



Email: Info@jainaattorneys.co.tz

Website: <https://jainaattorneys.co.tz/>

Phone: +255 716 476 209

New Changes on the Concept of Beneficial ownership

The meaning of Beneficial Owner

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The new regulation of The Companies (Beneficial Ownership) Regulation, 2023 introduced the new meaning of The Direct and Indirect Beneficial Owners as follows;

- The direct beneficial owner means a natural person who holds or acquires a beneficial interest in the company and registered in his name;
- The indirect beneficial owner means a natural person who holds or acquires a beneficial interest in the company not registered in his name;



Time frame, non filling and late filling penalty

The Regulation introduce time frame for beneficial ownership filling as follows:

- A Company with direct beneficial owner shall notify the Registrar in the manner specified in the beneficial ownership portal within a period of thirty days from the date on which his name is entered in the register of members and beneficial owners.
- A company with indirect beneficial owner shall submit to the Registrar particulars of its beneficial owner by filling in Form No.14b prescribed in the Companies (Forms) Rules within a period of thirty days from the date on which his name is entered in the register of members and beneficial owners liable to a late filing fee as prescribed in the Companies (Fees Payable to the Registrar) Regulations.



Cont.

- And for non filling regulation 10 states that;
 - a. Fails to keep record of beneficial owners;
 - b. Fails to provide information to the Registrar about change in beneficial ownership of a company;
 - c. Fails to provide the Registrar with a declaration containing information on the beneficial owners of the company; or
 - d. Contravenes any provision of these Regulations, commits an offence and on conviction shall be liable to a fine of not less than five million shillings but not exceeding ten million shillings.”



The Threshold

- **Now the Threshold is 5 %**

The new changes in The Anti- Money Laundering Act (Amendment Act) of 2022 introduce 5% of share holding as the threshold of The Beneficial Ownership as follows

- A shareholding of five percent or more in the legal person or an ownership interest of five percent or more in the legal person held by a natural person shall be an indication of direct ownership or a sufficient percentage of the shares or voting rights or ownership interest in that legal person, or a shareholding of five percent or more or an ownership interest of five percent or more in the legal person held by a legal person,
- which is under the control of a natural person, or by multiple legal persons, which are under the control of the same natural person, shall be an indication of indirect ownership;



Contact information

For any further information required about our services, please contact below:

Adv. Mavala Msuya – Partner

Info@jainaattorneys.co.tz

0716476209

Mr. Gaurav Bothra - Business Development Manager

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