

# VIRGIN ISLANDS

## BVI BUSINESS COMPANIES (AMENDMENT) ACT, 2024

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No. of 2024

**BVI BUSINESS COMPANIES  
(AMENDMENT) ACT, 2024**

**VIRGIN ISLANDS**

**I Assent**

**Governor  
, 2024**

**VIRGIN ISLANDS  
No. of 2024**

A BILL FOR

AN ACT TO AMEND THE BVI BUSINESS COMPANIES ACT, REVISED EDITION 2020, AND FOR OTHER MATTERS CONNECTED THEREWITH.

[Gazetted , 2024]

ENACTED by the Legislature of the Virgin Islands as follows:

**Short title and commencement**

1. (1) This Act may be cited as the BVI Business Companies (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 2 amended**

2. Section 2 of the BVI Business Companies Act, Revised Edition 2020 (hereinafter referred to as the “principal Act”), is amended in subsection (1) by placing in their appropriate alphabetical order, the following new definitions:

“beneficial owner” has the meaning ascribed to it in regulation 2 (1) of the Anti-money Laundering Regulations, Revised Edition 2020;

“information”, as it relates to a beneficial owner, refers to the information required in respect of a beneficial owner under the Anti-money Laundering and Terrorist Financing Code of Practice, Revised Edition 2020;”.

**Section 16 amended**

3. Section 16 of the principal Act is amended by repealing subsection (2).

**Section 17A amended**

4. Section 17A of the principal Act is amended by repealing subsection (9).

**Section 17B amended**

5. Section 17B of the principal Act is amended by repealing subsection (7).

**Section 26 amended**

6. Section 26 of the principal Act is amended by repealing subsection (2).

**Section 38 amended**

7. Section 38 of the principal Act is amended by repealing subsection (3).

**Section 40 amended**

8. Section 40 of the principal Act is amended by repealing subsection (2).

**Section 41 repealed and substituted**

9. Section 41 of the principal Act is repealed and substituted by the following section:

**“Register of members**

**41.** (1) A company shall keep a register to be known as the register of members.

(2) The register of members shall contain

(a) the names and addresses of the persons who hold registered shares in the company;

(b) the names and addresses of the persons who are guarantee members of the company;

(c) the names and addresses of the persons who are unlimited members;

(d) the number of each class and series of registered shares held by each shareholder including, subject to subsection (3), the nature of associated voting rights;

(e) the names and addresses of the persons who are nominee shareholders;

- (f) the names and addresses of the persons who nominated the nominee shareholders;
- (g) the date on which the name of each member was entered in the register of members;
- (h) the date on which any person, including a nominee shareholder, ceased to be a member; and
- (i) the date on which a person ceased to be a nominator of a nominee shareholder.

(3) Where a company's memorandum or articles provide the nature of associated voting rights as outlined in subsection (2) (d), the company's register of members need not contain that information.

(4) Where reference is made in this section and sections 42, 43 and 43A to a company's register of members, the register of members shall include the names of persons who are nominated as nominee shareholders under section 89A and those who nominated them as such.”.

#### **Section 43A repealed and substituted**

**10.** Section 43A of the principal Act is repealed and substituted by the following section:

##### **“Registration of register of members**

**43A.** (1) Subject to subsection (6), a company shall file for registration by the Registrar a copy of its register of members.

(2) The initial copy of a company's register of members shall be filed for registration by the Registrar

- (a) upon incorporation of the company but, in any case, no later than 14 days from the date of incorporation; or
- (b) where a company has continued in the Virgin Islands under section 182 (1), the company shall file the initial copy of its register of members upon continuation.

(3) If a company does not file the initial copy of its register of members upon incorporation under subsection (2)(a), it shall not commence business until it has filed the initial copy of its register of members.

(4) A company that has filed for registration by the Registrar a copy of its register of members shall, within 14 days of any changes occurring, file the changes in the register by filing a copy of the register containing the changes.

(5) The Registrar shall

(a) maintain a copy of a company's register of members filed pursuant to subsection (1), including any changes to the register filed under subsection (4) ;

(b) make a copy of a company's register of members available to

(i) the company or its registered agent or any other person authorised in writing by the company; and

(ii) a competent authority

(aa) acting in the exercise of its powers as a regulator of financial services business or tax administrator; or

(bb) for the purposes of dealing with a matter for which it has authority under an enactment, including pursuant to its obligations to a mutual legal assistance request received or made or to be made by it; and

(c) make a copy of a company's register of members available to a law enforcement agency in the performance of its investigative functions or in relation to the exercise of its investigative powers.

(6) Where a company that was struck off and dissolved is restored to the Register

(a) in accordance with section 218B (3), or

(b) with the appointment by the Court of a receiver in respect of the company,

the company is not required to file for registration by the Registrar a copy of its register of members.

(7) A reference in this section and Parts I and II of Schedule 1 to a filing of a copy of register of members for registration by the Registrar means providing

the particulars of members referred to in section 41 which shall be in such form as the Registrar may determine.

(8) A reference in subsections (1) to (7) to a copy of a company's register of members relates only to the members of the company as of the date of filing of the copy of register of members and includes the filing of a copy of the register containing any changes to the register of members.

(9) For purposes of subsection (5) (c), a law enforcement agency refers to any institution of government which has responsibility, whether under an enactment or otherwise, to conduct investigations into the commission of an offence.”.

### **New sections 89A and 89B inserted**

**11.** The principal Act is amended by inserting after section 89, the following new sections:

#### **“Nomination of nominee shareholders**

**89A.** (1) Subject to the memorandum and articles of a company, a member of the company may nominate as a nominee shareholder any other member or any other person to

- (a) exercise the nominating member's rights and powers, and
- (b) carry out the nominating member's responsibilities,

in relation to the taking of decisions by the nominee shareholder.

(2) The nominating member may, at any time, terminate the nominee shareholder's nomination.

(3) The nomination of a nominee shareholder and its termination shall be in writing and written notice of the nomination and termination shall be given by the nominating member to the company

- (a) within such period as may be specified in the memorandum or articles; or
- (b) if no period is specified in the memorandum or articles, as soon as reasonably practicable.

(4) The termination of the nomination of a nominee shareholder does not take effect until written notice of the nomination has been given to the company.

(5) A nominee shareholder

(a) has no power to nominate a nominee, whether of the nominating member or of the nominee shareholder; and

(b) does not act as an agent of or for the nominating member.

### **Rights and duties of nominee shareholders**

**89B.** (1) A nominee shareholder has the same rights as the nominating member in relation to any members' meeting and any written resolution circulated for written consent.

(2) Any exercise by the nominee shareholder of the nominating member's powers in relation to the taking of decisions by the members, is as effective as if the powers were exercised by the nominating member.

(3) A nominee shareholder is liable for his or her own acts and omissions as a nominee shareholder and this Part applies to a person appointed as a nominee shareholder, when acting as such.”.

### **Section 91 amended**

**12.** Section 91 of the principal Act is amended by repealing subsections (4) and (6).

### **Section 93 amended**

**13.** Section 93 of the principal Act is amended

(a) by repealing subsection (5);

(b) in subsection (6) by deleting from the opening paragraph, the words “(the “rescission notice)” and substituting the words “(the resignation notice)”;

(c) by repealing subsection (9).

### **Section 94 amended**

**14.** Section 94 of the principal Act is amended

(a) by repealing subsection (5); and

(b) in subsection (6) by deleting from the opening paragraph, the words “under section 91 (4)” and substituting the words “, under, or shall not be considered to be in contravention of, section 91 (3)”.

