

**3. Beneficial Ownership (Amendment) Bill 2020 –  
First Reading approved**

Mr Henderson to move:

*That the Beneficial Ownership Bill 2020 be read for the first time.*

**The President:** We turn to Item 3 now. The Beneficial Ownership (Amendment) Bill for First Reading.

370 I call the mover, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane. Could I remove my jacket?

**The President:** You may.

375

**Mr Henderson:** Commence battle, as they say. *(Laughter)* Gura mie eu.

Eaghtyrane, Olteynyn Onnoroil, in 2016, the Isle of Man was subject to an international evaluation by Moneyval concerning our ability to combat money laundering and the financing of terrorism. Following this in-depth assessment, Moneyval made a number of recommendations aimed at further strengthening the measures in place to prevent criminals abusing the Island's financial system. Following the publication of the Moneyval report in December 2016, the Isle of Man Government made a high-level political commitment to address the issues and recommendations arising out of that international assessment.

380  
385 This commitment is reflected in the Programme for Government, and I am pleased to inform Council that to date we have now addressed around 92% of all the technical recommendations in that report.

The Beneficial Ownership (Amendment) Bill 2020 aims to address some of the few remaining recommended actions from the mutual evaluation report, by introducing measures that will further improve the accuracy of the beneficial ownership database and the timeliness with which information is entered onto that database.

390  
395 It is widely recognised that to effectively tackle financial crime, including money laundering and corruption, information on the beneficial owners of companies needs to be available to the appropriate authorities, such as the Financial Intelligence Unit, regulators and law enforcement. The Isle of Man has had measures in place for many years, which have enabled such authorities to access this information. Nevertheless, this is an evolving area and the Government is determined not just to address issues identified by Moneyval, but also to ensure that we reflect accepted best practice. In particular, we are continuing our progress towards a public register of beneficial ownership of companies. This is consistent with the commitment given by the Isle of Man Government in June 2019, together with Jersey and Guernsey, to further develop the accessibility and transparency of the register of beneficial ownership of companies in line with standards expected by international bodies such as the EU and OECD.

400  
405 We are closely liaising with Guernsey and Jersey on this matter to ensure that we arrive at the same point at a similar time. This Bill forms a part of that overall work package; introducing measures aimed at strengthening the timeliness and accuracy of the information held on the database will be beneficial to the authorities and, ultimately, to the public. However, access to the beneficial ownership database will continue, as now, to be limited to identified off-island Government authorities, for example, the UK HMRC or other enforcement authorities, such as a UK police force or the Garda Síochána in Eire, to assist them with inquiries. This Bill makes no change in that regard.

410 The Bill was subject to a public consultation, following which a number of changes were introduced. It consists of 17 clauses and makes a number of amendments to the Beneficial Ownership Act 2017. Predominantly, the consultation feedback was all positive, Eaghtyrane.

415 The first three clauses are introductory. Clause 4 makes slight amendments 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 the Department for Enterprise or a Statutory Board or other relevant Government Department. The slight amendment to the terminology of 'Authority' and 'Department' is required so that these other areas may also access that information, otherwise the general Beneficial Ownership Act was just targeting the Department of Enterprise.

420 This is needed to enable bodies such as the Cabinet Office to obtain statistical data from the register to satisfy requests from international bodies such as FATF to provide such information. FATF, being the Financial Action Task Force, also known by its French name, *Groupe d'action financière*, is an intergovernmental organisation founded in 1989 on the initiative of the G7 to develop policies to combat money laundering – just for Members' information there.

425 Importantly, it will also enable the Cabinet Office to better review the current operation of the beneficial ownership register, so it can then determine what further legislative changes might be needed ahead of making the register fully available to public inspection by the end of 2023.

