishes to speak, I will put the question that clause 17 stand part of the Bill, and I presume that it will be carried unless anyone indicates dissent. No dissent having been indicated, the motion therefore carries.

That concludes the clauses stage of the Beneficial Ownership (Amendment) Bill 2020.