

A BILL

AN ACT to amend the Companies Act

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Companies (Amendment) Act, 2018.
Commencement	2. This Act comes into effect on such date as is fixed by the President by Proclamation.
Interpretation Chap. 81:01	3. In this Act, “Act” means the Companies Act.
Section 4 amended	4. Section 4 of the Act is amended by inserting after the definition of “beneficial interest” the following new definition: “beneficial owner” means the natural person- <ul style="list-style-type: none">(a) who ultimately owns or controls a share or shares of a company;(b) who effectively exercises ultimate control over a person or arrangement in relation to a share or shares of a company; or(c) on whose behalf a transaction in relation to a share is conducted;”
Section 33 amended	5. Section 33 of the Act is amended by repealing subsection (2), and substituting the following new subsections: “(2) No company may – <ul style="list-style-type: none">(a) issue bearer shares, bearer share certificates or bearer share warrants;(b) convert any share into a bearer shares, bearer share certificates or bearer share warrants; or(c) exchange a share for a bearer share , bearer share certificate or bearer share warrant. (3) A person who contravenes subsection (1) commits an offence.

(4) Where a company has prior to the commencement of the Companies (Amendment) Act, 2018, issued bearer share warrants, it shall inform the Registrar within twelve months of the commencement of the number of bearer share warrants it has issued.

(5) Where a company under subsection (2), has notified the Registrar of the previous issue of bearer share warrants the Company shall require the holder of the bearer share warrants to bring in the bearer share warrants for registration.

(6) A company under subsection (2) shall on its next annual return record the bearer share warrant as a regular share.

(7) The Registrar shall establish a register of bearer share warrants issued before the commencement of the Companies (Amendment) Act, 2018.”.

Section 177
amended

6. Section 177 of the Act is amended-

- (a) in subsection (2) in paragraph (b), by inserting after the words “shares,”, the words “, the number of shares and the categories of shares”; and
- (b) by inserting after subsection (6) the following new subsection:

“ (7) A company which issued bearer share warrants prior to the commencement of the Companies (Amendment) Act, 2018, shall prepare and maintain a register of the number of bearer share warrants that were issued and the date on which the bearer share warrants were brought in.”.

Section 177A
inserted

7. The Act is amended by inserting after section 177 the following new sections:

“ Interpretation of certain words and phrases in sections 177B to 177E

177A. Sections 177B to 177E are to be read and have effect as if each of the following were an individual, even if they are legal persons under the laws by which they are governed:

- (a) a corporation sole;
- (b) a body corporate created under any written law;
- (c) an international organization where members include two or more countries or territories or their government; and
- (d) Municipal Corporations under the Municipal Corporations Act.

Chap 25:04

Obligation to ascertain and obtain beneficial ownership information

177B. (1) A company shall ascertain and obtain information as to all the beneficial owners holding an interest in the company and file a return in accordance with section 177D.

(2) A company under subsection (1) shall issue a notice to all shareholders requiring a declaration be sent to the company in accordance with section 177C.

(3) Where a company who fails to ascertain and obtain all information as to the beneficial owners holding an interest in the company and file a return under subsection (1), the

company, every director and officer of the company commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues a further fine of three hundred dollars.

(4) For the purpose of identifying individuals who are the beneficial owners under subsection (1), a company is entitled as a defence for an offence under subsection (3), to rely on the declaration sent in good faith by to the company under section 177C, unless the company has reason to believe that the declaration is misleading or false.

Declaration in
respect of
beneficial
interest in any
share

177C. (1) If the name of a person is entered in the register of members of a company as the holder of shares in that company but the person does not hold the beneficial interest in such shares, the person shall make a declaration to the company within such time and in such form as is approved by the Registrar specifying the beneficial owner of the shares.

(2) Every person who holds or acquires a beneficial interest in a share or shares of a company shall, within thirty days of acquiring the

beneficial interest make a declaration to the company specifying the nature of the interest, particulars of the person in whose name the shares stand registered in the books of the company, the date on which the beneficial interest was created and such other particulars as may be prescribed.

