

Companies (Beneficial Ownership) Bill 2012
Second Reading approved

4.1. Mr Teare to move:

That the Companies (Beneficial Ownership) Bill 2012 be read the second time.

The Speaker: Item 4, Bill for Second Reading, the Companies (Beneficial Ownership) Bill and I call on the mover, the Hon. Member, Mr Teare.

Mr Teare: This Bill is the Companies (Beneficial Ownership) Bill 2012. The Bill will only apply to companies that are incorporated under the Companies Act 1931. By way of background, the proposal falls into two parts. The purpose of the Bill is to address the recommendation of the International Monetary Fund in respect of old Financial Action Task Force recommendation 33, which has been replaced by new recommendation 24. These both address access to beneficial ownership and control of information of legal persons. Secondly, the Bill introduces a new provision to require a specific person within a company to have access to information regarding the beneficial ownership of membership interests. The person who must know this information is the nominated officer.

The Bill is divided into 14 clauses. I will now give Hon. Members an explanation of what they are intended to achieve.

The first clause gives the Act resulting from the Bill its short title.

Clause 2 provides for the Bill to come into operation on one or more days appointed by the Treasury. This clause also caters for the making of transitional and saving provisions.

Clause 3 defines what is meant by the term 'beneficial owner'.

The fourth clause lists those companies to which the Bill applies. It also exempts certain companies from the provisions. The current exemptions are in respect of those companies where the membership classes are large and subject to frequent changes. This relies on other rules being in place, such as those of a regulated stock exchange. The Treasury is given powers to grant further exemptions by order.

Clause 5 confirms that a nominated officer must either be a Manx resident individual or a corporate service provider.

Clause 6 sets out the information that a company must hold in respect of its nominated officer. Provision is also made to require that the nominated officer and changes to the details of the holder of this role are notified to the Registrar of Companies.

Clause 7 considers those instances where the members of a company hold shares as nominee on behalf of the beneficial owner of the interest. The obligation to inform the nominated officer of the beneficial owner of the interest falls to the nominee. Failure to do so will be a criminal offence.

Clause 8 lists the information that must be provided to the nominated officer in respect of the beneficial owner of an interest in a company.

Clause 9 sets out the sanctions that can be applied by a company where the nominated officer has not been informed of the identity of the beneficial owner of the interest in a company.

Clause 10 considers the circumstances in which a nominated officer will be required to disclose the identity of the beneficial owner of an interest in the company. The persons who may make the request and the circumstances in which a request may be made are set out. This clause also makes it an offence for a nominated officer to fail to provide information on request or to knowingly provide false information.

Clause 11 considers the offence of tipping off a person under a request for information under clause 10. The giving of legal advice or disclosure of information in respect of legal proceedings are exempted under this clause. Disclosures made to further a criminal purpose are not covered by the exemption.

Clause 12 makes provision to ensure that legal professional privilege is protected, where appropriate.

Clause 13 sets out the penalties in respect of offences under the Bill.

Clause 14 clarifies that the Bill does not limit or restrict provisions in other Acts or the company's articles of association that might otherwise be seen to conflict with the Bill.

Mr Speaker, I beg to move the Second Reading of this Bill.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: Mr Quirk, Hon. Member.

Mr Quirk: Just one thing, if I could, Mr Speaker. Just regarding tipping off, I did not like the word, for a start, but I am just wondering whether, if a tip-off is made, then the party who the tip-off is made against, the identity is not secret. So a person says something... Like in this Hon. Court, they put their name on it. They do not just hide behind anonymity.

Mr Teare: I think, with respect to the Hon. Member, we are talking at cross purposes. Tipping off relates to where there is an inquiry made and the person who is subject to that inquiry is then told that the inquiry has been made. It is a principle in other legislation as well, primarily in respect of financial matters where there might be an investigation in the course of being mounted.

The Speaker: Hon. Members, I put the question that the Companies (Beneficial Ownership) Bill be read for the second time. Those in favour, please say; against, no. The ayes have it. The ayes have it.