

VIRGIN ISLANDS

BVI BUSINESS COMPANIES (AMENDMENT) REGULATIONS, 2015

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY PROVISIONS

- 1...** Short title and commencement.
- 2...** Regulation 29 amended.
- 3...** Regulations 30 and 31 added.

VIRGIN ISLANDS

STATUTORY INSTRUMENT 2015 NO. 73

**BVI BUSINESS COMPANIES ACT, 2004
(No. 16 of 2004)**

BVI Business Companies (Amendment) Regulations, 2015

[Gazetted 22nd October, 2015]

The Cabinet, in exercise of the powers conferred by section 240 of the BVI Business Companies Act, 2004 (No. 16 of 2004) and with the advice of the Financial Services Commission, makes these Regulations:

Citation and commencement

1. These Regulations may be cited as the BVI Business Companies (Amendment) Regulations, 2015 and shall come into force on the date that the BVI Business Companies (Amendment) Act, 2015 comes into force.

Regulation 29 amended

2. The BVI Business Companies Regulations, 2012 (hereinafter referred to as “the principal Regulations”) are amended by inserting after sub-regulation (3), the following sub-regulation –

“(3A) The requirements of sub-regulation (2) or (3) shall be treated as satisfied without the need for any certification or verification before a Notary Public (or its equivalent) or other person qualified to administer oaths if the translation of a document is carried out by a person who is duly sworn and appointed –

(a) by a court in the Virgin Islands or outside the Virgin Islands to translate documents; or

(b) by the Government of the Virgin Islands or the government of a country or territory outside the Virgin Islands to translate documents.

(2B) The person who translates a document by virtue of subsection (3A) shall indicate in writing the court or government by which he or she is appointed.”.

Regulations 30 and 31 added

3. The principal Regulations are amended by adding after regulation 29, the following new regulations –

“Restrictions on filings by legal practitioners

30. (1) Subject to sub-regulation (2), a legal practitioner shall not, for the purposes of section 92 (4A) of the Act, file a notice of change of registered office or registered agent on behalf of a company, unless the legal practitioner has first notified the registered agent in writing of the legal practitioner’s intention to do so and provided the registered agent with a copy of the resolution authorising the change of registered office or registered agent.

(2) Where the company has been the subject of an agreement between the registered agent and a third party for the collection and provision of customer due diligence information in accordance with the Anti-money Laundering Regulations, 2008 and Anti-money Laundering and Terrorist Financing Code of Practice, 2008, the legal practitioner shall not file a notice for change of registered office or registered agent unless the legal practitioner –

- (a) has obtained from the registered agent written confirmation that the registered agent has carried out all the required customer due diligence obligations in respect of the company pursuant to the Regulations and the Code of Practice and the customer due diligence information is up-to-date;
- (b) has, where he or she has not received the confirmation referred to in paragraph (a) within 2 days after providing the registered agent with the requisite notification under sub-regulation (1), carried out the required customer due diligence obligations as mentioned in paragraph (a); or
- (c) has obtained written confirmation from the new registered agent that it has carried out the required customer due diligence obligations under the Regulations and the Code of Practice.

(3) Where a legal practitioner has carried out customer due diligence in respect of the company in accordance with sub-regulation (2) (b), he or she shall transfer the customer due diligence information to both the existing registered agent and the new registered agent.

(4) A written confirmation under sub-regulation (2) (c) shall be submitted to the Registrar at the same time as the filing of the notice for change of registered office or registered agent and the Registrar shall transmit the written confirmation to the Commission.

(5) Where a registered agent receives a notification under sub-regulation (1) (a), it shall not delay providing, or unreasonably refuse to provide, the written confirmation referred to in sub-regulation (2) (a).

(6) For purposes of sub-regulation (5), a claim that the company whose change of registered office or registered agent is sought to be filed by a legal practitioner

–

(a) owes the registered agent outstanding fees, or

(b) has unsatisfied contractual obligations, whether with the registered agent or otherwise and whether or not pursuant to an agreement,

shall not be reason for any delay or constitute a reasonable claim.

(7) The reference to “customer due diligence” in sub-regulation (2) shall be construed in accordance with section 19 (1) of the Anti-money Laundering and Terrorist Financing Code of Practice, 2008.

Methods of proving service of documents

31. (1) For purposes of section 101 (2) of the Act, the service of a document on a company may be proved by any of the following methods –

(a) by properly addressing, preparing and posting an envelope containing the document to the address for service;

(b) by personal service;

(c) by direct delivery to the secretary or clerk of the company’s registered agent; and

(d) by email attaching the document.

(2) Where a document is served –

(a) by post, the document shall, unless the contrary is proved, be deemed to have been served at the time when the envelope would have been received in the ordinary course of post;

(b) by personal service, the document is considered served at the time when the document is received by the person on whom it is served, whether or not receipt of the document has been signed for;

(c) by direct delivery, the document is considered served on the secretary or clerk at the time when the secretary or clerk received it, whether or not receipt of the document has been signed for; and

(d) by email, the document is considered served at the time at which it is shown to have been sent electronically if sent to the correct address.

(3) Where a document has been served by email –

(a) the original of the document shall be sent by post; and

(b) it shall not matter whether the document was served in a scanned or other form so long as it is legible and in the form of the original document.”.

Made by Cabinet this 22nd day of October, 2015.

(Sgd.) Sandra Ward,
Cabinet Secretary.