

No. 7 of 2019

VIRGIN ISLANDS

**BENEFICIAL OWNERSHIP SECURE SEARCH SYSTEM
(AMENDMENT) (NO. 2) ACT, 2019**

ARRANGEMENT OF SECTIONS

Section

- 1...Short title and commencement.
- 2...Section 2 amended.
- 3...Section 9 amended.
- 4...Section 10 amended.
- 5...Section 17 amended.
- 6...Schedule 4 amended.

I Assent

**(Sgd.) David D. Archer Jr.
Acting Governor
17th September, 2019**

VIRGIN ISLANDS

No. 7 of 2019

An Act to amend the Beneficial Ownership Secure Search System Act, 2017 (No. 15 of 2017) and to provide for matters incidental thereto.

[Gazetted 26th September, 2019]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement.

1. (1) This Act may be cited as the Beneficial Ownership Secure Search System (Amendment) (No. 2) Act, 2019.

(2) The amendments made by sections 2, 3, 4 and 6 of this Act shall come into force on the day that section 16 of the Economic Substance (Companies and Limited Partnerships) Act, 2018 is brought into force.

(3) The amendments made by section 5 of this Act shall come into force with immediate effect.

Section 2 amended.

2. Section 2 of the Beneficial Ownership Secure Search System Act, 2017 (referred to in this Act as "the principal Act") is amended in subsection (1) by inserting the following new definition in its appropriate alphabetical order:

"holding business" has the meaning assigned to it under section 2 of the Economic Substance (Companies and Limited Partnerships) Act, 2018;

Section 9 amended.

3. Section 9 of the principal Act is amended in subsection (6A) by:

- (a) deleting the words "relevant activities carried on during the relevant financial period and";
- (b) inserting after the words "information prescribed in section" the words "10(3)(1)(va) and (vi) and"; and
- (c) deleting the words "10(3)(a)(vi)" where they appear in the expression "excluding section 10(3)(a)(vi)" and replace them with the words "10(3)(a)(va) and (vi)".

No. 15 of 2017

4. (1) Section 10 of the principal Act is amended in subsection (3), by: Section 10 amended.

- (a) deleting the word "and" at the end of paragraph (v) of paragraph (a);
- (b) inserting immediately after sub-paragraph (v) of paragraph (a) a new sub-paragraph (va) in the following terms:
- "(va) whether it carries on a relevant activity";
- (c) deleting the words "carries on a relevant activity and is" in paragraph (g) and replacing them with "claims to be outside the scope of the economic substance requirements by reason of being";
- (d) inserting in paragraph (h) immediately after sub-paragraph (i) a new sub-paragraph (ia) in the following terms:
- "(ia) the total amount of expenditure incurred on the relevant activity";
- (e) inserting at the end of paragraph (h), immediately after sub-paragraph (vii), the following words:
- "save that where the relevant activity is holding business the prescribed information required under this paragraph (h) shall be limited to sub-paragraphs (iii), (iv) and (v).";
- (f) inserting into paragraph (i) immediately after the words "intellectual property business," the words "and which is not a non-resident company or a non-resident limited partnership,".

(2) Section 10 of the principal Act is amended in subsection (3A) by deleting the words "(3)(a)(vi)" where they appear in the expression "required by subsections (3)(a)(vi)" and replacing them with the words "(3)(a)(va) and (vi)".

Section 17
amended.

5. Section 17 of the principal Act is amended by:

- (a) deleting the word "and" at the end of section 17(1)(a);
- (b) deleting the full stop at the end of section 17(1)(b) and replacing it with a semi-colon;
- (c) adding the following three paragraphs at after section 17(1)(b):
 - "(c) adding to, amending or removing any of the items of information prescribed under section 10(3);
 - (d) amending the scope of the duty imposed by section 10(3A); and
 - (e) amending Schedule 4.
- (d) adding immediately after subsection (1) a new subsection (1A) in the following terms:

"(1A) Regulations shall only be made pursuant to paragraphs (c) to (e) of subsection (1) if and to the extent that the minister is satisfied that the amendments are reasonably required to ensure that the Virgin Islands complies with, or continues to comply with, any relevant international requirements relating to the need for legal and corporate entities carrying on relevant activities to have economic substance in the Virgin Islands."

- (e) adding immediately after subsection (2) new subsections (3) to (6) in the following terms:

"(3) The competent authority may issue rules on how the duties imposed on legal and corporate entities and registered agents by this Act, or any regulations made under it, may be met, including, without prejudice to the generality of the foregoing, rules on the interpretation or meaning of any expression used in this Act or in such regulations.

(4) Regard shall be had to any rules under subsection (3) concerning the interpretation of any expression.

(5) The competent authority may revise the rules issued under subsection (3) from time to time and a reference to published rules includes a reference to revised rules.

(6) The rules issued under subsection (3) shall be published by the competent authority in a manner which the competent authority considers will bring the rules to the attention of those most likely to be affected by them."

6. Schedule 4 of the principal Act is amended by replacing paragraph 2(c) with the following paragraphs: Schedule 4 amended.

"(c) it claims to be resident for tax purposes in a jurisdiction outside the Virgin Islands, in which case disclosure shall be made only to

(i) the relevant overseas competent authority of that jurisdiction and

(ii) in the case of a corporate and legal entity one or more of whose beneficial owners, or whose legal owner, are or is resident in a member state of the European Union, to the overseas competent authority of each member state in which a beneficial owner or the legal owner resides.

(d) For the purpose of paragraph (c), the legal owner of a corporate and legal entity is the person who is the direct parent of the corporate and legal entity."

Passed by the House of Assembly this 2nd day of August, 2019.

(Sgd.) Julian Willock,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.