

**SUBSIDIARY LEGISLATION 16.17**

CIVIL CODE (SECOND SCHEDULE)  
(REGISTER OF BENEFICIAL OWNERS –  
ASSOCIATIONS) REGULATIONS

20th February, 2020

*LEGAL NOTICE 24 of 2020, as amended by Act XLVII of 2020.*

1. (1) The title of these regulations is the Civil Code (Second Schedule) (Register of Beneficial Owners - Associations) Regulations.

Citation.

(2) The purpose of these regulations is to transpose the relevant provisions of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU and this in relation to information about the beneficial owners of associations established and, or registered under the laws of Malta, and these regulations shall be interpreted and applied accordingly.

Scope.

(3) These regulations shall be without prejudice to the validity or effectiveness of anything done in terms of the Civil Code (Second Schedule) (Register of Beneficial Owners - Associations) Regulations, and, to the extent necessary, such provisions shall continue to apply until these regulations shall come into force.

Applicability.  
S.L. 16.16.

2. (1) In these regulations, unless the context otherwise requires:

Interpretation.  
Amended by:  
XLVII.2020.10.

"administrator" means the person, under whatever designation he may operate, who is designated as such in the statute of the association, and who agrees in writing to so act, and when there are changes in such office, shall refer to:

(a) in the case of registered associations, those persons who are designated as such in the relevant notice submitted to the Registrar for Legal Persons or any other relevant registrar, commissioner, board or authority in terms of any special law, and who agree in writing to so act;

(b) in the case of associations which are not registered, those persons who are designated as such in the resolution appointing the same, and who agree in writing to so act; and

(c) where the administrator is a legal organisation, the persons appointed to act as directors of such legal organisation, or the equivalent, if designated under any other name, and who

agree in writing to so act,

and this, for as long as they continue to occupy such office and whether resident in Malta or otherwise and for the avoidance of doubt, in the event that an association has appointed a liquidator in the process of its winding up, such liquidator shall have the same duties of administrators under these regulations:

Provided that a reference to an administrator of an association with respect to carrying out any act or signing a document, shall be deemed to include any person who is engaged or to whom such function has been delegated in writing by the association, the legal organisation or the relevant administrator or director who shall be deemed to have the authority to delegate such powers in virtue hereof;

"association" is an organisation, other than those referred to in sub-regulation (3) of regulation 3, with defined aims or purposes to be achieved through the dedication of efforts and resources by the founding associates and others who may join voluntarily, the patrimony, namely assets and liabilities, if any, of the association being distinct from that of its members, its administrators or any beneficiaries, and which is established by an agreement between a minimum of two persons in the case of a private benefit organisation and a minimum of three persons in the case of a public benefit organisation;

S.L. 373.01.

"beneficial owner" shall have the meaning assigned to it under the Prevention of Money Laundering and Funding of Terrorism Regulations as specifically applicable to associations and "beneficial ownership" shall be construed accordingly, and for the purposes of these regulations shall refer to (a) members and (b) relevant persons as the case may be;

"Directive" means Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU;

"director" means the administrator of any type of legal organisation under whatever name such office may be designated in any relevant special law:

Provided that any reference to a director of a legal organisation with respect to carrying out any act or signing a document, shall be deemed to include any person who is engaged or to whom such function has been delegated in writing by the association, the legal organisation or the relevant administrator or director who shall be deemed to have the authority to delegate such powers in virtue hereof;

"Financial Intelligence Analysis Unit" means the Unit established under the Prevention of Money Laundering Act;      Cap. 373.

"Minister" means the Minister responsible for the registration of limited liability companies and commercial partnerships;

"Register of Beneficial Owners" means the Register of Beneficial Owners - Associations established and maintained by the Registrar for Legal Persons in terms of these regulations;

"register of beneficial owners - members" and "register of beneficial owners - relevant persons" mean the registers established and maintained by an association as required in regulation 4;

"register of legal persons" means the main register administered by the Registrar for Legal Persons in accordance with the Second Schedule;

"relevant persons" means:

- (a) the administrators;
- (b) the protector or members of a supervisory council, if any; and
- (c) any other natural person exercising ultimate and effective control over the association by means of direct or indirect ownership or by other means including any person (other than those already referred to in paragraphs (a) and (b) of this definition) whose consent is to be obtained or whose direction is binding, in terms of the statute of the association or any other instrument in writing, for material actions to be taken within the association;

and for the purposes of paragraph (c) above:

- (i) members who are entitled to act in general meetings or equivalent and act on the basis of percentages of interests shall not be considered to be relevant persons;
- (ii) when reference is made to a senior managing official on the basis of his post in the stated office and not on the basis of his ownership or the control exercised over the association by other means, then this should be stated clearly and visibly in the register of beneficial owners - relevant persons; and
- (iii) the term "material actions" means the following actions, or any other actions achieving the same result, taken by relevant persons:

(aa) the amendment of the statute;

(bb) the appointment or removal of administrators or protectors or members of the supervisory council;

(cc) the acceptance of new members or the removal of members or any increase or reduction in ownership interests, or any action affecting the entitlement of a member;

(dd) the continuation of the association in another country;

(ee) the assignment or transfer of all or the majority of the assets of the association; or

(ff) the termination of the association;

Cap. 16. "Second Schedule" means the Second Schedule to the Civil Code;

Cap. 16. "special law" means an Act of Parliament or a part of the Civil Code which regulates a particular type of association;

Cap. 373. "subject person" means a subject person in terms of the Prevention of Money Laundering Act and applicable regulations.

