

2020-12-08

OBJECTS AND REASONS

This Bill would amend the *Companies Act*, Cap. 308.

Arrangement of Sections

1. Short title
2. Amendment of section 175 of Cap. 308
3. Insertion of section 448A into Cap. 308

BARBADOS

A Bill entitled

An Act to amend the *Companies Act*, Cap. 308.

ENACTED by the Parliament of Barbados as follows:

Short title

- 1.** This Act may be cited as the *Companies (Amendment) Act, 2020*.

Amendment of section 175 of Cap. 308

2.*Section 175 of the Companies Act, Cap. 308, in this Act referred to as the principal Act, is amended by inserting immediately after subsection (4), the following new subsections:*

- “(5) The Registrar may require a company to produce
 - (a) any books, records or other documents required to be kept by the company under any provision of this Act; and
 - (b) such other information as the Registrar may require for the proper administration and enforcement of this Act.
- (6) Notwithstanding subsection (4), the Registrar may examine, or by instrument in writing, appoint, at the expense of a company, a person to examine, any books, records and other documents required to be kept by the company under any provision of this Act
 - (a) in order to ascertain whether the company is in compliance with this Act;
 - (b) where the Registrar has reasonable grounds to suspect that the company may be in contravention of this Act; or
 - (c) where the examination is otherwise necessary for the proper administration and enforcement of this Act.
- (7) For the purposes of subsection (6), the Registrar or the person appointed by the Registrar may, in connection with an examination, require an auditor, director, officer or affiliate of a company or a person who, whether alone or in association with others, owns or controls the company to
 - (a) furnish such information as the Registrar or the person appointed by him may consider necessary for the purpose of the examination; and

(b) produce for examination any books, records or other documents relating to the business of the company that are in his possession and contain, or are likely to contain, such information.

(8) The Registrar may require a company to pay the expenses of any examination carried out by or on behalf of the Registrar under this section.

(9) A person who is required to make a disclosure to the Registrar or to a person appointed by the Registrar under subsection (6) shall not, by reason of making the disclosure, be regarded as being in breach of a duty to the company.

(10) The Registrar may give directions to a company for the purpose of compliance with this section.

(11) Where a company fails to pay the expenses referred to in subsection (8), the expenses may be recovered as a debt due to the Crown before a magistrate for District 'A'.

(12) A person who, without reasonable cause, is in default in complying with a requirement under subsection (5), (6) or (7) or a direction given under subsection (10)

(a) is liable to a penalty of \$5,000 payable to the Registrar; and

(b) if the penalty is not paid on the due date, is liable to an additional penalty of \$500 for everyday during which the default continues not exceeding \$15 000.

(13) A person who, without reasonable cause, continues to be in default in complying with a requirement or a direction referred to in subsection (12) after the maximum additional penalty referred to in that subsection becomes payable, is guilty of an offence and liable, on summary conviction, to a fine of \$100,000 or to imprisonment for a term of 5 years or to both.

(14) When an offence under subsection (13) is committed by a body corporate and a director or officer of that body corporate knowingly authorised, permitted or acquiesced in the commission of the offence, the director or officer is also guilty of the offence and liable on summary conviction, to a fine of \$100,000 or to imprisonment for a term of 5 years or to both.”.

Insertion of section 448A into Cap. 308

3. *The principal Act is amended by inserting immediately after section 448 the following new section:*

“Guidelines on beneficial ownership etc.

448A.(1) The Registrar may, in furtherance of paragraphs (e) and (e.1) of section 448, issue guidelines on the application or interpretation of the term “beneficial ownership” and the identification of beneficial owners whether by reference to thresholds in respect of ownership or control or otherwise.

(2) Any person who fails to comply with a guideline issued under subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100,000 or to imprisonment of a term of 5 years or to both.”.

Read three times and passed the House of Assembly this
day of _____, 2020.

Speaker

Read three times and passed the Senate this _____ day of
, 2020.

President