### **Section 95 amended**

**15.** Section 95 of the principal Act is amended by repealing subsection (4).



## **Section 96 amended**

### **16. Section 96 of the principal Act is amended**

- (a) by repealing subsection (1A);
- (b) by repealing subsection (3A);
- (c) in subsection (3B), by deleting the words “without prejudice to subsections (1A) and (3A),”;
- (d) by repealing subsection (3C);
- (e) by repealing subsection (3D); and
- (f) by repealing subsection (4).

## **New section 96A inserted**

### **17. The principal Act is amended by inserting after section 96, the following new section:**

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

**96A.** (1) A company shall collect, maintain and keep accurate and up to date information on the beneficial owner of the company.

(2) The beneficial ownership information required under subsection (1) shall be filed for registration by the Registrar

(a) upon incorporation of the company but, in any case, no later than 14 days from the date of incorporation; or

(b) where a company has continued in the Virgin Islands under section 182 (1), upon its continuation.

(3) Where a company files its beneficial ownership information pursuant to subsection (2), the Registrar shall adopt such measures as are considered necessary and adequate, including adopting a risk-based approach as provided under the Anti-money Laundering Regulations and Anti-money Laundering and Terrorist Financing Code of Practice, Revised Edition 2020, to verify the information collected and maintained under subsection (1), and ensure that such information is kept up to date.

(4) Where the beneficial owner of, or any information in relation to a beneficial owner's interest in, a company changes, the company shall, within 30 days of the occurrence of the change, file information of the change.

(5) The obligation placed on the Registrar under subsection (3) may be undertaken by the Commission independently or as part of its inspection process pursuant to the exercise of powers granted under the Financial Services Commission Act, Revised Edition 2020, but this shall not be construed as precluding the Registrar from verifying any information filed for registration.

(6) Where the Commission acts in accordance with subsection (5), it shall ensure that the records of the Registrar in relation to the company's beneficial ownership information reflect the verification of the information concerned.

(7) For purposes of this section, measures (including risk-based approach) undertaken to verify beneficial ownership information and to keep such information up to date shall be considered necessary and adequate if the measures (or risk-based approach) undertaken

- (a) clearly identify the identity of the beneficial owner and other information required in relation to him or her;
- (b) assist in securing information on the ownership structure and control mechanisms of the company to verify that the person identified under paragraph (a) as the beneficial owner is in fact the beneficial owner; and
- (c) utilise reliable, independent source documents, data or information for such verification.”.

#### **Section 97 amended**

**18.** Section 97 of the principal Act is amended by repealing subsection (4).

#### **Section 98 amended**

**19.** Section 98 of the principal Act is amended by repealing subsection (8).

#### **Section 98A amended**

**20.** Section 98A of the principal Act is amended by repealing subsections (8) and (9).

#### **Section 102 amended**

**21.** Section 102 of the principal Act is amended by repealing subsection (3).

### **Section 113 amended**

**22.** Section 113 of the principal Act is amended by repealing subsection (1) and substituting the following subsection:

“(1) The first registered agent of a company shall, upon incorporation of the company but, in any case, not later than 14 days from the date of such incorporation, appoint one or more persons as the first director or directors of the company.”.

### **Section 118 amended**

**23.** Section 118 of the principal Act is amended by repealing subsection (3) and substituting the following subsection:

“(3) Where reference is made in this section and sections 118A, 118B and 118C to a company’s register of directors, the register of directors shall include the names of persons who

- (a) are appointed as alternate directors in accordance with section 130;
- (b) are nominated as nominee directors; and
- (c) nominated the nominee directors.”.

### **Section 118A amended**

**24.** Section 118A of the principal Act is amended in subsection (1)

- (a) in paragraph (a) (iii) by inserting after the words “reserve director”, the words “or nominee director”;
- (b) in paragraph (a) (iv) by deleting the words “director or reserve director” and substituting the words “director, reserve director or nominee director”;
- (c) in paragraph (a) (viii) by deleting the word “and” at the end of the subparagraph;
- (d) in paragraph (b) by deleting the word “and” at the end of subparagraph (vii);
- (e) by inserting after paragraph (b), the following new paragraph:
  - “(c) in the case of a person nominating a nominee director, the name of that person; and”;
- (f) by redesignating the existing paragraph (c) as paragraph (d).

### **New section 118B inserted**

**25.** The principal Act is amended by inserting after section 118A, the following new section:

## **“Rectification of register of directors**

**118B. (1)** If

- (a) information that is required to be entered in the register of directors under section 118A (1) is omitted from the register or inaccurately entered in the register, or
- (b) there is unreasonable delay in entering the information in the register,

a director of the company, or any person who is aggrieved by the omission, inaccuracy or delay, may apply to the Court for an order that the register be rectified, and the Court may either refuse the application, with or without costs to be paid by the applicant, or order the rectification of the register, and may direct the company to pay all costs of the application and any damages the applicant may have sustained.

(2) The Court may, in any proceedings under subsection (1), determine any question relating to the right of a person who is a party to the proceedings to have his or her name entered in or omitted from the register of directors, whether the question arises between

- (a) 2 or more directors or alleged directors, or
- (b) between directors or alleged directors and the company,

and generally the Court may, in the proceedings, determine any question that may be necessary or expedient to be determined for the rectification of the register of directors.”.

### **Existing section 118B redesignated and amended**

**26.** The existing section 118B of the principal Act is amended

- (a) by redesignating the section as section 118C;
- (b) by repealing subsection (2) and substituting the following subsection:

“(2) The initial copy of a company’s register of directors shall be filed for registration by the Registrar

- (a) upon the incorporation of the company but, in any case, no later than 14 days of the appointment of the first directors under section 113; or

(b) where a company has continued in the Virgin Islands under section 182 (1), the company shall file the initial copy of its register of directors upon its continuation.”;

(c) by inserting after subsection (2), the following new subsection:

“(2A) If a company does not file the initial copy of its register of directors upon incorporation under subsection (2), it shall not commence business until it has filed the initial copy of its register of directors.”;

(d) in subsection (4)

- (i) by deleting the word “and” at the end of paragraph (a); and
- (ii) by deleting paragraph (b) and substituting the following paragraphs

“(b) make a copy of a company’s register of directors available to

- (i) the company or its registered agent or any other person authorised in writing by the company; and

- (ii) a competent authority

- (aa) acting in the exercise of its powers as a regulator of financial services business or tax administrator; or

- (bb) for the purposes of dealing with a matter for which it has authority under an enactment, including pursuant to its obligations to a mutual legal assistance request received or made or to be made by it;

- (c) make a company’s register of directors available to a law enforcement agency in the performance of its investigative functions or in relation to the exercise of its investigative powers; and

- (d) make available to any other person, upon request, a list of directors contained in a company’s register of directors filed with the Registrar.”; and

(e) by inserting after subsection (12), the following new subsection:

“(13) For purposes of subsection (4) (c), a law enforcement agency refers to any institution of government which has responsibility, whether under an enactment or otherwise, to conduct investigations into the commission of an offence.”.

**Existing section 118C redesignated**

27. The existing section 118C of the principal Act is amended by redesignating the section as section 118D.

**Section 124 amended**

28. Section 124 of the principal Act is amended by repealing subsection (7).

**Section 138 amended**

29. Section 138 of the principal Act is amended by repealing subsection (5).

**Section 138A amended**

30. Section 138A of the principal Act is amended by repealing subsection (5).

**Section 162 amended**

31. Section 162 of the principal Act is amended by repealing subsection (3).

**Section 179A amended**

32. Section 179A of the principal Act is amended by repealing subsection (9).

**Section 184 amended**

33. Section 184 of the principal Act is amended in subsection (1B) by deleting paragraph (b) thereof and substituting the following paragraph:

“(b) file with the Registrar a notice of such intention in the approved form, which shall include a declaration that

- (i) the requirements of paragraph (a) (i) and (ii) have been complied with;
- (ii) the company does not have any pending request from a competent authority to produce documents or provide information which has not been satisfied; and
- (iii) the company does not have any legal proceedings, whether civil or criminal, pending against or in relation to the company or any member, director, officer or agent of the company.”

