

**No. 8 of 2019**

**VIRGIN ISLANDS**

**BENEFICIAL OWNERSHIP SECURE SEARCH SYSTEM  
(AMENDMENT) (NO. 3) ACT, 2019**

**ARRANGEMENT OF SECTIONS**

*Section*

- 1...Short title.
- 2...General amendment.
- 3...Section 2 amended.
- 4...Section 4 amended.
- 5...Section 7 amended.
- 6...Section 9 amended.
- 7...Section 10 amended.
- 8...Section 13(11) repealed.
- 9...Section 16A and 16B inserted.
- 10 Section 17 replaced.
- 11..Schedule 4 amended.

**I Assent  
(Sgd.) Augustus J. U. Jaspert,  
Governor.  
30<sup>th</sup> October, 2019**

**VIRGIN ISLANDS**

**No. 8 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 31<sup>st</sup> October, 2019]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title.

**1.** This Act may be cited as the Beneficial Ownership Secure Search System (Amendment) (No. 3) Act, 2019.

General amendment.  
No. 15 of 2017

**2.** The Beneficial Ownership Secure Search System Act, 2017 (referred to in this Act as “the principal Act”) is amended by replacing

(a) the marginal note to section 4 with the following:

“Purpose of Act.”;

(b) the marginal note to section 9 with the following:

“Duties of registered agent and corporate and legal entities.”.

Section 2 amended.

**3.** Section 2 of the principal Act is amended in subsection (1) by inserting the following new definitions in their appropriate alphabetical order

“beneficial ownership information” means the information required by section 10(3)(a) to (d) other than that required by section 10(3)(a)(va) and (vi);

“competent authority” means the Financial Investigation Agency established under the Financial Investigation Agency Act, 2003; No. 19 of 2003

“economic substance information” means the information required by section 10(3) other than beneficial ownership information; and

“International Tax Authority” means the International Tax Authority established under section 3 of the International Tax Authority Act 2018. No. 7 of 2018

**4.** Section 4 of the principal Act is amended by replacing subsection (5) with the following: Section 4 amended.

“(5) The Minister may make regulations to enable the following:

(a) access by the International Tax Authority to the economic substance information held on the Beneficial Owner Secure Search system for the purpose of enforcing and monitoring obligations placed on corporate and legal entities by the Economic Substance (Companies and Limited Partnerships) Act, 2018; and No. 7 of 2018

(b) disclosure in accordance with the obligations placed on the International Tax Authority under Schedule 4, of information held on RA databases to the persons, in the circumstances and on the terms set out in that Schedule.”.

**5.** Section 7 of the principal Act is amended by replacing subsection (1) with the following: Section 7 amended.

“(1) An exempt person shall be exempt from the provisions of section 10(3)(b) and the exempt person and the registered agent of the exempt person, shall be exempt from the duties imposed under section 9, insofar as they relate to the provision of information required by section 10(3)(b), unless the exempt person carries on a relevant activity.”.

**6.** Section 9 of the principal Act is amended in subsection (6A) by inserting after the words “by regulations” the words “and shall notify the Section 9 amended.

registered agent of any matters prescribed in section 10(3)(a) to (d), excluding section 10(3)(a), (va) and (vi), within 15 days of identifying those matters.

Section 10  
amended.

**7.** Section 10 of the principal Act is amended

(a) in subsection (3)(c), by replacing subparagraph (i) with the following:

“(i) details of the registrable legal entity as outlined in subsection (3)(a) (i) to (v);”;

(b) by replacing subsection (3)(e) with the following:

“(e) with respect to the parent (if any) of any corporate and legal entity which carries on a relevant activity and which claims to be outside the scope of the economic substance requirements by reason of being a non-resident company or a non-resident limited partnership:

(i) details of the parent as outlined in subsection (3)(a) (i) and (ii);

(ii) jurisdiction in which the parent is formed;”;

(c) by replacing subsection (3)(g), (h), (i) and (j) with the following:

“(g) with respect to any corporate and legal entity which carries on a relevant activity and claims to be outside the scope of the economic substance requirements by reason of being a non-resident company or a non-resident limited partnership, the jurisdiction in which it is tax resident together with evidence to support the tax residence;

(h) with respect to any corporate and legal entity which carries on a relevant activity, and which does not claim to be outside the scope of the economic substance requirements by reason of being a non-resident company or a non-resident limited partnership, in relation to each such activity which it carries on during a financial period, and in respect of that period