Cap. 373. (2) Unless otherwise stated or the context otherwise requires, terms and expressions used in these regulations shall have the meaning attributed to them in the Second Schedule, any relevant special law, the Prevention of Money Laundering Act and regulations made thereunder and in the Directive, as the context may require.

Applicability of these regulations.  
Amended by:  
XLVII.2020.11.

3. (1) Subject to the exclusions stated in sub-regulation (3), these regulations shall apply to all associations whether established for a private interest, benefit or purpose or for the achievement of a social and, or public benefit or other lawful purpose, and this, irrespective of whether they are registered or not with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other registrar, commissioner, board or authority in terms of any special law and includes civil partnerships, co-operative societies, sports organisations and voluntary organisations in the form of associations.

(2) Associations established for a private benefit are those referred to in article 48 of the Second Schedule and those established for a public benefit are those referred to in article 48A of the Second Schedule.

(3) These regulations shall not apply to:

(a) any association of persons which is regulated by the Companies Act; Cap. 386.

(b) any association which is established as a condominium association in accordance with the Condominium Act; Cap. 398.

(c) any association which is a trade union or an employers' association;

(d) any other type of association not referred to above which the Minister, in consultation with the Minister responsible for finance, may by notice designate.

**4. (1)** Every association shall take all reasonable steps to obtain and at all times hold adequate, accurate and up-to-date information in respect of its beneficial owners, including the details of the beneficial interests held, which shall at least include the following particulars: Associations to obtain and keep record of beneficial owners.

(a) the name, the nationality, the country of residence, the date of birth or in the case of a legal organisation the date of establishment or of registration, and an official identification document number indicating the type of document and the country of issue;

(b) the effective date when any person became or ceased to be a member, the nature and extent of the beneficial interest held by such member and changes thereto, including the effective date on which his interest in the association has increased or been reduced, if such changes take place;

(c) the role of the relevant person in relation to the association in terms of paragraphs (a) to (c) of the definition "relevant person" in regulation 2(1) and the effective date on which a person became, or ceased to be, a relevant person of the association:

Provided that for the purposes of the said paragraph (c), when reference is made to a senior managing official on the basis of his post in the stated office and not on the basis of his ownership or the control exercised over the association by other means, then this should be stated clearly and visibly in the register of beneficial owners – relevant persons.

**(2)** Any person who has reasonable cause to believe that he is a beneficial owner of an association shall be bound to provide the information required under sub-regulation (1) to the association without delay:

Provided that, without prejudice to the aforesaid, the

association shall obtain the information required under sub-regulation (1) from the beneficial owners of the association and, or from any natural person whom it has reasonable cause to believe to be a beneficial owner, who shall be bound to provide the said information to the association within a reasonable time of being requested, not being in excess of fourteen (14) days, and every beneficial owner who acquires, disposes of, increases or reduces his beneficial interest in the association or whose interest is disposed of, increased or reduced through an action of the administrators of the association or of any other person having powers to do so under the statute of the association, and every person who is appointed or ceases to be or to carry out the role of a relevant person within the association shall be bound to provide the said information to the association within fourteen (14) days of such event taking place:

Provided further that, in cases where a member is a legal organisation or a fiduciary or other intermediary, information shall be obtained with reference to the natural person who is the ultimate beneficial owner thereof.

(3) Such information shall be verified by the association on the basis of documents, data or information obtained from a reliable source and the association shall not enter the name of any beneficial owner in the register of beneficial owners - members, or the register of beneficial owners - relevant persons, unless it has reasonably confirmed the accuracy of the information. The association shall also ensure that it obtains declarations confirming that the beneficial owner is not an intermediary, such as an agent, mandatory or trustee, for another person, and, if so, the association shall also obtain information on the natural person who is the principal or beneficiary of such intermediary.

Any information contained in the statute of an association, a power of attorney, an engagement or instruction letter delivered to the Registrar for Legal Persons and any document or notice registered with the Registrar for Legal Persons or any other relevant registrar, commissioner, board or authority in terms of any special law, at any time or any other official document shall be deemed to be sufficiently reliable for the purposes of carrying out the duties under this regulation.

(4) Every association shall enter the information referred to in sub-regulation (1) in:

(a) a register of beneficial owners - members, which shall contain such information about the members of the association; or

(b) a register of beneficial owners - relevant persons, which shall contain such information about the persons

mentioned in paragraphs (a) to (c) of the definition "relevant persons" in these regulations,

as the case may be, which registers shall be kept and maintained by the association, or its delegates, at the registered address of the association or at such other place as may be specified in the statute of the association.

(5) Unless an association has obtained, as may be applicable, information on the underlying beneficial ownership and unless it has carried out the verifications required by these regulations, it shall not:

(a) enter the name of a new member or any changes to the voting rights or ownership interests in the register of members of the association or the register of beneficial owners - members; or

(b) enter the name of a relevant person or any changes thereto in the register of beneficial owners - relevant persons; or

(c) notify the Registrar for Legal Persons in compliance with the Second Schedule or any other relevant registrar, commissioner, board or authority in terms of any special law when required upon an event taking place.

(6) Beneficial owners who are natural persons and whose personal data is held in the register of beneficial owners - members and, or register of beneficial owners - relevant persons under these regulations shall be informed of such fact, together with information about their rights, and the procedures applicable for exercising those rights under the Data Protection Act and any regulations made thereunder, by the relevant association within thirty (30) days of the association submitting such information to the Registrar for Legal Persons as required under these regulations.