430 Clause 5 amends the 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 practicable or within 21 days.'

435 A nominated officer is the individual designated under the Beneficial Ownership Act 2017 as the person responsible for holding and updating information on the beneficial owner. A nominated officer can be an individual, but can also be an Isle of Man corporate service provider. In all cases, the nominated officer must be resident in the Island. This allows law enforcement to have timely access to the information. A legal entity, i.e. a company, must by law have a nominated officer as per requirements of the Act.

440 This is the first of the many references to '21 days', Eaghtyrane, in this Bill, and I am aware questions were raised about this period in the House of Keys. As will be explained again during the clauses stage, currently beneficial ownership information must be given or updated via a three-stage process, consisting of maximum periods of one month each. The total period for doing this of three months is considered too long by international evaluators, whether they be from FATF, Moneyval or any other FATF-style regional body.

445 Consequently, the Bill proposed three periods of up to one week each. Following public consultation, we accepted views that the law should simply say that the whole process must be completed within 21 days. In further addressing the issue raised in the Keys, this is materially different from the issue in the Companies (Amendment) Bill, which appears next on the Order Paper this morning.

450 In the Companies (Amendment) Bill, the period of one month is a single period within which a company must notify the Companies Registry of a change of directors or of a change of their details. The period was reduced from recording such changes only in the company's annual return to within one month and affects the registry only in that regard.

455 Again, the issue was timeliness, but I want to emphasise that the two Bills are separate and deal with distinct issues. This Bill is about ensuring transparency and that the true beneficial owner or owners of a company are identified and accurately registered to comply with international standards. Whereas the Companies (Amendment) Bill issue is simply about ensuring the Companies Registry has up-to-date information on who the directors are for IoM purposes.

460 A further follow-up question was asked in the Keys as to how we can be so sure that the international community will be satisfied that the period of 21 days in the Bill is sufficiently timely. The references to 21 days throughout this Bill anticipates changes currently under consideration within FATF, the international standard-setting body regarding timeliness. To date, the only countries which have satisfied evaluators and received a positive evaluation for the filing of beneficial ownership information require that this information be updated within 21 days or less. For example, the equivalent filing requirement for the UK is just 14 days.

465 Clause 6 amends the period within which a legal owner must give notice to the legal entity's nominated officer, to:

as reasonably practicable but in any event within 21 days...

470 Following the incorporation of the company and date of a written notice received by the nominated officer of the legal entity.

Clause 7 amends 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 to:

as reasonably practical but in any event within 21 days...

475

Clauses 8, 9 and 14 make grammatical amendments to ensure consistency of terminology and timescales throughout the Act.

480 Clauses 10 and 11 introduce new provisions by which the Department for Enterprise may make regulations in connection with the reasonable steps a nominated officer must take in order to comply with the compulsory submission of registrable beneficial ownership information and the voluntary submission of non-registrable information. Voluntary submission of non-registrable information are those pertaining to shareholders of less than 25% stakes in that particular company and sometimes legal entities do submit this voluntary information for their business purposes, Eaghtyrane and Hon. Members, and if they so wish to choose then they would be subject to the steps I have just outlined.

485

A question was asked in the Keys as to whether or not the Bill was changing the Tynwald procedure in this regard or merely clarifying it. I can confirm for Hon. Members that the Bill merely clarifies the Tynwald procedure as to how regulations, if or when made, will be brought before it in this regard under the provisions of the Beneficial Ownership Act as amended by this Bill.

490

Clause 12 renumbers the existing text and inserts additional provisions by which the Department may 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.

495

Clause 13 inserts a requirement by which a person who accesses the database must notify the Department within one week if that person knows, suspects or reasonably ought to know or suspect that any entry on the database is materially incorrect. An entity can elect to give permission to a third party to access the entity's details on the beneficial ownership register. They may do so to allow a bank, for instance, to do verification checks on the entity, whilst doing business with them. Also, nominated officers can be Isle of Man corporate service providers so a number of their staff might have access to the entities' beneficial details on the beneficial ownership register, all of whom might spot that materially incorrect information has been entered on the register.

