

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,423, 16 ta' Ġunju, 2020

Taqsimha B

L.N. 247 of 2020

**COMPANIES ACT
(CAP. 386)**

**Companies Act (Register of Beneficial Owners)
(Amendment) Regulations, 2020**

IN exercise of the powers conferred by article 425(6) of the Companies Act, the Minister for the Economy, Investment and Small Businesses has made the following regulations:-

1. The title of these regulations is Companies Act (Register of Beneficial Owners) (Amendment) Regulations, 2020, and these regulations shall be read and construed as one with the Companies Act (Register of Beneficial Owners) Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 386.19

2. In sub-regulation (2) of regulation 3 of the principal regulations, immediately after the words "and the extent of the beneficial interest held." there shall be added the following:

Amends regulation 3 of the principal regulations.

"A certified true copy of the official identification document for every beneficial owner shall also be submitted to the Registrar".

3. In sub-regulation (4) of regulation 6 of the principal regulations, immediately after the words "or the company secretary" there shall be added the words "and a certified true copy of the official identification document for every beneficial owner shall also be submitted to the Registrar".

Amends regulation 6 of the principal regulations.

4. Immediately after regulation 6, as amended, of the principal regulations, there shall be added the following new regulation:

Adds new regulation to the principal regulations.

"Return to be submitted upon each anniversary of registration.

6A. (1) Every company shall, upon each anniversary of its registration, make a return in the form set out in the First Schedule, showing any change in details on beneficial owners such as name, country of residence or official identification document number, or confirm that no change in details took place.

(2) The return, duly completed, shall be signed by at least one director of the company or the company secretary and delivered to the Registrar for registration within forty-two days after the date to which it is made up. If default is made in complying with the provisions of this regulation, every officer of the company who is in default shall be liable to a penalty, and, for every day during which the default continues, to a further penalty.

(3) Where there is a change in the senior managing officials, the company shall, within fourteen days after the date on which the change is recorded with the company, deliver to the Registrar a notice of the change, in the form set out in the First Schedule. If default is made in complying with the provisions of this regulation, every officer of the company who is in default shall be liable to a penalty, and, for every day during which the default continues, to a further penalty.

(4) The company may, at any time, deliver to the Registrar for registration a return, in the form set out in the First Schedule, indicating any changes in details on beneficial owners such as name, country of residence or official identification document number.

(5) Where there is a change in name or official identification document number, the company shall also submit a certified true copy of the identification document of the beneficial owner."

Substitutes
regulation 9 of
the principal
regulations.

5. Regulation 9 of the principal regulations shall be substituted by the following:

"Power of
the
Registrar
with regard
to matters
concerning
companies.

9. (1) The Registrar may:

(a) refuse to register any document of a company, which is required to be registered under the Act, if the beneficial ownership information was not submitted or if he is not satisfied that the company has provided accurate and up to date information on all the beneficial owners of the company as required by these regulations;

(b) restrict new incorporations for directors involved in other Maltese registered companies that failed to submit information on beneficial owners;

(c) before registering a new company or return, take such steps and require such information or documentation as he may deem necessary to ascertain the correctness of the beneficial information submitted to him.

(2) Where a company fails to provide information on its beneficial owners in accordance with these regulations, the Registrar shall inform the company that he is not in receipt of the information on beneficial owners.

(3) If the Registrar does not receive the information on beneficial owners of the company within one month from the letter mentioned in sub-regulation (2), he may send to the company by post and publish a notice in the Gazette or on a website maintained by the Registrar and in a daily newspaper circulating wholly or mainly in Malta that, at the expiration of three months from the date of the last publication of the said notice, the company's name shall, unless cause is previously shown to the contrary or the Registrar is satisfied that there are sufficient grounds not to proceed with the striking off, be struck off the register; and the assets of the company shall devolve upon the Government of Malta.

(4) If any member or creditor of the company, or any other person who appears to the Court to have an interest feels aggrieved by the fact that the name of the company has been struck off the register by virtue of the provisions of this regulation, the Court on an application made by the member or creditor or such other person before the expiration of five years from the publication of the notice of the striking off provided for in sub-regulations (2) and (3) may, if satisfied that it is proper that the name of the company be restored to the register, order that such name be restored to the register, and upon an official copy of the order being delivered by the Registrar of the Courts to the Registrar for registration, the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by its order give such directions and make such provisions as seem fit for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off. The Registrar shall forthwith proceed to publish a notice in the Gazette or on a website maintained by the Registrar and in a daily newspaper circulating wholly or mainly in Malta that the name of the company has been restored to the register.

(5) The Registrar shall have the power to strike off the name of a company if the beneficial owner of such company becomes sanctioned by international organisations.

(6) Without prejudice to rights and obligations emanating from other laws and regulations, and notwithstanding that the name of the company has been struck off the register in terms of the preceding provisions of this regulation, the rights and responsibilities, if any, of every director or other officer of the company and of every member of the company shall continue and may be enforced as if the name of the company had not been struck off the register."