**Section 186 amended**

34. Section 186 of the principal Act is amended

- (a) in subsection (1) by deleting from the opening paragraph, the words “A foreign company” and substituting the words “Subject to section 187B (3), a foreign company”;

(b) in subsection (2) by inserting after paragraph (d), the following new paragraph:

“(da) the address of the foreign company’s registered office in its country of incorporation;”; and

(c) by repealing subsection (3).

### **Section 187A repealed and substituted**

**35.** Section 187A of the principal Act is repealed and substituted by the following section:

#### **“Register of members**

**187A.** (1) A foreign company shall, upon registration by the Registrar under section 187 (1), keep a register of members containing, as appropriate for the foreign company

- (a) the names and addresses of the persons who hold registered shares in the foreign company;
- (b) the names and addresses of the persons who are guarantee members of the company;
- (c) the names and addresses of the persons who are unlimited members;
- (d) the number of each class and series of registered shares held by each shareholder including, subject to subsection (2), the nature of associated voting rights;
- (e) the names and addresses of the persons who are nominee shareholders;
- (f) the names and addresses of the persons who nominate the nominee shareholders;
- (g) the date on which the name of each member was entered in the register of members;
- (h) the date on which any person, including a nominee shareholder, ceased to be a member.; and
- (i) the date on which a person ceased to be a nominator of a nominee shareholder.

(2) Where a foreign company’s instrument constituting or defining its constitution provides the nature of associated voting rights as outlined in subsection (1) (d), the company’s register of members need not contain that information.

(3) Where reference is made in this section and section 187D to a company's register of members, the register of members shall include the names of persons who are nominated as nominee shareholders under section 187B and those who nominated them as such."

**New sections 187B, 187C and 187D inserted**

**36.** The principal Act is amended by inserting after section 187A, the following new sections:

**"Registration of register of members**

**187B.** (1) A foreign company shall file for registration by the Registrar a copy of its register of members.

(2) The initial copy of a foreign company's register of members shall be filed for registration by the Registrar upon registration of the company.

(3) A foreign company that has filed for registration by the Registrar a copy of its register of members shall, within 14 days of any changes occurring, file the changes in the register by filing a copy of the register containing the changes.

(4) The Registrar shall

(a) maintain a copy of a foreign company's register of members filed pursuant to subsection (1), including any changes to the register filed under subsection (4) ;

(b) make a copy of a foreign company's register of members available to

(i) the company or its registered agent or any other person authorised in writing by the company; and

(ii) a competent authority

(aa) acting in the exercise of its powers as a regulator of financial services business or tax administrator; or

(bb) for the purposes of dealing with a matter for which it has authority under an enactment, including pursuant to its



obligations to a mutual legal assistance request received or made or to be made by it; and

- (c) make a copy of a company's register of members available to a law enforcement agency in the performance of its investigative functions or in relation to the exercise of its investigative powers.

(5) A reference in this section and Parts I and II of Schedule 1 to a filing of a copy of register of members for registration by the Registrar means providing the particulars of members referred to in section 187A which shall be in such form as the Registrar may determine.

(6) A reference in subsections (1) to (5) to a copy of a foreign company's register of members relates only to the members of the company as of the date of filing of the copy of register of members and includes the filing of a copy of the register containing any changes to the register of members.

#### **Nomination of nominee shareholders**

**187C.** (1) Subject to the instrument constituting or defining the constitution of a foreign company, a member of the company may, if permitted by the company's instrument, nominate as a nominee shareholder any other member or any other person to

- (a) exercise the nominating member's rights and powers, and
- (b) carry out the nominating member's responsibilities,

in relation to the taking of decisions by the nominee shareholder.

(2) The nominating member may, at any time, terminate the nominee shareholder's nomination.

(3) The nomination of a nominee shareholder and its termination shall be in writing and written notice of the nomination and termination shall be given by the nominating member to the foreign company

- (a) within such period as may be specified in the instrument constituting or defining the constitution of the foreign company; or

(b) if no period is specified in the instrument constituting or defining the constitution of the foreign company, as soon as reasonably practicable.

(4) The termination of the nomination of a nominee shareholder does not take effect until written notice of the nomination has been given to the foreign company.

(5) A nominee shareholder

(a) has no power to nominate a nominee, whether of the nominating member or of the nominee shareholder; and

(b) does not act as an agent of or for the nominating member.

### **Rights and duties of nominee shareholders**

**187D.** (1) A nominee shareholder has the same rights as the nominating member in relation to any members' meeting and any written resolution circulated for written consent.

(2) Any exercise by the nominee shareholder of the nominating member's powers in relation to the taking of decisions by the members, is as effective as if the powers were exercised by the nominating member.

(3) A nominee shareholder is liable for his or her own acts and omissions as a nominee shareholder and this Part applies to a person appointed as a nominee shareholder, when acting as such."

### **Existing section 187B redesignated and amended**

**37.** The existing section 187B of the principal Act is amended

(a) by redesignating the section as section 187E;

(b) by repealing subsection (2);

(c) by repealing subsection (5);

(d) in subsection (6) by deleting the words “,without prejudice to subsections (2), (5) and (7),”;

(e) by repealing subsection (7);

(f) by repealing subsection (8); and

(g) by repealing subsection (9).

**New section 187F inserted**

**38.** The principal Act is amended by inserting after section 187E, the following new section:

**“Foreign company to collect, keep and maintain beneficial ownership information**

**187F.** (1) A foreign company shall collect, maintain and keep accurate and up to date information on the beneficial owner of the company.

(2) The beneficial ownership information required under subsection (1) shall be filed with the Registrar upon registration of the foreign company.

(3) Where a foreign company files its beneficial ownership information pursuant to subsection (2), the Registrar shall adopt such measures, including adopting a risk-based approach as provided under the Anti-money Laundering Regulations and Anti-money Laundering and Terrorist Financing Code of Practice, Revised Edition 2020, to verify the information collected and maintained under subsection (1), including ensuring that such information is kept up to date.

(4) Where the beneficial owner of, or any information in relation to a beneficial owner’s interest in, a foreign company changes, the company shall, within 30 days of the occurrence of the change, file information of the change.

(5) The obligation placed on the Registrar under subsection (3) may be undertaken by the Commission independently or as part of its inspection process pursuant to the exercise of powers granted under the Financial Services Commission Act, Revised Edition 2020, but this shall not be construed as precluding the Registrar from verifying any information filed for registration at any time where he or she considers that necessary in any particular case or circumstance.

(6) Where the Commission acts in accordance with subsection (5), it shall ensure that the records of the Registrar in relation to the foreign

company's beneficial ownership information reflect the verification of the information concerned.

(7) For purposes of this section, measures (including risk-based approach) undertaken to verify beneficial ownership information to keep such information up to date shall be considered necessary and adequate if the measures (or risk-based approach) undertaken

- (a) clearly identify the identity of the beneficial owner and other information required in relation to him or her;
- (b) assist in securing information on the ownership structure and control mechanisms of the company to verify that the person identified under paragraph (a) as the beneficial owner is in fact the beneficial owner; and
- (c) utilise reliable, independent source documents, data or information for such verification.”.

