

No. S 38

COMPANIES ACT
(Chapter 39)

COMPANIES (REGISTER OF CONTROLLERS AND NOMINEE DIRECTORS)
RULES, 2020

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COMPANIES ACT
(Chapter 39)

COMPANIES (REGISTER OF CONTROLLERS AND NOMINEE DIRECTORS)
RULES, 2020

In exercise of the power conferred by section 324A of the Companies Act, the Minister of Finance and Economy, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Rules —

PART I

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Companies (Register of Controllers and Nominee Directors) Rules, 2020 and shall commence on the same date as the Companies Act (Amendment) Order, 2020.

Interpretation

2. In these Rules, “identity card” has the meaning given to it in section 2 of the National Registration Act (Chapter 19).

PART 2

REGISTER OF CONTROLLERS

Prescribed particulars and place under section 310F(7)

3. (1) For the purposes of section 310F(7)(b) and (c), the prescribed particulars of a company’s or foreign company’s registrable controllers are —

- (a) full name;
- (b) aliases, if any;
- (c) residential address;
- (d) nationality;
- (e) identity card number or passport number;
- (f) date of birth;

(g) date on which the registrable controller became an individual controller of the company or foreign company (as the case may be); and

(h) date on which the registrable controller ceased to be an individual controller of the company or foreign company (as the case may be), if applicable.

(2) For the purposes of section 310F(7)(d), any of the following places is a prescribed place —

(a) the registered office of the company or foreign company;

(b) the principal place of business of an agent appointed by the company for the purpose of keeping the register of controllers; and

(c) the residential address of an agent appointed by the foreign company for the purpose of keeping the register of controllers.

Prescribed times or periods for purposes of Part XA

4. For the purposes of the provisions of Part XA set out in the first column of the Schedule, the prescribed times or periods are set out opposite in the second column of that Schedule.

Prescribed manner of confirmation under section 310F(10) etc.

5. (1) For the purposes of section 310F(10), the particulars of a controller to be entered in a company's or foreign company's register of controllers are treated as confirmed if —

(a) in response to a notice of the company given under section 310G(2), a person confirms, or an agent confirms on behalf of the person, that the person is a registrable controller and has provided those particulars; or

(b) a person has notified the company or foreign company under section 310J(1) that the person is a registrable controller and has provided those particulars.

(2) For the purposes of section 310F(10), the particulars of a controller to be updated in a company's or foreign company's register of controllers (in this subrule referred to as the new particulars) are treated as confirmed if —

(a) in response to a notice of the company or foreign company given under section 310H(1), the registrable controller confirms, or an agent confirms on behalf of the registrable controller, that a change in the registrable controller's particulars that are stated in the register of controllers has occurred and has provided the new particulars as the particulars that have changed;

(b) in response to a notice of the company or foreign company given under section 310I(1), the registrable controller confirms, or an agent confirms on behalf of the registrable controller, that the particulars that are stated in the register of controllers are incorrect and has provided the new particulars as the correct particulars; or

(c) the registrable controller has notified the company or foreign company under section 310K(1) that a change in the registrable controller's particulars that are stated in the register of controllers has occurred and has provided the new particulars as the particulars that have changed.

PART 3

REGISTER OF NOMINEE DIRECTORS

Prescribed particulars of person for whom director is nominee under section 310L(1) and (2)

6. (1) For the purposes of section 310L(1)(a) and (b) and (2)(a) and (b), the prescribed particulars of an individual for whom the director is a nominee are —

(a) full name;

(b) aliases, if any;

(c) residential address;

(d) nationality;

(e) identity card number or passport number;

(f) date of birth; and

(g) date on which the director became the individual's nominee.

(2) For the purposes of section 310L(1)(a) and (b) and (2)(a) and (b), the prescribed particulars of a legal entity for whom the director is a nominee are —

(a) name;

(b) unique entity number issued by the Registrar, if any;

(c) address of registered office;

(d) legal form of the legal entity;

(e) jurisdiction where, and statute under which, the legal entity is formed or incorporated;

(f) the name of the corporate entity register of the jurisdiction in which the legal entity is formed or incorporated, if applicable;

(g) identification number or registration number of the legal entity on the corporate entity register of the jurisdiction where the legal entity is formed or incorporated, if applicable; and

(h) date on which the director became the legal entity's nominee.