500

Clause 15 separates the respective responsibilities of the legal entity and the nominated officer in relation to the statements of compliance and annual return submissions.

505

The amendments in clause 16 include minor reference changes as altered by the amendments in the Bill. It also amends the offence of furnishing information that is false, inaccurate or misleading so that it is clear the person has to have knowledge or recklessly furnished such inaccurate or misleading information in order to commit the offence.

Clause 17 makes consequential amendments to a number of enactments.

510

Eaghtyrane, I beg to move that the Beneficial Ownership (Amendment) Bill 2020 be read for the first time.

**The President:** Mr Greenhill.

515

**Mr Greenhill:** Thank you, Mr President, I beg to second and reserve my remarks.

**The President:** Mrs Poole-Wilson.

520 **Mrs Poole-Wilson:** Thank you, Mr President, and thank you to the mover for his comprehensive First Reading remarks about the changes being brought forward in this amendment Bill.

525 My question is quite a simple one, and not quite on the international scale and significance of the reasons and the content of the Bill, but from personal experience I recognise that there will be not-for-profit and small charitable organisations that will now incorporate for good reason as a company and may end up subject to our beneficial ownership regime. I am conscious that the people who are operating those small incorporated not-for-profits or charities are not necessarily in the position of keeping pace with this important legislative change and so I wondered what efforts will be made, or indeed may have been made so far, to publicise these important changes so that those who do not day-to-day work in the business community, but equally are subject to these very important, or will be subject, to these very important responsibilities become aware of these changes in a timely way in order that they do not fall foul of the law.

530 Thank you, Mr President.

**The President:** Mr Henderson to reply.

535

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I think to answer the Hon. Member, Mrs Poole-Wilson, fully I shall use the services of our policy director who is in the Gallery this morning, Mr Tom Bateman. But to give an overview answer first, this issue was raised in the Beneficial Ownership Act initially, and a lot of the concerns that the Hon. Member has raised were addressed through that and liaison and consultation with such charitable organisations who have set up companies to assist with the services that they provide.

540 But just for some clarity on that, I will ask our policy director or assistant, Mr Heckles, to expand on that information for us, Eaghtyrane.

545 **The President:** Thank you.

Morning, sir, and having been called as a witness, could you state your name and position for the record, please?

550 **Mr Heckles:** My name is Paul Heckles, I am AML/CFT adviser to the AML/CFT Policy Office in the Cabinet Office. AML/CFT standing for Anti-Money Laundering and Countering the Financing of Terrorism, and strictly it also includes the proliferation of weapons of mass destruction, but we shorten it down to AML/CFT, for obvious reasons.

555 **The President:** We are all for shortening things! (*Laughter*)

Yes, Mr Henderson, if you could address the witness.

560 **Mr Henderson:** Mr Heckles, if I could just ask you to expand on my brief overview/introduction to Mrs Poole-Wilson's request for information on how this would affect charitable organisations who have set up companies as part of their service provision, what sort of assistance or otherwise have we taken into account?

565 **Mr Heckles:** I think you alluded quite correctly that obviously there is the Beneficial Ownership Act which originally affected the organisations that you mentioned in your question, Hon. Member, so there are effects already on them, this Bill just amends slightly.

We went out for a full public consultation, and we did have some responses from a number of charitable organisations, all quite favourable. Mostly their queries were just for clarification to try and understand some of these changes, because obviously they can seem quite complex to non-legal people, and so we merely answered those queries.

570 It is the plan, again as Mr Henderson alluded to in his speech, that there is going to be this big  
move towards a public beneficial ownership registry. One of the big questions is cost about access  
for the public and so one of the questions there, which is very likely to be of interest to the  
charitable institutions, is how much we charge for this. There is international pressure for us to  
charge nothing or a very low figure, because they do not want jurisdictions to use the cost as a  
575 means of stopping public access to the register, and it is our policy to very much strictly follow the  
international standard, and so I find it very unlikely either that we will charge anything or certainly  
if we do it is going to be a very small minimum fee.