### **Section 188 amended**

**39.** Section 188 of the principal Act is amended

(a) by repealing subsection (3) and substituting the following new subsection:

“(3) A notice of a change in the

- (a) corporate name of a foreign company shall be accompanied by a resolution of directors confirming the change; and
- (b) instrument constituting or defining the constitution of a foreign company shall be accompanied by
  - (i) a certified copy of the new or amended instrument; and
  - (ii) if the instrument is not in English, a translation of the document certified as accurate in accordance with the Regulations.”;

(b) by repealing subsection (3A) and substituting the following subsection:

“(3A) Where the Registrar receives a notice of change in particulars under subsection (3) that complies with this section, he or she shall

- (a) in the case of a change in corporate name

- (i) register the foreign company's change of name in the Register of Foreign Companies; and
  - (ii) issue a certificate of change of name to the foreign company; and
- (b) in the case of other particulars, register the change in the Register of Foreign Companies.”; and
- (c) by repealing subsection (4).

**Section 189 amended**

**40.** Section 189 of the principal Act is amended by repealing subsection (3).

**Section 189A amended**

**41.** Section 189A of the principal Act is amended

(a) in subsection (2) (a) by deleting the words “30 days written notice” and substituting the words “60 days written notice”; and

(b) by repealing subsections (5) and (6) and substituting the following subsections:

“(5) A registered agent wishing to rescind a notice of his or her intention to resign under subsection (2) (the “resignation notice”) shall

(a) give at least 14 days written notice of his or her intention to rescind the resignation notice on the date specified in the notice to the person to whom he or she sent the resignation notice; and

(b) file the notice (the “rescission notice”).

(6) A rescission notice may not be filed

(a) if the foreign company has, by the time of filing, changed its registered agent; or

(b) 14 days or less prior to the date specified in subsection (2).

(7) The rescission notice takes effect on the date specified in the rescission notice unless the foreign company has changed its registered agent before that date.”.

**Section 189B amended**

**42.** Section 189B of the principal Act is amended

- (a) in subsection (3) by adding at the end of the opening paragraph, the word “to”;
- (b) by repealing subsection (6); and
- (c) in subsection (7) by deleting from the opening paragraph, the words “under subsection (6)” and substituting the words “under, or be considered to be in breach of, subsection (2) or (4)”.

**Section 190 amended**

**43.** Section 190 of the principal Act is amended by repealing subsection (5).

**Section 191 amended**

**44.** Section 191 of the principal Act is amended by repealing subsection (5).

**Section 192 amended**

**45.** Section 192 of the principal Act is amended by repealing subsection (3).

**Section 198 amended**

**46.** Section 198 of the principal Act is amended by repealing subsection (4).

**Section 204 amended**

**47.** Section 204 of the principal Act is amended by repealing subsection (4).

**Section 207A amended**

**48.** Section 207A of the principal Act is amended

- (a) in subsection (6) by deleting from the opening paragraph the words “within 5 days” and substituting the words “within 30 days”; and
- (b) by repealing subsection (7).

**Section 209 amended**

**49.** Section 209 of the principal Act is amended by repealing subsection (3).

**Section 210 amended**

**50.** Section 210 of the principal Act is amended by repealing subsection (5).

## **Section 211A amended**

### **51. Section 211A of the principal Act is amended**

- (a) in subsection (1) by deleting the words “the Court may” and substituting the words "Subject to subsection (4), the Court may"; and
- (b) by adding after subsection (3), the following new subsection:

“(4) Subsection (1) does not apply to an application for the restoration of a company under section 218 if the Court is satisfied that the company to be restored is, at the time of restoration, insolvent.”.

## **Section 213 amended**

### **52. Section 213 of the principal Act is amended**

- (a) in subsection (1)
  - (i) in paragraph (a), by deleting subparagraph (ii) and substituting the following subparagraph:

“(ii) fails to file or provide any return, notice, information or document required to be filed or provided under this Act;”;
  - (ii) by deleting paragraph (c) and substituting the following paragraph:

“(c) the company fails to pay its annual fee, fixed penalty, administrative penalty or other applicable penalty by the due date;”;
  - (iii) in paragraph (d) by deleting the full-stop at the end of the paragraph and substituting the words “; or”; and
  - (iv) by adding after paragraph (d), the following new paragraph:

“(e) in relation to a restored company for which an undertaking has been made in accordance with section 217 (2) (c) (ii) or 218A (1) (ii) (bb), the undertaking has not been complied with within the stipulated period.”;

- (b) by repealing subsection (3) and substituting the following subsection:

“(3) The Registrar shall

(a) before striking the name of a company off the Register on the grounds specified in subsection (1)

(i) send the company a notice stating that, unless the company shows cause to the contrary, it will be struck from the Register on a date specified in the notice which shall be no longer than 90 days after the date of the notice; and

(ii) publish a notice in the *Gazette* of his or her intention to strike the company’s name off the Register;

(b) on the date specified in the notice referred to in paragraph (a), strike the name of the company off the Register, unless the company has shown cause to the contrary; and

(c) upon striking off of the name of the company from the Register, publish notice of the striking off in the *Gazette*.”.

(c) by repealing subsection (4);

(d) by repealing subsection (5);

(e) by repealing subsection (6) and substituting the following subsection:

“(6) The striking off of the name of a company from the Register is effective from the date specified in the notice sent in accordance with subsection (3) (a).”;

(f) by repealing subsection (7) and substituting the following subsection:

“(7) The striking off and dissolution of a company shall not be affected by any failure on the part of the Registrar to

(a) serve a notice on the registered agent or to publish a notice in the *Gazette* under subsection (3); or

(b) publish a notice in the *Gazette* under subsection (8) (a);”;  
and



(g) by adding after subsection (7), the following new subsection:

- “(8) If a company is struck off the Register by virtue of subsection (1) (e)
- (a) the Registrar shall publish notice of the striking off in the *Gazette*;
  - (b) subsections (2), (3) and (3A) shall not apply;
  - (c) subsection (3B) shall be construed as if the references in that subsection to the notice and the period specified in the notice were references to the undertaking and the period specified in section 217 (2) (c) (ii) or 218A (1) (ii) (bb), as the case may be; and
  - (d) subsection (6) shall be construed as if the reference in that subsection to “the date specified in the notice sent in accordance with subsection (3) (a)” were a reference to the undertaking and the period specified in section 217 (2) (c) (ii) or 218A (1) (ii) (bb), as the case may be.

#### **Section 216 repealed and substituted**

**53.** The principal Act is amended by repealing section 216 and substituting the following section:

#### **“Dissolution of company struck off the Register**

**216.** Where a company is struck off the Register under section 213 (3) (b), the company is dissolved on the same date.”

#### **Section 217 amended**

**54.** Section 217 of the principal Act is amended

- (a) in subsection (2)
  - (i) by deleting paragraph (c) and substituting the following paragraph:

“(c) the registered agent has made

- (i) a declaration in the approved form that the company's records have been updated as required under section 213 (3B); or
- (ii) an undertaking in the approved form that the company's records will be updated as required under section 213 (3B) within 14 days from the date of restoration of the company to the Register.”; and

(ii) by inserting after paragraph (d), the following new paragraph:

“(da) the company has filed for registration by the Registrar

- (i) a copy of its register of members; and
- (ii) a copy of its register of directors;”;

(b) by inserting after subsection (2), the following new subsection:

“(2A) The requirements under subsection (2) (da) (i) and (ii) shall not apply if at the date the company was struck off and dissolved it had filed its register of members and register of directors.”.

