

**No. 16 of 2024**

**VIRGIN ISLANDS**  
**TRUSTEE (AMENDMENT) ACT, 2024**  
**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title and commencement
2. Section 92A amended
3. Section 92B inserted

**I ASSENT**

**Daniel Pruce,**  
**Governor.**  
**23<sup>rd</sup> September, 2024**

**VIRGIN ISLANDS**

**No. 16 of 2024**

AN ACT TO AMEND THE TRUSTEE ACT, REVISED EDITION 2020, TO REQUIRE ALL TRUSTEES TO KEEP BENEFICIAL OWNERSHIP INFORMATION ACCURATE AND UP TO DATE, IMPOSE PENALTIES FOR TRUSTEES THAT FAIL TO PROVIDE INFORMATION TO COMPETENT AUTHORITIES AND FOR OTHER MATTERS CONNECTED THEREWITH.

[Gazetted 26<sup>th</sup> September, 2024]

ENACTED by the Legislature of the Virgin Islands as follows:

**Short title and commencement**

1. (1) This Act may be cited as the Trustee (Amendment) Act, 2024.
- (2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

**Section 92A amended**

2. The Trustee Act, Revised Edition 2020, (hereinafter referred to as the “principal Act”) is amended in section 92A(1)

- (a) in the opening paragraph, by inserting after the words “In this section”, the words “and section 92B, as applicable”; and
- (b) by inserting in their appropriate alphabetical order, the following new definitions

“ “beneficial owner” means the trustee, the settlor or other person by whom the trust is made, the protector (if any), the beneficiaries or class of beneficiaries with a vested interest in the trust at the time of or before distribution of any trust property or income and any other natural person exercising

ultimate effective control over the trust (including through a chain of control or ownership);

“beneficial owner information” and “information on the beneficial owner” mean, in respect of a trust, the particulars of beneficial ownership information outlined in Regulations made under section 230(3A) of the BVI Business Companies Act, Revised Edition 2020;

“Commission” means the Financial Services Commission established under section 3(1) of the Financial Services Commission Act, Revised Edition 2020;”.

### **Section 92B inserted**

3. The principal Act is amended by inserting after section 92A, the following new section:

#### **“Trustee to collect, keep and maintain beneficial ownership information**

**92B.** (1) A Relevant Trustee of an Applicable Trust shall collect, keep and maintain adequate, accurate and up to date information on the beneficial owners of the Applicable Trust.

(2) A Relevant Trustee of an Applicable Trust shall take reasonable steps to verify the beneficial owner information, including the identity of the beneficial owner, to ensure that it is adequate, accurate and up to date.

(3) Where the beneficial owner of, or any information in relation to a beneficial owner or beneficial owner’s interest in, an Applicable Trust changes, the Relevant Trustee shall, within thirty days of becoming aware of the change, update the beneficial ownership information.

(4) Every Relevant Trustee of an Applicable Trust shall maintain the beneficial ownership information for a period of at least five years from the date of the Applicable Trust’s termination.

(5) A Relevant Trustee of an Applicable Trust who takes reasonable steps to comply with the requirements of this section shall be treated as discharging his or her obligations therewith.

(6) Where any issue arises as to whether a Relevant Trustee of an Applicable Trust has taken reasonable steps to comply with the requirements of this section pursuant to subsection (5), what constitutes reasonable steps shall

(a) in the case of a Relevant Trustee who is licensed under the Banks and Trust Companies Act, Revised Edition 2020, be determined by the Commission; and

(b) in the case of any other Relevant Trustee, be determined by the Court.

(7) A Relevant Trustee of an Applicable Trust shall cooperate with

- (a) a competent authority in the lawful discharge of its functions under an enactment or pursuant to an agreement or a treaty or other similar arrangement to provide mutual legal or regulatory assistance; and
  - (b) a law enforcement agency in the lawful performance of its investigative functions or in relation to the lawful exercise of its investigative powers.
- (8) Cooperation under subsection (7) may include but is not limited to

- (a) disclosing information that is within the knowledge of the Relevant Trustee;
- (b) producing documents in the possession or under the control of the Relevant Trustee; and
- (c) providing any other material which the Relevant Trustee has access to and authority to produce.

(9) A Relevant Trustee may not be required by virtue of this section to produce, disclose or permit the inspection of any information or document which it would be entitled to refuse to produce, disclose or permit on the grounds of legal professional privilege.

(10) For the purposes of subsection (9), information or a document comes to a legal practitioner in privileged circumstances if it is communicated or given to him or her

- (a) by, or by a representative of, a client in connection with the giving by the legal practitioner of legal advice to the client;
- (b) by, or by a representative of, a person seeking legal advice from the legal practitioner; or
- (c) by any person
  - (i) in contemplation of, or in connection with, legal proceedings; and
  - (ii) for the purposes of those proceedings.

(11) Information or a document shall not be treated as coming to a legal practitioner in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.

(12) Notwithstanding subsections (9), (10) and (11), a legal practitioner may be required to provide the name and address of his or her client.

(13) For the purposes of

- (a) subsection (4)(a), “competent authority” means an authority designated or performing functions as such under an enactment, and includes the Attorney General, Governor, Financial Investigation Agency, Financial Services Commission, International Tax Authority and such other authority the Governor may, by an Order

published in the *Gazette*, designate as a competent authority; and

(b) subsection (4)(b), “law enforcement agency” means an institution of government which has responsibility, whether under an enactment or otherwise, for the detection, prevention and investigation of crime.

(14) A Relevant Trustee who, without reasonable excuse

(a) contravenes subsection (1), (2), (3), (4) or (7); or

(b) provides a competent authority or law enforcement agency with any false, inaccurate or misleading information,

commits an offence and is liable on conviction to a fine not exceeding \$75,000.”.

Passed by the House of Assembly this 4<sup>th</sup> day of September, 2024.

(Sgd.) Corine N. George-Massicote,  
Speaker.

(Sgd.) Bethsaida Smith-Hanley,  
Clerk of the House of Assembly.