Prescribed place of register of nominee directors under section 310L(4)

7. (1) For the purposes of section 310L(4), any of the following places is a prescribed place —

(a) the registered office of the company;

(b) the principal place of business or residential address (as the case may be) by an agent appointed by the company for the purpose of keeping the register of nominee directors.

PART 4

REGISTER OF MEMBERS OF FOREIGN COMPANY

Application of section 98

8. (1) For the purposes of section 304E, section 98(1) and (2) applies to the register of members of a foreign company as it applies to the register of members of a company, subject to the modifications in subrule (2).

(2) For the purposes of subrule (1) —

(a) a reference in section 98(1) to “member” or “members” are to be read as a reference to “member of the foreign company” or “members of the foreign company”, respectively;

(b) a reference in section 98(2) to “any member” is to be read as a reference to “any member of the foreign company”; and

(c) a reference in section 98(2) to “the company” is to be read as a reference to “the foreign company”.

(3) Subject to the modification in subrule (4), section 98(3) applies to a failure to send a copy of the register of members of a foreign company required under section 98(2) as applied by subrule (1).

(4) The modification mentioned in subrule (3) is that —

(a) the reference in section 98(3) to “subsection (2)” is to be read as a reference to “section 98(2), as applied by rule 8(1) of the Companies (Register of Controllers and Nominee Directors) Rules, 2020”; and

(b) each reference to “the company” is to be read as a reference to “the foreign company”.

SCHEDULE
(rule 4)

PRESCRIBED TIME OR PERIODS FOR PURPOSES OF PART XA

<i>First column</i>	<i>Second column</i>
<i>Provision of Act (description)</i>	<i>Prescribed time or period</i>
1. Section 310F(8) and (9)(a) (prescribed time to enter particulars of any controller in register or update particulars of any controller in register)	2 business days after each date on which the particulars of any controller are confirmed by the controller
2. Section 310F(8) and (9)(b) (prescribed time to enter or update particulars with a note indicating that the particulars have not been confirmed by the controller, if the company or foreign company does not receive the controller’s confirmation)	2 business days after the end of 30 days after the date on which a notice mentioned in section 310G(2), 310H(1) or 310I(1) (as the case may be) is sent by the company or foreign company
3. Section 310G(3)(a) (prescribed time for compliance with a notice mentioned in section 310G(2))	30 days after the date on which the notice mentioned in section 310G(2) is sent by the company or foreign company
4. Section 310G(3)(c) (prescribed period within which a notice mentioned in section 310G(2) must be given)	2 business days after the date on which the company or foreign company first knows the existence of, or first has reasonable grounds to believe that there exists, a person to whom a notice must be given under section 310G(2)

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| 5. Section 310H(2) (prescribed period within which a notice mentioned in section 310H(1) must be given) | 2 business days after the date on which the company or foreign company first knows of a relevant change in the particulars of a registrable controller that are stated in the company's or foreign company's register of controllers, or first has reasonable grounds to believe that such a change has occurred |
| 6. Section 310G(3)(a) as applied by section 310H(3) (prescribed time for compliance with a notice mentioned in section 310H(1)) | 30 days after the date on which the notice mentioned in section 310H(1) is sent by the company or foreign company |
| 7. Section 310I(2) (prescribed period within which notice mentioned in section 310I(1) must be given) | 2 business days after the date on which the company or foreign company first knows or first has reasonable grounds to believe that any of the particulars of a registrable controller that are stated in the company's or foreign company's register of controllers is incorrect |
| 8. Section 310G(3)(a) as applied by section 310I(3) (prescribed time for compliance with a notice mentioned in section 310I(1)) | 30 days after the date on which the notice mentioned in section 310I(1) is sent by the company or foreign company |
| 9. Section 310J(2) (prescribed time for compliance with the requirements of section 310J(1)) | 30 days after the date on which the person first knew or ought reasonably to have known that that person was a registrable controller |

10. Section 310K(2) (prescribed time for compliance with the requirements of section 310K(1))

30 days after the date on which the person first knew or ought reasonably to have known that a relevant change has occurred in the prescribed particulars of that person.

Made this 14th. day of Rabiulawal, 1442 Hijriah corresponding to the 31st. day of October, 2020.

DATO SERI SETIA DR. AWANG HAJI MOHD. AMIN LIEW BIN ABDULLAH
Minister in the Office of the Prime Minister and
Minister of Finance and Economy II,
Brunei Darussalam.