### **Section 218 amended**

**55.** Section 218 of the principal Act is amended

- (a) in subsection (2) by adding at the end of paragraph (d) before the semi-colon, the words “if the purpose of the application is to pursue such potential legal claim only”;
- (b) by inserting after subsection (3), the following new subsection:

“(3A) Subsection (2) (c) and (f) shall not be construed to include a registered agent or former registered agent of the company or a person who is or was an agent of or in an agency relationship with the company.”; and

- (c) in subsection (4), by deleting from the opening paragraph the words “under subsection (1) (c) (iii)” and substituting the words "under subsection (1) (c) (ii)".

### **Section 218A amended**

**56.** Section 218A of the principal Act is amended

- (a) in subsection (1) (a)

(i) by deleting subparagraph (ii) and substituting the following subparagraph:

“(ii) the registered agent making

(aa) a declaration in the approved form that the company’s records have been updated as required under section 213 (3B); or

(bb) an undertaking in the approved form that the company’s records will be updated as required under section 213 (3B) within 14 days from the date of restoration of the company to the Register;”;

(ii) by deleting the word “and” at the end of subparagraph (iii);

(iii) by inserting after subparagraph (iii), the following new subparagraphs:

“(iv) the company filing a copy of its register of members;

(v) the company filing a copy of its register of directors; and”;  
and

(iv) by renumbering the existing subparagraph (iv) as subparagraph (vi);  
and

(b) by inserting after subsection (1), the following new subsection:

“(1A) The requirements under subsection (1) (a) (iv) and (v) shall not apply if at the date the company was struck off and dissolved it had filed its register of members and register of directors.”.

### **Section 218B amended**

**57.** Section 218B of the principal Act is amended

(a) in subsection (1) by deleting from the opening paragraph the words “within 30 days” and substituting the words “within 60 days”; and

(b) in subsection (1A) by deleting the words “the order shall cease to be valid” and substituting the words “the Registrar shall not accept a sealed copy of the Order for filing unless the relevant penalty prescribed in Part II of Schedule 1 is paid.”.

### **New section 228A inserted**

**58.** The principal Act is amended by inserting after section 228, the following new section:

## **“Duty to cooperate**

- 228A.** (1) Every company shall cooperate with
- (a) the Registrar in discharging his or her functions under this Act;
  - (b) an inspection conducted under this Part;
  - (c) a competent authority discharging 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
  - (d) a law enforcement agency in the performance of its investigative functions or in relation to the exercise of its investigative powers.
- (2) Cooperation under subsection (1) may include but is not limited to
- (a) providing information that is within the domain of the company;
  - (b) producing documents in the possession or under the control of the company or a subsidiary of the company; and
  - (c) providing any other material which the company has access to and authority to produce.
- (3) The Registrar may, for the purpose of facilitating a competent authority or law enforcement agency in the discharge of its functions, provide the competent authority or law enforcement agency access to the systems and facilities, including the electronic platform, maintained by the Registrar in accordance with section 230 to enable search of basic information or other information required under any other enactment in relation to a company.
- (4) For purposes of
- (a) subsections (1) (d) and (3), “law enforcement agency” refers to any institution of government which has responsibility, whether under an enactment or otherwise, to conduct investigations into the commission of an offence; and
  - (b) subsection (3), a reference to “basic information” means a company’s name, certificate of incorporation (legal form and status), address of registered office (and, if different, principal

place of business), memorandum and articles of association, register of members and register of directors.”.

**Existing section 228A redesignated**

**59.** The existing section 228A is amended by redesignating it as section 228B.

**Section 230 amended**

**60.** Section 230 of the principal Act is amended

(a) in subsection (1) by deleting paragraph (d) and substituting the following paragraph:

“(d) a Register of Beneficial Ownership.”;

(b) by inserting after subsection (1), the following new subsection:

“(1A) The Registrar shall maintain such other register or incorporate into an existing register such other information as

(a) may be required or authorised under any other enactment; or

(b) the Registrar considers feasible for purposes of facilitating the administration of this Act.”;

(c) in subsection (3A)

(i) in paragraph (c)

(aa) by deleting from the opening paragraph the words “Register of Persons with Significant Control” and substituting the words “Register of Beneficial Ownership”;

(bb) by deleting from subparagraph (i), the words “significant control” and substituting the words “beneficial ownership”; and

(cc) by adding at the end of sub-paragraph (ii) (bb) before the semi-colon, the words “to persons who can demonstrate legitimate interest in acquiring the information”;

(dd) in subparagraph (v) by deleting the word “or” at the end of sub-subparagraph (cc);

- (ee) by adding the word “or” at the end of sub-subparagraph (dd); and
- (ff) by inserting after sub-subparagraph (dd), the following new sub-subparagraph:

“(ee) where the person does not qualify as a person with a legitimate interest as may be defined in the Regulations;”;  
and

- (d) by repealing subsection (6) and substituting the following subsection:

“(6) Regulations made under subsection (3A) (c) shall

(a) define what constitutes a legitimate interest; and

(b) be subject to a negative resolution of the House of Assembly.”.

### **Section 235 amended**

#### **61. Section 235 of the principal Act is amended**

- (a) in subsection (1) by deleting paragraphs (c) and (d) and substituting the following paragraphs:

“(c) the company has filed with the Registrar a copy of its register of members in accordance with section 43A (1);

(d) the company has filed with the Registrar a copy of its register of directors in accordance with section 118C (1);

(e) the company has filed with its registered agent its annual return in accordance with section 98A; and

(f) the company has filed with the Registrar beneficial ownership information in accordance with section 96A (2).”;

- (b) by repealing subsection (1A); and

- (c) by repealing subsection (3).

### **Section 240 amended**

#### **62. Section 240 of the principal Act is amended**

- (a) by repealing subsection (3) and substituting the following subsection:

- “(3) The Regulations may
- (a) make different provision in relation to different persons, circumstances or cases; and
  - (b) provide, subject to subsection (4), penalties for any contraventions of or failure to comply with specified requirements of the Regulations.”; and

(b) by adding after subsection (3), the following new subsection:

- “(4) A penalty provided under the Regulations made in relation to this section shall not exceed
- (a) in the case of a monetary penalty, the sum of \$50,000; and
  - (b) in the case of an offence where a period of imprisonment is prescribed, the term of 2 years.”.

#### **Section 240A amended**

**63.** Section 240A of the principal Act is amended

- (a) in subsection (4) (b) by deleting the words “for offences and”; and
- (b) by repealing subsection (5) and substituting the following subsection:

“(5) A penalty provided under the Regulations made in relation to this section shall not exceed

- (c) in the case of a monetary penalty, the sum of \$50,000; and
- (d) in the case of an offence where a period of imprisonment is prescribed, the term of 2 years.”.

#### **New section 242A inserted**

**64.** The principal Act is amended by inserting after section 242, the following new section:

##### **“Returns**

**242A.** (1) The Commission may, by an Order published in the *Gazette* and on the internet site, require a company to prepare and submit to the Commission a return of any matter concerning the business or affairs of the company.

(2) Any return required by the Commission pursuant to subsection (1)

- (a) shall be in the approved form and contain such detail as may be specified in the Order issued under subsection (1);
- (b) may be used for the purpose of analysing and developing relevant statistical data for use by the Commission or the Registrar or for public dissemination;
- (c) may be used for the purpose of facilitating the supervisory functions of the Commission or the functions of the Registrar, including the assessment of risk;
- (d) may be used in response to statistical inquiries by persons who are connected to or have interest in the work of the Commission or the Registrar or generally in the operation of financial services business in and from within the Territory and which the Commission considers to be legitimate and appropriate;
- (e) may be used for the purpose of meeting any obligation or undertaking of the Commission by virtue of its membership or association of any institution or organisation or of implementing any domestic or internationally established standard or commitment;
- (f) may be applied for some other purpose consistent with the duties and functions of the Commission or the Registrar; and
- (g) shall be prepared and submitted for the period and within the time frame as may be specified in the Order issued under subsection (1).