Cap. 586.

(7) Any person who is a beneficial owner of an association has a right of access to any information relating to himself in the relevant register held by such association within a reasonable period not exceeding thirty (30) days after he makes a request in writing to this effect to the association.

(8) If default is made in complying with the provisions of sub-regulations (1) or (2), as the case may be, of this regulation:

(a) the association and every administrator of the association who is in default shall be jointly and severally liable to a penalty, and, for every day during which the default continues, to a further penalty:

Provided that the association and the administrators of the association shall not be liable if they had

exercised all due diligence to comply with the provisions of this regulation and the default was not due to any negligent act or omission on their part; and

(b) every member or any person referred to in paragraphs (b) or (c) of the definition relevant person who is in default, without valid excuse, shall be liable to a penalty and, for every day during which the default continues, to a further penalty.

(9) Nothing in this regulation shall have any effect on the obligation of any association to establish and maintain a register of members referred to in article 51 of the Second Schedule or the equivalent referred to in other special laws which may be applicable to any particular type of association.

(10) The administrators of an association shall retain the information in respect of its beneficial owners including the details of the beneficial interests held in terms of these regulations for ten (10) years and this, from the date on which:

(a) the grounds for registering the beneficial ownership information have ceased to exist; or

(b) the association has been struck off from the Register of Legal Persons or, if the association is not registered in terms of the Second Schedule or applicable regulations, from the date on which the certified copy of the winding up resolution is delivered to the Registrar of Legal Persons in accordance with article 59 of the Second Schedule; or

(c) there is the termination of registration in case of the continuation of the association in another country in accordance with article 22A of the Second Schedule,

whichever is the earlier.

Associations  
established before  
30th June 2019.

5. (1) Where an association has been established prior to 30th June 2019, irrespective of whether this is registered or not with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other registrar, commissioner, board or authority in terms of any special law, there shall be delivered to the Registrar for Legal Persons by 30<sup>th</sup> June, 2019 a declaration, in the prescribed form, signed by one of the administrators of the association, containing adequate, accurate and up-to-date information in accordance with regulation 4 on all the beneficial owners of the association. Where the administrator is a body corporate, such declaration shall be signed by one director thereof:

Provided that if the association is not registered with the

Registrar for Legal Persons in terms of the Second Schedule or applicable regulations, there shall also be delivered to the Registrar for Legal Persons by the aforementioned date, together with the aforementioned declaration, an authenticated copy of the statute of the association.

(2) An association referred to in this regulation shall not be registered, if the association is not registered and, in any case all relative forms and documents, shall not be registered in accordance with the Second Schedule and applicable special laws unless the Registrar for Legal Persons is satisfied that the requirements of this regulation have also been complied with, and this, notwithstanding the maximum date for compliance stated in the preceding sub-regulation.

6. (1) Any association which is established on or after 1st July 2019 until the coming into force of these regulations, irrespective of whether this is registered or not with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other registrar, commissioner, board or authority in terms of any special law, shall comply with these regulations within three (3) months of the coming into force of these regulations and there shall be delivered to the Registrar for Legal Persons within such time period a declaration in the prescribed form, signed by one of the administrators of the association containing adequate, accurate and up-to-date information in accordance with regulation 4 on all the beneficial owners of the association. Where the administrator is a body corporate, such declaration shall be signed by one director thereof:

Associations established on or after 1st July 2019 up to the date of coming into force of these regulations.

Provided that if the association is not registered with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations, there shall also be delivered to the Registrar for Legal Persons by the aforementioned period of time, together with the aforementioned declaration, an authenticated copy of the statute of the association.

(2) With reference to an association referred to in sub-regulation (1):

(a) in the case of an association which is not registered with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other registrar, commissioner, board or authority in terms of any special law, the association shall comply with these regulations before it commences activities notwithstanding the date for compliance stated in sub-regulation (1); and

(b) in the case of an association which seeks registration with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other

registrar, commissioner, board or authority in terms of any special law, the association shall not commence activities and the association and all relative documents, shall not be registered in accordance with the applicable special laws unless the Registrar for Legal Persons is satisfied that the requirements of these regulations have also been complied with and this, notwithstanding the date for compliance stated in sub-regulation (1).

Associations  
established after  
the coming into  
force of these  
regulations.

(3) Any association which is established after the coming into force of these regulations, irrespective of whether this is to be registered or not with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other registrar, commissioner, board or authority in terms of any special law, shall comply with these regulations within three (3) months of the date of its establishment and there shall be delivered to the Registrar for Legal Persons within such time period:

(a) a declaration in the prescribed form, signed by one of the administrators of the association containing adequate, accurate and up-to-date information in accordance with regulation 4 on all the beneficial owners of the association. Where the administrator is a body corporate, such declaration shall be signed by one director thereof; and

(b) if the association is not registered within the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations, there shall also be delivered to the Registrar for Legal Persons, within the aforementioned time period, together with the aforementioned declaration, an authenticated copy of the statute of the association.

(4) With reference to an association referred to in sub-regulation (3):

(a) in the case of an association which is not registered with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other registrar, commissioner, board or authority in terms of any special law, the association shall comply with these regulations before it commences activities; and

(b) in the case of an association which seeks registration with the Registrar for Legal Persons in terms of the Second Schedule or applicable regulations or with any other registrar, commissioner, board or authority in terms of any special law, the association shall not commence activities and the association and all relative documents, shall not be registered in accordance with the applicable special law unless the Registrar for Legal Persons is satisfied that the requirements

of this regulation have also been complied with.

