

# THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) ACT, 2023

## COMPANIES ACT, 2015 & LIMITED LIABILITY PARTNERSHIPS ACT, 2011

His Excellency the President signed into law the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023 on 1st September 2023, which amended various laws including the Companies Act, 2015, and the Limited Liability Partnerships Act, 2011. This Law commenced on 15th September 2023.

### What has changed in the Companies Act, 2015

1. Revamping provisions in relation to the filing of beneficial ownership information;
  - All companies will be required to file beneficial ownership information, failure to which, an offense will have been committed and the Registrar of Companies, after following the laid down procedure which includes issuing prior notice, may proceed to strike off the name of non-compliant companies from the register.
  - All companies are required to keep beneficial ownership information for at least 10 years after a person ceases to be a beneficial owner.
  - Requirement to disclose nominee status of any shareholder or director.
  - Late filing of any update to beneficial ownership information shall attract a fine of Ksh. 2,000 and an additional fine of Ksh. 100 for each day of default.
2. Requirement for officers of the company to keep records for seven (7) years after the company is dissolved.
3. Requirement to have local companies with a paid-up share capital of less than five (5) million have a secretary, a local director, or a contact person who is a permanent resident in Kenya.
4. Additional requirement to keep records at the registered office of the company including documents evidencing registration of the company.
5. Introduction of strike-off powers where a company fails to file annual returns or financial returns for 5 years or more.

## What has changed in the Limited Liability Partnerships Act, 2011

1. Limited Liability Partnerships (LLPs) are required to keep a register of beneficial ownership information and file a copy with the Registrar of Companies.
2. Requirement to disclose nominee arrangements and status to the Registrar of Companies.
3. LLPs are required to keep records at their registered offices including a register of partners and managers with their particulars, evidence of registration, and charges created against the assets of the LLP among other records.
4. Introduction of strike-off provisions in the Act to allow for smooth exit of LLPs from the register.
5. Introduction of registration procedure for foreign LLPs.
6. Introduction of filing of annual returns, replacing the traditional solvency statement.

## What is required of Companies and LLPs

1. Ensure that beneficial ownership information is kept by the entities and filed with the Registrar of Companies.
2. Ensure that there is proper record-keeping.
3. Ensure that information relating to entities is updated in a timely manner.
4. File annual returns within the prescribed timelines.
5. File financial statements every year.
6. Ensure to prepare a register of nominees and their nominator and file a copy with the Registrar of Companies.
7. Ensure compliance where entities are not compliant with any of the requirements of the Act.

The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023 can be accessed on <https://brs.go.ke/acts/>. The Regulations can be accessed on <https://brs.go.ke/regulations/>.