(3) A company shall ensure that information provided in any return is accurate and complete.

(4) An Order made under subsection (1) may apply to

- (a) a company to be incorporated, registered or continued under this Act; or
- (b) an existing company and an existing struck off and dissolved company as defined in paragraph 60H (1) of Part VIIB of Schedule 2 and, for this purpose, the Order may modify Part VIIB of Schedule 2 as the Commission may consider fit.

(5) A reference in this section to “company” shall be construed to include a foreign company, although the Order made under subsection (1) may, for



any particular purpose, be applied differently as between an incorporated company and a registered foreign company.”.

### **Section 243 repealed and substituted**

**65.** Section 243 of the principal Act is repealed and substituted by the following section:

#### **“Offences and penalties**

**243.** (1) A person who contravenes a provision of this Act specified in Part II of Schedule 1 commits the corresponding offence or breach specified in that Part of the Schedule in relation to the section outlined therein and is liable to the penalty prescribed therein.

(2) A person who files a document or provides information pursuant to a requirement under this Act, which is false or misleading, is liable to the imposition of an administrative penalty.

(3) The penalties prescribed under Part II of Schedule 1 shall be enforced as fixed penalties, administrative penalties, or offences to be investigated and prosecuted in accordance with the laws of the Virgin Islands.

(4) The fixed penalties and administrative penalties referred to in subsection (3) shall be enforced by the Registrar, and the amount of administrative penalty applicable in any particular case in relation to an offence or breach shall be determined by the Registrar.

(5) Where a contravention under this Act is committed by a body corporate, a director, general manager, secretary or other officer of the body corporate who authorised, permitted or acquiesced in the commission of the offence also commits an offence and is liable on conviction to the penalty specified for the commission of the offence.

(6) Subsections (1) to (5) shall apply in relation to regulations made under section 240A or an Order made under section 242A as if the penalties prescribed under those regulations or the Order were specified in accordance with Part II of Schedule 1 of this Act.”.

### **New section 243A inserted**

**66.** The principal Act is amended by inserting after section 243, the following new section:

#### **Procedure for imposing administrative penalty**

**243A.** (1) Where the Registrar proposes to impose an administrative penalty on a person pursuant to section 243, he or she shall, after taking into account the matters specified in subsection (5), send a notice of proposed penalty to the person stating

- (a) the contravention in respect of which he or she proposes to impose the administrative penalty;
- (b) the amount of the proposed penalty; and
- (c) the person's entitlement to make written representation to the Registrar in accordance with subsection (2).

(2) Where a person receives a proposed penalty, he or she may, within 21 days of the date of the notice, make representation to the Registrar as to why he or she should not be required to pay the administrative penalty or why the administrative penalty should be reduced.

(3) The Registrar may at any time prior to the issuing of a penalty notice under subsection (4), withdraw a notice of proposed penalty and substitute a new notice of proposed penalty for a different amount.

(4) After the expiration of the period specified in subsection (2) and subject to complying with subsection (5), the Registrar may, by written penalty notice, impose an administrative penalty on the person concerned in an amount not exceeding the amount stated in the proposed penalty notice.

(5) The Registrar shall, before imposing an administrative penalty

- (a) consider any representation received under subsection (2);
- (b) take into account the following matters in determining the administrative penalty to be imposed
  - (i) the nature and seriousness of the contravention;
  - (ii) whether the person has previously contravened the Act or any regulation, order or notice made or issued under the Act;
  - (iii) whether the contravention was deliberate or reckless or caused by the negligence of the person;

(iv) whether any loss or damage has been sustained by third parties as a result of the contravention; and

(c) any other matter the Registrar considers appropriate.

(6) A person who receives a penalty notice under subsection (4) shall pay to the Registrar the penalty stated in the penalty notice within 14 days of receipt of the penalty notice.

(7) Where a person is aggrieved by the Registrar's decision to impose an administrative penalty on him or her, or by the amount of the administrative penalty, he or she may, within 14 days of receiving the penalty notice, appeal to the Financial Services Appeal Board established under section 3 (1) of the Financial Services Appeal Board Act, Revised Edition 2020.

(8) An appeal of the Registrar's decision to impose an administrative penalty shall not operate as a stay on the obligation of the person to whom it relates to pay the penalty.

(9) For the avoidance of doubt, it is declared that the powers of the Commission to impose an administrative penalty under section 37 of the Financial Services Commission Act, Revised Edition 2020, shall not apply to this Act.”

#### **Schedule 1 amended**

67. Schedule 1 of the principal Act is amended by repealing Part II and substituting the following Part II:

#### **“PART II – PENALTIES**

##### **(a) Fixed Penalties**

<b>Column 1 Section</b>	<b>Column 2 Nature of Contravention</b>	<b>Column 3 Penalty</b>
22(1)	Failure to make application for change of name, where directed by the Registrar, within period specified	\$500
43A(2)(a) & (b)	Failure to file for registration copy of initial register of members within the specified period	\$500 For first month or part thereof that the filing remains outstanding

		\$1,000 For each month or part thereof after the first month that the filing remains outstanding (up to 2 months)
		\$1,500 For each month or part thereof after the third month that the filing remains outstanding (up to 3 months)
43A(4)	Failure to file changes in the register of members within the specified period	\$500 For each month or part thereof that the filing remains outstanding
90(1)	Failure to maintain a registered office in the Virgin Islands	\$1,500
91(1)	Failure to maintain a registered agent in the Virgin Islands	\$1,500
96A(2)(a) & (b)	Failure to file for registration beneficial ownership information within the specified period	\$1,000 For first month or part thereof that the filing remains outstanding
		\$2,000 For each month or part thereof after the first month that the filing remains outstanding (up to 2 months)
		\$3,000 For each month or part thereof after the third month that the filing remains outstanding (up to 3 months)
96A(4)	Failure to file changes in beneficial ownership information within the specified period	\$1,000 For each month or part thereof that the filing remains outstanding
118C(2)(a) & (b)	Failure to file for registration copy of initial register of directors within the specified period	\$500 For first month or part thereof that the filing remains outstanding

		<p>\$1,000 For each month or part thereof after the first month that the filing remains outstanding (up to 2 months)</p> <p>\$1,500 For each month or part thereof after the third month that the filing remains outstanding (up to 3 months)</p>
118C(4)	Failure to file changes to register of directors within the specified period	\$500 For each month or part thereof that the filing remains outstanding
187B(2)(a)&(b)	Failure to file for registration copy of initial register of members within the specified period	<p>\$500 For first month or part thereof that the filing remains outstanding</p> <p>\$1,000 For each month or part thereof after the first month that the filing remains outstanding (up to 2 months)</p> <p>\$1,500 For each month or part thereof after the third month that the filing remains outstanding (up to 3 months)</p>
187B(4)	Failure to file changes in the register of members within the specified period	\$500 For each month or part thereof that the filing remains outstanding
187F(2)	Failure to file for registration beneficial ownership information within the specified period	<p>\$1,000 For first month or part thereof that the filing remains outstanding</p> <p>\$2,000 For each month or part thereof after the first month that the filing remains outstanding (up to 2 months)</p> <p>\$3,000 For each month or part thereof after the third month that the filing remains outstanding (up to 3 months)</p>