(5) (a) Any personal data submitted to the Registrar for Legal Persons under these regulations, shall be current and shall correspond to the actual beneficial owners of the association on the date of submission.

Rules applicable to all cases for regulations 5 and 6.

(b) On a continuing basis, if the association is registered, the Registrar for Legal Persons, or where the registration has taken place under a special law, the relevant registrar, commissioner, board or authority, shall not proceed with the registration of any registerable forms or documents of the association delivered to him in accordance with any applicable special law, unless the Registrar for Legal Persons is satisfied that the requirements of these regulations have been complied with.

For the purpose of these regulations:

(i) the relevant registrars, commissioners, boards or authority shall co-ordinate their activities with the Registrar for Legal Persons in accordance with guidelines issued by him on such matters from time to time; and

(ii) the relevant registrar, commissioner, board or authority shall notify any association for which a submission is refused due to non-compliance with these regulations of the reasons for refusal.

(6) In case of default of compliance with regulation 5(1), 6(1) and 6(3), the association and every administrator of the association who is in default shall be jointly and severally liable to a penalty, and, for every day during which the default continues, to a further penalty:

Provided that the association and the administrators of the association shall not be liable if they had exercised all due diligence to comply with the provisions of these regulations and the default was not due to any negligent act or omission on their part.

(7) The Registrar for Legal Persons shall be entitled to require online registration of any documents or forms submitted to him in accordance with these regulations, and to establish the rules and procedures relative thereto in guidelines which he may issue for this purpose.

Online registration.

7. (1) The information on the beneficial owners of every association provided to the Registrar for Legal Persons in accordance with these regulations shall be entered and held by the Registrar for Legal Persons in a Register of Beneficial Owners kept for this purpose, which register may be in electronic format.

Register of Beneficial Owners.

(2) Documents required to be delivered to the Registrar for Legal Persons under any of the provisions of these regulations shall not form part of, nor be registered in, the main Register of Legal Persons administered by the Registrar for Legal Persons under the Second Schedule and the information on the beneficial owners of every association provided to the Registrar for Legal Persons in accordance with these regulations shall be entered and held by the Registrar for Legal Persons only in the Register of Beneficial Owners kept by the Registrar for Legal Persons for this purpose.

(3) The Register of Beneficial Owners shall be accessible only to such persons, under such conditions and in accordance with such procedures as are set out in these regulations. For the avoidance of doubt, in case of conflict regarding accessibility between any special law governing a particular legal form of association, including the Second Schedule, and these regulations, these regulations shall prevail over the provisions of any special law in so far the Register of Beneficial Owners is concerned.

(4) The information provided by an association in terms of these regulations shall be deemed to be sufficiently reliable for the Registrar for Legal Persons to proceed with the registration or relevant action; however, he may demand any additional or updated information to verify that an association is at any time complying with its duties under these regulations.

Notice of change in beneficial owners to the Registrar for Legal Persons.

**8.** (1) The information held in the Register of Beneficial Owners must be adequate, accurate and up-to-date.

(2) Where there is a change in the beneficial ownership of an association or any other change occurs as a result of which the particulars in the Register of Beneficial Owners in relation to a beneficial owner are no longer current, are incorrect or incomplete, the association shall, within fourteen (14) days from the date on which the change is recorded with the association, deliver to the Registrar for Legal Persons a notice, in the prescribed form, of the change, providing the information required under regulation 4 on any new beneficial owner, updated information including on the nature and extent of the beneficial interest held, on each of the other beneficial owners and the effective date of changes made, and the Registrar for Legal Persons shall enter the said changes in the Register of Beneficial Owners:

Provided that if the change in the beneficial ownership information relates to a change in the administrator(s), it shall be the duty of the administrator(s) in office thereafter to notify the Registrar for Legal Persons of such change.

(3) The Registrar for Legal Persons shall not, upon receiving the notice referred to in the preceding sub-regulation, register any changes in the beneficial owners in the Register of Beneficial Owners

unless the requirements of these regulations have been complied with, and this, with reference to the notice itself or for any other reason.

(4) The notice of changes in beneficial ownership referred to in sub-regulation (2), duly completed, shall be signed by at least one administrator of the association. Where the administrator is a body corporate, such notice shall be signed by at least a director thereof.

(5) In case of default in complying with the provisions of this regulation, the association and every administrator of the association who is in default shall be jointly and severally liable to a penalty, and, for every day during which the default continues, to a further penalty:

Provided that an association and the administrators of the association shall not be liable if they had exercised all due diligence to comply with the provisions of this regulation and the default was not due to any negligent act or omission on their part.

(6) The obligation to file a notice in terms of this regulation shall not exonerate the association, or any of its administrators, from any duty to notify such changes to the Registrar for Legal Persons or any other registrar, commissioner, board or authority or other person in terms of the applicable special law.

9. (1) If:

Rectification of the registers.

(a) the name of any person is, without sufficient cause, entered in or omitted from the register of beneficial owners - members, or the register of beneficial owners - relevant persons, kept and maintained by an association or the Register of Beneficial Owners kept and maintained by the Registrar for Legal Persons; or

(b) unnecessary delay, being at least more than thirty (30) days, takes place in entering in or removing from such registers the fact that a person has become or ceased to be a member or a relevant person of such association,

the person aggrieved or any member or relevant person may apply to the Civil Court, First Hall, for the rectification of the relevant register and, or the Register of Beneficial Owners.