(3) Where any change occurs in the beneficial interest in the shares, in respect of which a declaration was made under subsection (1), both the person referred to in subsection (1) and the beneficial owner specified in subsection (2) shall, within a period of thirty days from the date of the change, make a declaration to the company specifying the nature of the change and such other particulars as may be prescribed.

(4) Notwithstanding subsections (2) and (3) where the company is listed on the stock exchange as a publically traded company and a person holds or acquires a share or shares in, or a beneficial interest in the company, he shall make a declaration to the company at least one in every quarter in any given year specifying the acquisition and such other particulars as may be prescribed.

(5) A person who fails

without reasonable cause to make a declaration as required under this section, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(6) Where a declaration is made to a company under this section, the company shall make a note of the declaration in a register established by it for such purpose and shall in relation to-

- (a) a private company, within thirty days from the receipt of the declaration; or
- (b) a publically traded company, thirty days from the end of each quarter,

file a return in the form approved by the Registrar in respect of the declaration and pay the prescribed fee.

(7) Where a company is required to file a return under subsection (6) within the specified period, fails to do so, the company, and every officer of the company who knowingly and recklessly fails to file the return commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to

imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(8) No right or interest in relation to any share in respect of which a declaration is required to be made under this section but not made by the beneficial owner, shall be enforceable by him or by any person claiming through him.

(9) Nothing in this section shall prejudice the obligation of a company to pay dividends to its members under this Act and that obligation shall, on such payment stand discharged.

Company to
file a return for
the issue or
transfer of
shares

177D. (1) Where a company issues or transfers shares to a shareholder, it shall, -

- (a) in relation to a private company, within thirty days; or
- (b) in relation to a publically traded company, thirty days from the end of each quarter,

from the date of the issuance or transfer of the shares, deliver to the Registrar a return in the prescribed form notifying the Registrar of the issuance or transfer of the shares.

(2) A return under subsection (1) shall contain the prescribed information which shall contain current information up to the date of the delivery of the return, and shall be accompanied by the prescribed fee.

(3) A director or officer of the company shall certify the contents of a return made under subsection (1).

(4) Where a company fails to comply with subsection (1), the company and every director and officer who is in default, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

Application
of sections
177A to
177D to Part
V

177E. Sections 177A to 177D shall also apply to companies referred to in Part V of the Act.”.

Section 318
amended

8. Section 318 of the Act is amended in (1) paragraph (j), by inserting after the words “authorized to issue,” the words “, the shareholders, the number and category of shares they hold,”.

Section 333A
inserted

9. The Act is amended by inserting after section 333 the following new section:

Bearer shares,
bearer share
certificates and
bearer share

333A. (1) An external company, whether or not it is permitted to issue bearer shares,

warrants

bearer share certificates or bearer share warrants in its country of origin, shall not issue bearer shares, bearer share certificates or bearer share warrants in Trinidad and Tobago.

(2) An external company under subsection (1) shall issue a notice to all shareholders requiring a declaration be sent to the company.

(3) An external company, its secretary and every director shall ascertain and obtain information as may be prescribed as to all the beneficial owners holding an interest in the external company.

(4) Where an external company, its secretary and every director who fails to ascertain and obtain information as to all the beneficial owners holding an interest in the external company as required by subsection (3), the company, its directors and its officers commits an offence and are liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

(5) For the purpose of identifying individuals who are the beneficial owners under subsection (1), a company is entitled as a defence for an offence under subsection (4), to rely on the declaration sent in good faith by to the

company as required by subsection (2), unless the company has reason to believe that the declaration is misleading or false.

(6) An external company, its secretary and every director shall notify the Registrar within such time and in the prescribed form of the date of issue of all bearer share warrants issued in Trinidad and Tobago prior to the commencement of this Act.

(7) An external company, its secretary and every director who fails to notify the Registrar in accordance with subsection (6), commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three years and for every day in which the offence continues, a further fine of three hundred dollars.

L.N. No. 69
of 1997 amended

10. The Companies Regulations are amended in Schedule 2, in paragraph 20.3 by deleting the words “warrants,”.

Passed in the House of Representatives this day of , 2018.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2018.

Clerk of the Senate

I confirm the above.

President of the Senate

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