187F(4)	Failure to file changes in beneficial ownership information within the specified period	\$1,000 For each month or part thereof that the filing remains outstanding
188(1)	Failure to file notice of change in particulars within specified period	\$500 For each month or part thereof that the filing remains outstanding
207A(6)(b)	Failure to file a sealed copy of Court order terminating a voluntary liquidation, within the specified period	\$1,500 For each month or part thereof that the filing remains outstanding
236	Failure to pay annual fee payable under Part 1 of Schedule 2, within the specified period (Company)	<ul style="list-style-type: none"> <li>▪ if the fee is paid before the expiration of 2 months after the date when the fee is due, the penalty payable shall be equal to 10% of the annual fee due; or</li> <li>▪ if the fee is paid on or after the expiration of 2 months after the date when the fee is due, the penalty payable shall be equal to 50% of the annual fee due.</li> </ul>
	Failure to pay annual fee payable under Part I, on or before 31 March (Foreign Company)	<ul style="list-style-type: none"> <li>▪ if the fee is paid on or before 31 May in that year, the penalty payable shall be equal to 10% of the annual fee due; or</li> <li>▪ if the fee is paid on or after 1 June in that year, the penalty payable shall be equal to 50% of the annual fee due</li> </ul>
Schedule 2, paragraphs 31 or 48	Failure to pay annual fee payable under paragraph 31 or 48 of Schedule 2, within the specified period	<ul style="list-style-type: none"> <li>▪ if the fee is paid before the expiration of 2 months after the date when the fee is due, the penalty payable shall be equal to 10% of the annual fee due; or</li> <li>▪ if the fee is paid on or after the expiration of 2 months after the date when the fee is due, the penalty payable shall be equal to 50% of the annual fee due.</li> </ul>

**(b) Administrative Penalties**

<b>Column 1 Section</b>	<b>Column 2 Nature of Contravention</b>	<b>Column 3 Penalty</b>
17A(4)	Contravention of a condition of approval imposed by the Registrar	\$10,000 to \$25,000
	Failure to provide annual audited statements	\$10,000 to \$25,000
17B(3)	Failure to comply with a condition imposed by the Registrar	\$10,000 to \$25,000
17B(4)	Failure to give notification to the Registrar as prescribed	\$10,000 to \$25,000
26(1)	Failure to ensure that full name is provided in every communication sent and document issued or signed	\$500 to \$2,500
40(1)	Failure to file a notice of change in maximum number of shares authorised to issue	\$1,000 to \$10,000
40A(3)	Division of shares causing the number of shares to exceed the maximum number of shares authorised to issue	\$1,000 to \$10,000
41(4)	Failure to include names of persons nominated as nominee shareholders and persons who nominated the nominee shareholders, on register of members	\$1,000 to \$15,000
79(1)	Failure to have one or more members	\$1000 to \$10,000
79(2)	Failure of company limited by guarantee to have at least one guarantee member	\$1000 to \$5,000
79(3)	Failure of an unlimited company to have at least one unlimited member	\$1000 to \$5,000
91(3)	Being or agreeing to be a registered agent without holding the relevant licence	\$5,000 to \$25,000
93(2)(a)	Failure to provide notice of intention to resign as registered agent within specified period	\$500 to \$2,500
93(2A)	Failure to resign as registered agent where business relationship was terminated on account of money laundering, terrorist financing and proliferation financing	\$500 to \$5,000
94(2)	Failure to provide notice of cessation to be eligible to act as a registered agent	\$500 to \$3,000
94(4)	Failure to change registered agent within specified period	\$500 to \$3,000

95(3)	Failure to notify Commission of any change in details kept in Register of Approved Registered Agents	\$500 to \$5,000
96(1)	Failure to keep required documents at the office of registered agent	\$1,000 to \$10,000
96(2)(a)	Failure to notify registered agent of changes in the registers kept at registered agent's office within specified time period	\$1,000 to \$10,000
96(2)(b)	Failure to notify registered agent of the physical address of the place(s) where original registers are kept	\$1,000 to \$10,000
96(3)	Failure to provide registered agent with address of new location of original registers within specified period	\$1,000 to \$10,000
97(1)	Failure to keep specified records at the office of registered agent or such other place(s) as the director(s) determines	\$1,000 to \$10,000
97(2)	Failure to provide registered agent with a written record of address where specified records are kept	\$1,000 to \$10,000
97(3)	Failure to provide registered agent with address of new location of records within specified period	\$1,000 to \$10,000
98(1)(a)	Failure to keep records and underlying documentation at registered office or other place	\$1,000 to \$15,000
98(1)(b)	Failure to retain records and underlying documentation for specified period	\$1,000 to \$15,000
98(2)	Company records and underlying documentation insufficient to show and explain company's transactions or enable its financial position to be determined with reasonable accuracy	\$5,000 to \$25,000
98(3)	Failure to provide registered agent with address where specified records are kept or name of the person who maintains and controls records and underlying documentation	\$1,000 to \$10,000
98(4)	Failure to provide registered agent with address of new location of records and underlying documentation or name of new person who maintains and controls records and underlying documentation	\$1,000 to \$10,000
98(5)	Failure to keep and maintain a record of the place(s) outside the Virgin Islands	\$1,000 to \$10,000



	where company keeps records and underlying documentation	
98A(2)	Failure to file annual return with registered agent within the specified period	\$1,000 to \$15,000
98A(4)	Failure to notify the Registrar of any company's failure to file an annual return	\$1,000 to \$15,000
102(1)	Failure to keep minutes of all meetings and copies of all resolutions in accordance with the section	\$1,000 to \$10,000
102(2)	Failure to have common seal or maintain an imprint of seal at office of registered agent	\$500 to \$2,500
109(4)	Failure to have one or more appointed directors	\$1,000 to \$10,000
138(4)	Creation of a segregated portfolio without the Commission's approval, where required	\$750 to \$2,500
138A(2)	Termination of a segregated portfolio without notice to the Commission within the specified period, where required	\$750 to \$2,500
138A(4)	Reinstatement of a segregated portfolio without notice to the Commission within the specified period	\$750 to \$2,500
187A(3)	Failure to include name of nominee shareholder and person who nominated nominee shareholder (foreign company)	\$1,000 to \$15,000
187E (1)	Failure to keep documents required to be kept at registered agent's office (foreign company)	\$1,000 to \$10,000
187E(3)(a)	Failure to notify registered agent of changes to register of members or list of directors within the specified period (foreign company)	\$1,000 to \$10,000
187E(3)(b)	Failure to provide registered agent with address of original register of members and list of directors (foreign company)	\$1,000 to \$10,000
187E(4)	Failure to provide registered agent with address of new location of register or list within the specified period, where location has changed	\$1,000 to \$10,000
189(1)	Failure by foreign company carrying on business in the Virgin Islands to have a registered agent in the Virgin Islands	\$500 to \$1,500
189(2)	Being or agreeing to be a registered agent of foreign company without holding the relevant licence	\$5,000 to \$25,000

189A(2)	Failure to provide notice of intention to resign as registered agent, within specified period	\$500 to \$2,500
189A(2A)	Failure to resign as registered agent where business relationship was terminated on account of money laundering, terrorist financing and proliferation financing	\$500 to \$5,000
189B(2)	Failure to provide notice of cessation to be eligible to act as a registered agent	\$500 to \$5,000
189B(4)	Failure to change registered agent within specified period	\$500 to \$5,000
190(2)	Failure to cease carrying on business in the Virgin Islands under a name or alternative name as specified in a notice, within the specified period	\$500 to \$10,000
191(1)	Failure to ensure that name or alternate name (as applicable) and country of incorporation are clearly stated in every communication or document issued or signed	\$500 to \$2,500
191(3)	Failure to specify that the alternate name under which a foreign company is registered is not its corporate name, in every communication and document	\$500 to \$2,500
201(3)	Failure of voluntary liquidator of regulated person to provide the Commission with required documentation or give the Commission further information, explanations and assistance, as required	\$1,000 to \$15,000
201(5)	Failure to keep and maintain document or record received from voluntary liquidator, for the specified period	\$5,000 to \$25,000
204(1)	Failure to file required documentation within specified period or advertise notice of appointment within specified period	\$500 to \$2,500
204(3)	Failure to keep copy of declaration of solvency with statement of company's assets and liabilities at the office of registered agent	\$500 to \$2,500
243(2)	Filing false or misleading documentation or information	\$15,000 to \$30,000