- (i) the total turnover generated by the relevant activity;
  - (ia) the total amount of expenditure incurred on the relevant activity;
  - (ii) the amount of expenditure incurred on the relevant activity within the Virgin Islands;
  - (iii) the total number of employees engaged in the relevant activity;
  - (iv) the number of employees engaged in the relevant activity within the Virgin Islands;
  - (v) the address of any premises within the Virgin Islands which is used in connection with the relevant activity;
  - (vi) in the case of a corporate and legal entity which carries on an intellectual property business, the nature of any equipment located within the Virgin Islands which is used in connection with the relevant activity;
  - (vii) the names of the persons responsible for the direction and management of the relevant activity, together with their relationship to the company and whether they are resident in the Virgin Islands;
- (i) with respect to any corporate or legal entity which carries on an intellectual property business, and which does not claim to be outside the scope of the economic substance requirements by reason of being a non-resident company or a non-resident limited partnership, in addition to the particulars supplied under section 10(3)(h), in relation to that activity
- (i) whether or not the corporate or legal entity is a high risk IP legal entity within the meaning of section 2 of the Economic Substance (Companies and Limited Partnerships) Act, 2018;

- (ii) whether the corporate or legal entity wishes to contest the rebuttable presumption introduced by section 9(2)(a) or, as the case may be by section 9(2)(b) of the Economic Substance (Companies and Limited Partnerships) Act, 2018;
  - (iii) if the corporate or legal entity wishes to contest such a rebuttable presumption the facts and matters relied upon for that purpose;
  - (j) with respect to any corporate or legal entity which carries on a relevant activity and which does not claim to be outside the scope of the economic substance requirements by reason of being a non-resident company or a non-resident limited partnership, but for which core income-generating activity is carried out by another entity, the name of the entity which carries out that activity on its behalf, together with details of the resources deployed by that entity in carrying out the activity on its behalf.”.
- (d) by replacing subsection (3A) with the following:
- “(3A) Prescribed information required by subsection (3)(a)(va) and (vi) and subsection (3)(e) to (j) shall be entered by the registered agent on the RA database by reference to each financial period of the corporate and legal entity on a basis and within a time period to be prescribed by regulations except that, where the relevant activity is a holding business, the prescribed information required under paragraph (h) shall be limited to subparagraphs (iii), (iv) and (v).”.

Section 13(11) repealed.

**8.** Section 13 of the principal Act is amended by repealing subsection (11) thereof.

Sections 16A and 16B inserted.

**9.** The principal Act is amended by inserting the following new sections 16A and 16B:

“Amendment of Schedules.

**16A.** (1) The Minister with the approval of the Cabinet, may from time to time, by Order published in the *Gazette*, amend the Schedules.

(2) Where an amendment is made to Schedule 4 of the principal Act, an order referred to under subsection (1) shall be subject to an affirmative resolution of the House of Assembly.

International Tax Authority to issues Rules.

**16B.** (1) The International Tax Authority may issue rules on how the duties imposed on legal and corporate entities and registered agents under 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.

(2) Regard shall be had to any rules under subsection (1) concerning the interpretation of any expression.

(3) The International Tax Authority may revise the rules issued under subsection (1) from time to time and a reference to published rules includes a reference to revised rules.

(4) The International Tax Authority shall publish the rules issued under subsection (1) in a manner which the International Tax Authority considers will bring the rules to the attention of those most likely to be affected by them.”.

**10.** The principal Act is amended by replacing section 17 with the following:

Section 17 replaced.

“Regulations.

**17.** (1) The Minister, with the approval of the Cabinet, may make regulations with respect to anything required to be carried out in this Act or prescribing anything required to be prescribed under this Act, including

- (a) specifying the manner or form in which a registered agent must keep the RA database;
- (b) prescribing fees in relation to the establishment and maintenance of the Beneficial Ownership Secure Search System;

- (c) adding to, amending or removing any of the items of information prescribed under section 10(3);
- (d) amending the scope of the duties imposed by sections 9 and 10(3A); and

(2) Regulations shall only be made pursuant to subsection (1) (c) to (d), if and to the extent that the Minister is satisfied that the amendments are reasonably required to ensure that the Virgin Islands law is in accordance 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.

(3) The power conferred by subsection (1) includes power to make such incidental, supplementary, consequential or transitional provision as appears to the Minister to be expedient for the purposes of the regulations or order.

(4) Regulations made under subsection (1) shall be subject to an affirmative resolution of the House of Assembly.”.

Schedule 4 amended.

**11.** Schedule 4 of the principal Act is amended in paragraph 2

- (a) by replacing the words “competent authority” where they first occur with the words “International Tax Authority”;
- (b) by replacing subparagraph (c) with the following:
  - “(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 relevant overseas competent authority of each member state in which a beneficial owner or the legal owner resides.”.

(c) by inserting the following new subparagraph (d):

“(d) for the purpose of subparagraph (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 18<sup>th</sup> day of October, 2019.

(Sgd.) Julian Willock,  
Speaker.

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