

Companies (Amendment) Bill 2024

Salient features

The Companies (Amendment) Bill 2024 was gazetted on 6 December 2024 and is currently awaiting assent and confirmation of date of commencement. Salient features of the amends are summarized below.

1. **Nominee definition amended:** Will substitute the definition of “nominee” and brings in definitions for “nominee director” and “nominee shareholder”.
2. **Powers of Registrar to exchange information:** Empowers the Registrar to exchange information with foreign corporate registries and foreign competent authorities.
3. **Number of Director to be resident:** Section 145 will be amended to mention specific number of directors to be ordinarily resident in Botswana, i.e: 2 directors in the case of a public company, 1 director in the case of a private company (excluding close company), foreign company or company limited by guarantee.
4. **Registrar to license Company Secretaries:** Section 161 will be amended to allow for the Registrar to license Company Secretaries, the transitional period for compliance is within 24 months of commencement of the Act, or within such longer period as may be specified by the Minister.

5. **Retention of records:** Section 186 (2) which is provided for the period of retention of company records will be deleted.
6. **Ultimate Beneficial Owner (UBO) update:** A new Section 186 A will be introduced – this section requires a company, when updating its records, to update all records including records of UBO within the set timeframe.
7. **Filing of the company’s financial statements by non-exempt private companies:** Section 209 will be amended to provide for non-exempt private companies to file the company’s financial statements with the Registrar within the prescribed timeframes.
8. **Definition of beneficial interest:** Section 329 will be amended by increasing the percentage of beneficial interest from 5% to 10%.



9. **Nominee disclosure:** Section 329 A will be substituted to require nominee shareholders and directors to disclose the identity of their nominator to the company and any relevant registry, and for any changes to be notified to the Registrar within 10 days of such change.
10. **Prohibition on use of name removed from the register of companies:** New Section 331 A will prohibit the use of the name of a company that has been removed from the register of companies.
11. **Sanction for companies trading after being removed:** New Section 336 A will introduce penalties as set out in Sections 492 and 493 for a company that continues to trade after being removed from the register of companies.
12. **Amendment of provisions for restoration of companies:** Section 341 will be amended to introduce the following provisions:
 - a) Prohibit the Registrar from restoring a company which was removed from the register of companies for a period exceeding 5 years; and
 - b) Compel the Registrar to restore a company which was removed from the register of companies due to failure to file an annual return, within 7 days of such company paying its annual returns.
13. **Section 342 amendments:** New sub-section will be introduced to provide that a company that has been restored to the register of companies for legal proceedings, or for any other just and equitable purposes, shall upon resolution of the matter before court, revert to the status of being deregistered.
14. **Administrative penalties:** Section 492 will be amended to introduce administrative penalties not exceeding P500,000, for any other offence which has not been provided for under the Act and providing for the Registrar to be empowered to issue guidelines to the levying of such administrative penalties.
15. **Amendments to Constitution:** Addition of new Schedules to the Act:
 - a) **Constitution of a Company Limited by Shares**
 - Amendments: Part C- Clause 36- Controllers of the Company
 - Annex II - Controller's Form
 - b) **Constitution of a Close Company:** Format included.
 - c) **Constitution of a Company Limited by Guarantee:** Format included with an Annexure for the objectives.

How we can help

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