**(c) Offences and Penalties**

<b>Column 1 Section</b>	<b>Column 2 Nature of Contravention</b>	<b>Column 3</b>	<b>Column 4 Penalty</b>
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		<b>Penalty (Imprisonment)</b>	<b>(Fine)</b>
38(1)	Issuance of a bearer share, conversion of a registered share into a bearer share or exchange of a registered share for a bearer share	3 years	\$150,000
96A(1)	Failure to collect, maintain and keep accurate and up to date beneficial ownership information	3 years	\$150,000
98(1)(c)	Failure to provide registered agent with records and underlying documentation without delay, in response to requests from the Commission or other competent authority	2 years	\$65,000
98(6)	Failure to request records and underlying documentation from company when required to do so by the Commission or other competent authority	2 years	\$65,000
98A(3)(a)	Failure to provide the Commission or other competent authority with copy of annual return	2 years	\$65,000
98A(3)(b)	Failure to retain annual return for the period specified	2 years	\$65,000
118A(2)	Failure to maintain each former name of a director on register of directors	2 years	\$50,000
186(1)	Carrying on business in the Virgin Islands without being registered or applying to be registered under the Act (foreign company)	3 years	\$75,000
187F(1)	Failure to collect, maintain and keep accurate and up to date beneficial ownership information (foreign company)	3 years	\$150,000
198(1)	Making declaration of solvency without having reasonable grounds	18 months	\$15,000
209(2)	Failure to send written notice to Official Receiver and	18 months	\$15,000

	Commission (as applicable) that a company is insolvent		
228A(1)	Failure to cooperate with the Registrar, an inspection, a competent authority or law enforcement agency	3 years	\$75,000”

**Schedule 2 amended**

**68.** Schedule 2 of the principal Act is amended

(a) in Part VIIA

- (i) in paragraph 60E, by deleting the words “paragraph 60C” and substituting the words “paragraph 60D”; and
- (ii) in paragraph 60G (2), by deleting the words “creditor,”; and

(b) by inserting after Part VIIA, the following new Part:

“Part VIIB  
TRANSITIONAL PROVISIONS IN RELATION TO COMPANIES  
REQUIRED TO FILE REGISTER OF MEMBERS AND BENEFICIAL  
OWNERSHIP INFORMATION

**Interpretation for this Part**

**60H.** (1) For the purposes of this Part

“effective date” means the date this Act (BVI Business Companies (Amendment) Act, 2024) comes into force;  
“existing company” means a company that was incorporated before the effective date and has not been struck off and dissolved; and

“existing struck off and dissolved company” means a company that

- (a) was incorporated before the effective date;
- (b) has been struck off and dissolved; and

(c) has not been restored to the Register prior to the effective date.

(2) For the purposes of the application of sections 41, 42, 43, 43A and 96A of the Act to this Part, the references in those sections to “company” shall be construed as if the references were to an existing company or an existing struck off and dissolved company, as the case may be.

**Filing of register of members and beneficial ownership information by existing company**

**60I.** (1) For the purposes of this paragraph, “existing company” includes a foreign company that, as of the effective date, is on the Register of Foreign Companies.

(2) An existing company shall, within 6 months of the effective date, comply with the requirements of sections 41, 43A, 96A, or, as the case may be, sections 187A, 187B and 187F.

(3) The Registrar may, if he or she considers it necessary, extend the period outlined in sub-paragraph (2) for a further period not exceeding 3 months.

(4) Where prior to the effective date an existing company had opted to file and had indeed filed its register of members, it shall not be required to file a copy of another register of members, save that if the copy of the register of members filed did not contain any of the information required under section 41 (2), the company shall file a copy of the register containing the information required under that section.

(5) An existing company that fails to comply with the requirements of this paragraph is liable to

(a) a penalty of \$600 for the first 3 months that it failed to so comply;

(b) a penalty of \$800 for the second 3 months following the end of the period specified in sub-subparagraph (a); and

(c) be struck off or removed by the Registrar from

(i) the Register after the end of the second period referred to in sub-subparagraph (b); or

- (ii) the Register of Foreign Companies after the end of the second period referred to in sub-subparagraph (b).

**Filing of register of members and beneficial ownership information by existing struck off and dissolved company**

**60J.** (1) An existing struck off and dissolved company shall not be restored to the Register unless

- (a) in the case of an application for restoration under section 217, the Registrar is satisfied that the company has filed its register of members and beneficial ownership information or will, within 14 days after restoration, file its register of members and beneficial ownership information; or

- (b) in the case of an application for restoration under section 218, the Court is satisfied that the company has filed its register of members and beneficial ownership information or will, within 14 days after restoration, file its register of members and beneficial ownership information.

(2) Sub-paragraph (1) is without prejudice to the requirements for restoration of a struck off and dissolved company under section 217 or section 218 and 218A.

(3) Sub-paragraph (1) shall not apply in an application for restoration under section 217 or 218 if at the date the company was struck off and dissolved it had opted to file and had indeed filed its register of members containing all the information required under section 41 (2), but this shall not preclude the company from

- (a) where the copy of the register of members filed did not contain any of the information required under section 41 (2), filing a copy of the register containing the information required under that section; and

- (b) the requirement to file its beneficial ownership information.

(4) For purposes of sub-paragraph (1) (a) and (b)

(a) the period stipulated for the existing struck off and dissolved company to file its register of members and beneficial ownership information shall be construed as if it were an undertaking under section 217 (2) (c) (ii) or 218A (1) (a) (ii) (bb), as the case may be; and

(b) section 213 shall apply accordingly.”.

**Restored existing struck off and dissolved company liable to be struck off**

**60K.** (1) Where by virtue of paragraph 60J (1) (a) or (b) an existing struck off and dissolved company is restored to the register with the requirement for the company to file its register of members and beneficial ownership information within the period stipulated in that paragraph and the company fails to do so, the Registrar shall strike the name of the company from the register in accordance with section 213 (1) (a) (ii) or (e).

(2) If an existing struck off and dissolved company is again struck off by virtue of subparagraph (1), the company shall, notwithstanding anything to the contrary contained in this Act (including this Part), be deemed never to have been restored to the register.”.

**Penalty on restoration of existing struck off and dissolved company not complying with this Part**

**60L.** (1) Where an existing company that is struck off from the register in accordance with subparagraph (5) (c) of paragraph 60I (failure to comply with the requirements of that paragraph) subsequently applies to be restored to the register, the company shall, in addition to satisfying the requirements for restoration under section 217 or 218A (as the case may be), be liable to a penalty of \$2,500.

(2) The penalty specified in subparagraph (1) shall not apply if the application for restoration is made by a person other than a former director, former member or former liquidator of the company.

(3) For the avoidance of doubt, the penalty specified in subparagraph (1) shall not be treated as a restoration fee or an outstanding penalty as provided in section 218A (1) (a) (iii) of the Act.”.

PASSED by the House of Assembly this            day of            , 2024.

Speaker

Clerk of the House of Assembly

CONSULTATION DRAFT



**OBJECTS AND REASONS**

[To be Filled after Final Draft is Prepared]

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