(2) Where an application is made under sub-regulation (1), the Civil Court, First Hall may:

(a) refuse the application;

(b) decide any question as to whether the name of any person should or should not be entered in or removed from the relevant register, as the case may be;

(c) order the rectification of the relevant register, as the case may be;

(d) order payment by the association of compensation of up to one thousand euro (€1,000) for any loss sustained by any party aggrieved; and, or

(e) more generally, decide any question necessary or expedient to be decided for rectification of the relevant register.

(3) All decisions of the Civil Court, First Hall, relating to the above mentioned registers shall be deemed to be orders which apply to the association, and also to the Registrar for Legal Persons without being a party thereto, and they shall, upon being notified with a certified copy of the judgment of the Civil Court, First Hall, act accordingly to ensure that identical actions are taken in all the relevant registers

Discrepancies.

(4) (a) Subject persons referred to in sub-regulation (1)(b) of regulation 10 and, if appropriate and to the extent that this does not interfere unnecessarily with their functions, competent authorities referred to in sub-regulation (1)(a) of regulation 10, shall report to the Registrar for Legal Persons any discrepancies they find between the beneficial ownership information available in the Register of Beneficial Owners and the beneficial ownership information otherwise available to them.

(b) In the case of reported discrepancies, the Registrar for Legal Persons shall, unless otherwise prohibited in terms of these regulations and only to the extent permitted by these regulations, inform the association of the reported discrepancy requesting a clarification thereon within a time period indicated therein, together with any documentation which he shall consider necessary for such discrepancy to be resolved, and may at his discretion, insert an annotation in the Register of Beneficial Owners as he deems appropriate.

(c) The Registrar for Legal Persons may determine, in case of registered associations, that the discrepancy is material and may undermine the utility of public information in the Register of Legal Persons and, in such event, may note the discrepancy even in the Register of Legal Persons until it is corrected to his satisfaction. This rule shall apply *mutatis mutandis* to other registrars, commissioners, boards or authorities and registers under other special laws whom the Registrar for Legal Persons may notify in writing of any discrepancy which may come to his attention.

(d) The Registrar for Legal Persons may report such discrepancies to the Financial Intelligence Analysis Unit in case of failure to address the discrepancy within a reasonable time.

**10.** (1) The information on the beneficial owners of an association held by the Registrar for Legal Persons in the Register of Beneficial Owners shall, subject to the provisions of these regulations, be accessible to:

Access to information in the Register of Beneficial Owners.

(a) national competent authorities being public authorities with designated responsibilities for combating money laundering or terrorist financing, or that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, or of tracing, seizing, freezing and confiscating criminal assets, the Financial Intelligence Analysis Unit and national tax authorities, supervisors of subject persons and any other national competent authority within the meaning assigned to it under the Prevention of Money Laundering and Funding of Terrorism Regulations not already covered above, for the purposes of fulfilling their statutory functions, in a timely manner without any restriction and without alerting the association or the beneficial owners concerned; and

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(b) subject persons in terms of the Prevention of Money Laundering and Funding of Terrorism Regulations for the purpose of carrying out customer due diligence in accordance with the said regulations with reference to such association, which access shall be granted in a timely manner on a written request.

S.L. 373.01.

(2) Upon a written request to the Registrar for Legal Persons, any member of the general public and any organisation, other than those referred to in sub-regulation (1), may be provided with the following information held in the Register of Beneficial Owners with reference to a specified association:

Members of the public.

- (a) the name;
- (b) the month and year of birth or the date of establishment or registration in case of a legal organisation;
- (c) the nationality or the State of establishment or registration in case of a legal organisation;
- (d) the country of residence; and
- (e) the extent and nature of the beneficial interest,

of the beneficial owners of the association and this shall be granted in a timely manner. Any such person or organisation shall not be granted access to any other information or documents relating to the beneficial owners of the association which may be in the possession of the Registrar for Legal Persons.

(3) The subject persons mentioned in sub-regulation (1)(b) shall, together with the written request, submit to the Registrar for Legal Persons:

(a) identification details and other information supported by documents, certified as authentic, showing that the person requesting access to the Register is a subject person, such as a licence or a professional warrant or other evidence of the function of the subject person;

(b) a declaration that the purpose of the enquiry relates and will contribute to the prevention, detection and combating of money laundering or the associated predicate offences or the financing of terrorism;

(c) documentation, certified as authentic, of the legal relationship with the association or the beneficial owners, such as an engagement or instruction letter engaging the subject person or a power of attorney, if any, and failing which a declaration explaining why the subject person's role is not based on such a legal relationship; and

(d) any other document which the Registrar for Legal Persons may deem necessary.

(4) The members of the general public mentioned in sub-regulation (2) shall, together with a written request, submit to the Registrar for Legal Persons:

(a) identification details and other information supported by documents, certified as authentic, identifying the person requesting information from the Register of Beneficial Owners;

(b) a declaration of the legal basis of their request to confirm that the purpose of the enquiry relates and will contribute to the prevention, detection and combating of money laundering or the associated predicate offences or the financing of terrorism and a general description of how access to the information will so contribute;

(c) any other document which the Registrar for Legal Persons may deem necessary:

Provided that for this purpose, the Registrar for Legal Persons may publish guidelines setting out the documentation required to support such a request to information held in the Register of Beneficial Owners as well as the procedure for making such requests and any other applicable conditions.