Amends
regulation 12 of
the principal
regulations.

6. Regulation 12 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following:

"(1) The Registrar may carry out physical on-site

investigation at the premises referred to in regulation 5(3), in order to establish the current beneficial ownership and to verify that the beneficial ownership information submitted to him in respect of a commercial partnership is accurate and up-to-date. The right of the Registrar to verify such information shall not be restricted, obstructed or precluded in any manner.";

(b) sub-regulation (2) and (3) thereof shall be re-numbered as sub-regulations (3) and (4) respectively;

(c) immediately after sub-regulation (1) thereof, as substituted, there shall be added the following new sub-regulation:

"(2) The Registrar, or any person assigned by him, shall, in accordance with data protection requirements, have the right to reasonable access and entry to the premises referred to in regulation 5(3) of any company registered in Malta, and access to any relevant documentation or any other information relating or pertaining to information on beneficial ownership of any company. The officers of the company shall assist and shall collaborate with the Registrar in order to enable him to discharge his functions under these regulations, and shall collate and transmit without any undue delay such information and documentation as the Registrar may reasonably request from time to time. The Registrar may also take copies of any documents furnished or provided to him under this regulation."; and

(d) in sub-regulation (4) thereof, as re-numbered, for the words "of not more than ten thousand euro (€10,000)" there shall be substituted the words "of not more than one hundred thousand euro (€100,000)".

7. Regulation 17 of the principal regulations shall be substituted by the following:

Substitutes regulation 17 of the principal regulations.

"Liquidator to keep the register of beneficial owners for a period of ten years. 17. A liquidator of a company shall keep the register of beneficial owners of the company for a period of ten years from the date of publication of the striking of the company's name off the register."

8. Forms BO1 and BO2 in the First Schedule to the principal regulations shall be substituted by the Forms appearing in Schedule A to these regulations.

Substitutes two forms in the First Schedule to the principal regulations.

B 1560

Adds new forms
in the First
Schedule to the
principal
regulations.

9. Immediately after Form BO3 in the First Schedule to the principal regulations, there shall be added the Forms appearing in Schedule B to these regulations.

Substitutes the
Second
Schedule to the
principal
regulations.

10. The Second Schedule to the principal regulations shall be substituted by the Schedule appearing in Schedule C to these regulations.

SCHEDULE A

"Companies Act (Register of Beneficial Owners) Regulations, 2017*Declaration on Beneficial Owners in terms of Regulation 3**FORM BO1*

To the Registrar of Companies:

I, the undersigned, being a proposed director of, a company to be constituted/continued* in Malta hereby declare that: *(complete Section A or Section B as applicable)*

Section A: The beneficial owner/s of the proposed company is/are the following:

Particulars of Beneficial Owner (a)		Extent of Beneficial Ownership (b)	Nature of Beneficial Ownership (c)
Name:			
Date of Birth:			
Nationality:			
Country of Residence:			
Official Identification number:			
Document type:			
Country of Issue:			

Section B:

After having exhausted all possible means no natural person who ultimately owns or controls, whether through direct or indirect ownership or control, including, where applicable, through bearer share holdings, more than 25% of the shares or voting rights in the company, or otherwise exercises control over the company through other means has been identified, and the natural person/s holding the position of senior managing official/s is/are the following (d):

Particulars of Senior managing official (a)		Designation / capacity
Name:		
Date of Birth:		
Nationality:		
Country of Residence:		
Official Identification number:		
Document type:		
Country of Issue:		

.....
Proposed Director
(Name and Surname)

Dated this day of of the year

B 1562

This form must be completed in typed form.

- (a) Replicate table as necessary.
- (b) To be stated as a percentage of total ownership and/or control.
- (c) Describe the beneficial ownership indicating whether it is direct or indirect ownership of 25% plus one or more of the shares or more than 25% of the voting rights or other ownership interests, including through bearer shares or through control by other means such as a power to appoint or remove the majority of directors, shareholders' agreements and agreements between shareholders and the company.
- (d) Kindly attach a letter explaining the reasons for identifying the senior managing officials of the company as beneficial owners.

* *Delete as necessary"*.

"Companies Act (Register of Beneficial Owners) Regulations, 2017*Notice on Beneficial Owners in terms of Regulation 6***FORM BO2**

To the Registrar of Companies:

The company having registration number hereby gives notice that (choose Section A or Section B as applicable):

Section A

The company has submitted a notice of transfer, transmission or allotment of shares, or other document relating to changes in the share capital or voting rights and confirms that:

- The aforesaid change has resulted in a change in the beneficial ownership, **as indicated in Section C or Section D below**; OR ☐

- The aforesaid change has not had any effect on the beneficial ownership. ☐

Section B

A change in the beneficial ownership of the company has occurred without a change in the registered shareholders, **as indicated in Section C or Section D below**. ☐

Section C

The beneficial owners of the company are as follows:

Particulars of Beneficial Owner (a)		Extent of Beneficial Ownership and description of change (b)	Nature of Beneficial Ownership and description of change, if any (c)
Name:			
Date of Birth:			
Nationality:			
Country of Residence:			
Official Identification number:			
Document type:			
Country of Issue:			

B 1564

Section D:

After having exhausted all possible means no natural person who ultimately owns or controls, whether through direct or indirect ownership or control, including, where applicable, through bearer share holdings, more than 25% of the shares or voting rights in the company, or otherwise exercises control over the company through other means has been identified, and the natural person/s holding the position of senior managing official/s is/are the following (d):

Particulars of Senior managing official (a)		Designation / capacity
Name:		
Date of Birth:		
Nationality:		
Country of Residence:		
Official Identification number:		
Document type:		
Country of Issue:		

Date of change in beneficial ownership (if applicable):

.....
 Director/Secretary
 (Name and Surname)

Dated this day of of the year

This form must be completed in typed form.

- (a) Replicate table as necessary
- (b) To be stated as a percentage of total ownership or control
- (c) Describe the beneficial ownership indicating whether it is direct or indirect ownership of 25% plus one or more of the shares or more than 25% of the voting rights or other ownership interests, including through bearer shares or through control by other means such as a power to appoint or remove the majority of the board of directors, shareholders' agreements and agreements between shareholders and the company
- (d) Kindly attach a letter explaining the reasons for identifying the senior managing officials of the company as beneficial owners. "

SCHEDULE B

"Companies Act (Register of Beneficial Owners) Regulations, 2017*Declaration on Beneficial Owners in terms of Regulation 6A(1)**ANNUAL CONFIRMATION BO FORM*

To the Registrar of Companies:

I, the undersigned, being a director of, a company registered in Malta hereby declare that as at the anniversary of the company: *(complete Section A, Section B or Section C as applicable)*

Section A: There are no changes to the beneficial owner/s details currently registered with the Registrar

☐

or

Section B: The new beneficial owner/s details of the company is/are the following:

Particulars of Beneficial Owner (a)		Date of change (where applicable)
Name:		
Date of Birth:		
Nationality:		
Country of Residence:		
Official Identification number:		
Document type:		
Country of Issue:		

Section C:

The new Senior Managing official/s details of the company is/are the following:

Particulars of Senior managing official (a)		Date of change (where applicable)
Name:		
Date of Birth:		
Nationality:		
Country of Residence:		
Official Identification number:		
Document type:		
Country of Issue:		

.....

Director/Secretary
(Name and Surname)

Dated this day of of the year

This form must be completed in typed form.

(a) Replicate table as necessary."

B 1566

"Companies Act (Register of Beneficial Owners) Regulations, 2017*Declaration on Beneficial Owners in terms of Regulation 6A(3)***CHANGE IN SENIOR MANAGING OFFICIALS**

To the Registrar of Companies:

I, the undersigned, being a director of, a company registered in Malta hereby declare that,

The new Senior Managing official/s of the company is/are the following:

Particulars of Senior managing official (a)	
Name:	
Date of Birth:	
Nationality:	
Country of Residence:	
Official Identification number:	
Document type:	
Country of Issue:	

Date of change:

.....
 Director/Secretary
 (Name and Surname)

Dated this day of of the year

This form must be completed in typed form.

(a) Replicate table as necessary."

"Companies Act (Register of Beneficial Owners) Regulations, 2017*Declaration on Beneficial Owners in terms of Regulation 6A(4)***CHANGE IN DETAILS OF BO/SENIOR MANAGING OFFICIALS FORM**

To the Registrar of Companies:

I, the undersigned, being a director of, a company registered in Malta hereby declare that,

the new details of beneficial owner of the company are as follows * :

Particulars of Beneficial owner	
Name:	
Date of Birth:	
Nationality:	
Country of Residence:	
Official Identification number:	
Document type:	
Country of Issue:	

the new details of the senior managing official of the company are as follows * :

Particulars of Senior managing official	
Name:	
Date of Birth:	
Nationality:	
Country of Residence:	
Official Identification number:	
Document type:	
Country of Issue:	

Date of change in beneficial owner/senior manager* details:

.....
 Director/Secretary
 (Name and Surname)

* *Delete as necessary*"

SCHEDULE C

"Second Schedule

Penalties

Regulation	Default	Penalty	Daily Penalty
5(5)	Failure to keep record of beneficial owners	euro 5000	euro 100
6(5)	Failure to provide information to the Registrar about a change in beneficial ownership of a company	euro 5000	euro 100
6A(2)	Failure to provide the Registrar with an annual confirmation of details	euro 5000	euro 100
6A(3)	Failure to provide information to the Registrar about a change in senior managing officials of a company	euro 5000	euro 100
8(2)	Failure to comply with regulation 5 within six months from the coming into force of the regulations	euro 10,000	euro 500
8(5)	Failure to provide the Registrar with a declaration containing information on the beneficial owners of the company	euro 10,000	euro 500

".