Obviously there is going to be a lot more consultation in the summer on the bigger changes  
that are going to come in and we will be engaging with industry. We go directly to a lot of the  
charities, and certainly the ones who have been engaging already on the Beneficial Ownership,  
580 we have their details and when we go directly to them and circulate to them and answer their  
questions as best we can. But we are aware of particularly the cost issue and, as I say, I think it is  
very unlikely there is going to be any excessive cost, for example, in future changes, and that is  
where it will have more effect on those. These changes in this Bill are not likely to affect them very  
much at the moment. That was the feedback we got from them.

585

**The President:** Thank you.  
Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Yes, and I appreciate all of that information, it is very welcome and thank  
590 you for clearing that up.

I think my main concern is that there is enough awareness. So there may be some charitable  
bodies who engage proactively already in this area, and I understand that the amendments being  
made by this Bill in and of themselves there are already requirements to which any small body,  
charitable body that has chosen to incorporate, will be subject to under the main Act.

595

The question I have is how do we make sure that those who do not engage in corporate activity  
and understanding the beneficial ownership regime and any changes to it day in day out as part  
of their day job, for want of a better word, that we still keep lay people who remain subject to the  
Act and any changes to the Act, up to date and aware that their legal obligations will change. So  
there will be charities on the Isle of Man who have chosen to incorporate for another reason, who  
600 will have a nominated officer in place, but who may be someone who this change in this Bill  
to 21 days, if it is not drawn to their attention effectively, will not be aware, and that is my question  
really, making sure that everyone who is touched by legal changes is given the opportunity to  
understand and then comply.

605

**The President:** Thank you

**The Attorney General:** Mr President, if I could...?

**The President:** Learned Attorney.

610

**The Attorney General:** Yes, Mr President, if I could possibly help Hon. Members of Council.

The public register of charities, we call it that, is currently in Chambers as a result of the change  
in legislation last year, and it may be of some comfort to you that we are in contact, I would say,  
with all charities.

615

I am more than happy to give a commitment to you and to this Council that I will bring this  
matter to the attention of the charities because we are in regular contact with them. No doubt  
they have received lots of inquiries and help as to make sure that they understand the provisions  
as are proposed, so I can give that commitment too.

620

**The President:** Thank you very much.

Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I thank Mr Heckles for his explanations. Mr Heckles is indicating he wishes just to add a little  
625 further information to the query there.

**The President:** Yes, Mr Heckles.

**Mr Heckles:** If I may, just to help the Council and perhaps just to answer a bit more fully the  
630 Hon. Member's question. Obviously, the charities act exactly the same under the Bill if they are  
companies, they have to have a nominated officer. The Companies Registry etc. are in direct  
contact with all the registered officers and we do feedback, we tell them when the consultations  
are taking place, etc. So the charities should get notification that there are these public  
635 consultations through that means, and we obviously feed back information through that, directly  
channel it through the nominated officers, as well as publicity and certainly bodies like the FSA,  
Customs, we put it into their news feeds and on their websites as well, so we do try to put it out  
as much as we can.

Thank you.

**The President:** Thank you very much.  
640 Yes, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I thank Mr Heckles for his explanation and the Attorney General's further explanation, and just  
645 to reassure the hon. questioner that, as with the Beneficial Ownership Act as was before  
amendment, there was considerable consultation undertaken, both with industry and the  
charities, to ensure just what you are indicating. This Bill has been the same with regard to  
consultation, and has been expanded by Mr Heckles and the Attorney General on that to ensure  
that the matters that you indicate are actually picked up upon and that people are aware, as with  
650 Departments try their best with other legislation as well.

But with that, Eaghtyrane, I do not think there is anything for me to add in closing on the Third  
Reading other than I beg to move, sir.

**The President:** Thank you.

655 I put to Council the question that the Beneficial Ownership (Amendment) Bill be read for the  
first time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.