(5) To prevent the abuse of the information contained in the Register of Beneficial Owners and to balance out the rights of beneficial owners, the Registrar may make:

- (a) information relating to the applicants mentioned in sub-regulations (1)(b) and (2);
- (b) the legal basis for their request; and
- (c) the reasons for the decision taken by the Registrar for Legal Persons to grant access to information,

available to the association and, or the relevant beneficial owner to enable such association or beneficial owner to protect their own interests.

(6) Access to or provision of information held in the Register of Beneficial Owners shall be subject to the following conditions:

- (a) the competent authorities referred to in sub-regulation (1)(a) shall be granted access without restriction to the requested information held in the Register of Beneficial Owners on the assumption that such consultation is related to such competent authority's statutory functions and subject to the relevant competent authority's obligations under applicable data protection laws and regulations;
- (b) subject persons referred to in sub-regulation (1)(b) shall be granted access to the requested information held in the Register of Beneficial Owners upon written request to the Registrar for Legal Persons on the basis of the declarations made and documents submitted as stated in sub-regulation (3) being satisfactory and subject to the relevant subject person's obligations under applicable data protection laws and regulations and laws relating to professional secrecy; and
- (c) the persons or organisations forming part of the general public referred to in sub-regulation (2) shall be granted the information requested on satisfactory compliance with sub-regulation (4).

Provided that any such request and any permission granted shall be limited to the specific association and the specific beneficial owner or owners referred to in the request.

(7) (a) Except in the case contemplated in sub-regulation (1)(a) or in the case of credit or financial institutions in the course of carrying out their duties under laws for the prevention of money laundering and terrorist financing or of subject persons that are public officials, access to information on a beneficial owner of an association

Special cases  
involving serious  
risks.

may be denied, in full or in part where, in exceptional circumstances to be justified by means of documentary evidence and to be determined on a case by case basis, following a detailed evaluation of the exceptional nature of the circumstances, access to such beneficial ownership information would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or is otherwise legally incapable.

(b) Every request for information which raises the above risks based on information provided by the association when complying with these regulations shall be examined by the Registrar for Legal Persons on a case-by-case basis prior to his determination on whether to grant access to information or otherwise. Such denial of access by the Registrar for Legal Persons shall only be decided upon a detailed evaluation of the exceptional nature of the circumstances.

(8) (a) The Registrar for Legal Persons shall be bound to notify the association to which sub-regulation (7) applies, in writing, of any application for information relating to the applicants mentioned in sub-regulations (1)(b), and (2) and the legal basis for the request.

(b) The Registrar for Legal Persons shall grant the association at least ten (10) working days to make any submissions in writing to the Registrar for Legal Persons. The association shall communicate the information to any relevant beneficial owner for any comments which such beneficial owner may wish to raise in such time and manner as will enable the association to respond as above stated. The Registrar for Legal Persons shall process the response received in a timely manner.

(c) Should the Registrar for Legal Persons decide to grant access, he shall provide the reasons for his decision to the association in writing prior to notifying such decision to the applicant and the association shall have a right to contest such decision by applying for judicial review of such decision within twenty (20) working days from receipt thereof, and this without involving the applicant. The sworn application for judicial review shall be notified to the Registrar for Legal Persons who shall have twenty (20) working days to respond to such application:

Provided that the Registrar for Legal Persons shall not grant access until the conclusion of the review proceedings and in such case only under the conditions as may be established by the Court.

Decisions refusing  
access to  
information.

(9) (a) The Registrar for Legal Persons shall be bound to notify in writing the applicant, with a copy to the association, of any decisions that he may take refusing a written request made to him on the basis of sub-regulation (7), providing the reasons for his decision. The Registrar for Legal Persons shall do so in a timely manner.

(b) Any applicant who feels aggrieved by the decision of the Registrar for Legal Persons shall have a right to apply for judicial review of such decision, within twenty (20) working days from receipt thereof, which application for judicial review shall also be notified to the Registrar for Legal Persons who shall have twenty (20) working days to respond to such application. The sworn application shall also be notified to the association, which may consult the relevant beneficial owner and who shall be entitled to participate in the proceedings with the association.

(10) A sworn application for judicial review from the decision of the Registrar for Legal Persons in terms of sub-regulation (8) and (9) shall be made to the Civil Court, First Hall, and this, with a right of appeal, within twenty (20) working days from the date on which the decision of the Civil Court, First Hall is given, to the Court of Appeal in its inferior jurisdiction. An appeal may be made on any point of law and, or of fact by means of a sworn application.

(11) Such applications for judicial review and any appeals shall be filed in the registry of the relevant court and, if so ordered by the court, the proceedings shall be held *in camera* to protect the confidentiality of the beneficial owners.

(12) The Registrar for Legal Persons shall be entitled to require solely online requests to access information in the Register of Beneficial Owners, as established in guidelines which he may issue for this purpose.

Online requests for access.

(13) Notwithstanding the provisions of any other law, including the laws on professional secrecy and data protection, the competent authorities referred to in sub-regulation (1)(a) and the Financial Intelligence Analysis Unit are permitted, in pursuance of their functions in accordance with applicable law, to provide the information about the beneficial owners to competent authorities and to Financial Intelligence Units of other Member States of the European Union and to do so in a timely manner and free of charge.

Sharing of Information.

(14) The Registrar for Legal Persons shall publish annual statistical data on the number of refusals issued under sub-regulation (7) and the reasons stated thereof and report the data to the European Commission.

Statistics.

**11.** (1) All persons entitled to access and to the receipt of information in terms of these regulations shall comply with the provisions of the Data Protection Act and relevant regulations thereunder in relation to the information which they have accessed or received and they shall also be subject to the obligation not to disclose any information about beneficial owners except as required or permitted by applicable law.

Data protection and confidentiality. Cap. 586.

(2) The Registrar for Legal Persons shall be bound to

maintain confidentiality on any access to the Register of Beneficial Owners by the authorities referred to in regulation 10(1)(a) and shall not inform the association or the beneficial owners on whom information is sought of such access. In all other cases the Registrar for Legal Persons shall act according to these regulations and shall endeavour to do so within reasonable times.

Provisions to support the functions of the Registrar for Legal Persons.

Cap. 373.

**12.** (1) The provision of information by associations in accordance with these regulations to the Registrar for Legal Persons shall not imply that such associations do not remain equally obliged to provide any information requested of them by subject persons taking customer due diligence measures in accordance with the Prevention of Money Laundering Act and applicable regulations, as well as others entitled to such information under special laws, about such association and its beneficial owners.

(2) So as to ensure that the Registrar for Legal Persons is not inundated with requests under these regulations which could be easily met by observance of basic compliance with applicable laws and so as to avoid demands on the Registrar for Legal Persons which are not eligible under these regulations:

(a) all subject persons shall deal directly with associations and beneficial owners prior to applying to the Registrar for Legal Persons; and

(b) all associations shall provide information about their beneficial owners, direct and indirect, to subject persons, as well as to others entitled to such information under special laws, in a timely manner, when:

Cap. 373.

(i) such subject persons are carrying out customer due diligence measures in accordance with the Prevention of Money Laundering Act and applicable regulations; or

(ii) other persons who are seeking information from the association itself and who are entitled to demand, and be provided with, such information, are doing so for the purposes of special laws which are intended for the prevention, detection and combating of money laundering or the associated predicate offences or the financing of terrorism.

(3) In any case, subject persons shall not rely exclusively on the Register of Beneficial Owners to fulfil their customer due diligence requirements and access to such Register of Beneficial Owners by subject persons in terms of these regulations shall not exonerate such subject persons from all responsibilities and duties incumbent upon them in terms of applicable law.

13. (a) Any administrator of an association who knowingly or recklessly makes a statement, declaration or otherwise provides to the Registrar for Legal Persons information on the beneficial ownership of an association that is misleading, false or deceptive in a material particular; and

Misleading, false or deceptive information.

(b) any beneficial owner of an association who knowingly or recklessly makes a statement, declaration or otherwise provides to the administrators of an association information on the beneficial ownership of an association, that is misleading, false or deceptive in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) of not more than five thousand euro (€5,000) or to imprisonment for a term not exceeding six (6) months or to both such fine and imprisonment.

14. (1) The Register of Beneficial Owners held by the Registrar for Legal Persons in accordance with regulation 7 shall be interconnected with the system of interconnection of central registers of Member States established by Article 22 of Directive (EU) 2017/1132 and in accordance with national law by means of the European Central Platform and the European e-Justice portal serving as the European electronic access point. The connection to the platform shall be set up in accordance with the technical specifications and procedures established by implementing acts adopted by the European Commission.

Interconnection of the Register of Beneficial Owners.

(2) The information on the beneficial owners of an association held by the Registrar for Legal Persons in the Register of Beneficial Owners shall be available and accessible to the authorities mentioned in regulation 10(1)(a) through the system of interconnection of registers mentioned in this regulation.

(3) The information on the beneficial owners of an association held by the Registrar for Legal Persons in the Register of Beneficial Owners shall be available through the Register of Beneficial Owners and through the system of interconnection of registers for at least five (5) years after:

(a) the grounds for registering the beneficial ownership information have ceased to exist; or

(b) the association has been struck off from the Register of Legal Persons or, if the association is, for any reason, not registered in terms of the Second Schedule or applicable regulations, from the date on which the certified copy of the winding up resolution is delivered to the Registrar for Legal Persons in accordance with article 59 of the Second Schedule; or

(c) there is the termination of registration in case of the continuation of the association in another country in accordance with article 22A of the Second Schedule, whichever is the earlier.

Electronic communication.

**15.** Any document which is required to be delivered to the Registrar for Legal Persons under any of the provisions of these regulations and any such delivery and the retention of any such document by the Registrar for Legal Persons, may be in such format and by such means, including in electronic form and by electronic communication within the meaning of the Electronic Commerce Act, as the Registrar for Legal Persons may deem appropriate.

Cap. 426.

Administrative penalties.

**16.** (1) Where any provision of these regulations provides for the imposition of a penalty, the amount of such penalty shall be determined by reference to the Schedule, which specifies the maximum penalty that may be imposed by the Registrar for Legal Persons under any of the provisions of these regulations.

(2) The first column in the Schedule, indicates the regulation and sub-regulation which prescribes that a penalty shall be imposed, the second column gives a general description of the infringement, which description shall not be relied on in interpreting any provision of these regulations, the third column prescribes the maximum penalty and the fourth column prescribes the maximum daily default penalty. The penalty shall become due on the day on which the default occurs and the daily default penalty shall be due for every day during which the default continues and shall accrue from the day following that on which the default occurs.

(3) Action by the Registrar for Legal Persons for the recovery of a penalty under these regulations shall be prescribed by the lapse of five (5) years from the day on which the default occurs.

(4) An association, irrespective of whether it has legal personality or not, shall be jointly and severally liable with its administrators for the payment of any administrative penalties imposed under these regulations.

(5) The provisions of the Schedule shall apply to any penalty imposed by the Registrar for Legal Persons under these regulations.

Fees.

**17.** Access to information in the Register of Beneficial Owners may be subject to the payment of a fee which shall not exceed the administrative costs thereof, including costs of maintenance and development of the Register. The Registrar for Legal Persons may, from time to time, by notice publicly available at the Registry for Legal Persons, establish such fee.

Forms.

**18.** The Registrar for Legal Persons shall have the power to

issue and prescribe forms, and to modify the same as may be required, from time to time, to be used by associations, beneficial owners, persons requesting access and information and otherwise, for the better carrying out and implementation of these regulations.

**19.** The Registrar for Legal Persons may, from time to time, issue guidelines for the better implementation of these regulations in particular contexts. Guidelines.

**SCHEDULE**  
(Regulation 16)

Regulations and Penalties applicable thereunder

| Regulation | Default                                                                                                                                                        | Penalty | Daily penalty |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------------|
| 4(8)       | 4(1) Failure to keep record of beneficial owners                                                                                                               | €500    | €5            |
| 4(8)       | 4(2) Failure to provide information within fourteen (14) days of formal request by the association                                                             | €500    | €5            |
| 6(6)       | Failure to submit the declaration to the Registrar for Legal Persons within the periods referred to in the regulations 5(1), 6(1) and 6(3)                     | €500    | €5            |
| 8(5)       | 8(2) Failure to provide information to the Registrar for Legal Persons about a change in the beneficial owners of an association within the stated time period | €500    | €5            |

The following provisions shall apply to any penalty imposed by the Registrar for Legal Persons in terms of the Civil Code (Second Schedule) (Register of Beneficial Owners - Associations) Regulations:

- (1) Where the Registrar for Legal Persons gives notice in writing to any association and, or any person that such association and, or person has become liable to a penalty under these regulations specifying the nature of the infringement, and indicating an amount as due by way of penalty in respect of such infringement, the association and, or person to whom the notice is given shall, without prejudice to the provisions of paragraphs (2) to (15) be deemed to have incurred a penalty under these regulations, and the amount indicated as aforesaid as due by way

of penalty including any penalty due for each day during which the default continues shall be deemed to be the penalty due under these regulations in respect of the infringement specified in the notice.

- (2) A notice as is referred to in paragraph (1) shall, upon the service of a copy thereof by means of a judicial act on the association and, or any person indicated in the notice, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure unless such person shall within thirty (30) days from the date of such service institute proceedings before the court objecting to the penalty so fixed.
- (3) Where any association and, or any person desires to institute proceedings objecting to a penalty referred to in paragraph (1), such proceedings shall be instituted by application against the Registrar for Legal Persons.
- (4) The application shall, under pain of nullity, state clearly and concisely the nature of the complaint, the facts out of which the complaint arises, the reasons why such complaint should be upheld, and the claim that the penalty is not due at law or is due at law only in a smaller amount.
- (5) The court shall not annul or reduce a penalty as aforesaid unless such penalty cannot at law be imposed in the circumstances of the case, or cannot at law be fixed in the amount fixed by the Registrar for Legal Persons.
- (6) The applicant shall attach to the application all such documents in support of his claim as it may be in his power to produce, and shall indicate in his application the names of all witnesses he intends to produce stating, in respect of each, the proof which he intends to make.
- (7) The court shall, without delay, set down the application for hearing at an early date, which date shall in no case be later than thirty (30) days from the date of the filing of the application.
- (8) The application, and the notice of the date fixed for hearing, shall be served on the Registrar for Legal Persons without delay, and the said Registrar for Legal Persons shall file his reply thereto within fourteen (14) days after the date of the service of the application.
- (9) The Registrar for Legal Persons shall, in his reply, state clearly and concisely whether he agrees to the facts set out in the application, and the reasons why he objects to the claim; he shall moreover state in his reply the names of the witnesses in support

of his reasons and shall attach thereto all the documents in support thereof.

- (10) On the day fixed for the hearing of the application, the court shall consider only the issues of fact and of law as are ascertainable from the application, reply or documents filed, by either of the parties, or from the evidence indicated by either of the parties in the application or reply, as the case may be, or from the oral pleading of either of the parties.
  - (11) The court shall hear the application to a conclusion within five (5) working days from the date fixed for the original hearing of the application, and no adjournment shall be granted except either with the consent of both parties, or for an exceptional reason to be recorded by the court, and such adjourned date shall not be later than that justified by any such reason.
  - (12) Saving the preceding paragraphs, the provisions of the Code of Organization and Civil Procedure relating to proceedings before the First Hall of the Civil Court shall apply in relation to any such application.
  - (13) Notwithstanding the provisions of article 256(2) of the Code of Organization and Civil Procedure, the executive title referred to in paragraph (2) shall not be enforceable before the lapse of thirty (30) days from the service of the judicial act therein referred to.
  - (14) The decision of the court upon an application referred to in paragraph (3), confirming the imposition of a penalty fixed by the Registrar for Legal Persons or reducing any such penalty, shall upon becoming *res judicata* be deemed to be a judgment of the court ordering the payment by the applicant of the penalty as confirmed or reduced.
  - (15) An appeal from a decision of the court upon an application referred to in paragraph (3), shall be made by means of an application to the Court of Appeal to be filed within ten (10) working days of the date of the decision; the association and, or person against whom the appeal is entered shall within ten (10) working days from the service upon him of the application file a reply to the appeal.
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