

VIRGIN ISLANDS

BVI BUSINESS COMPANIES (AMENDMENT) REGULATIONS, 2022

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CONSULTATION DRAFT

VIRGIN ISLANDS

STATUTORY INSTRUMENT 2022 No.

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

BVI Business Companies (Amendment) Regulations, 2022

[Gazetted _____, 2022]

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

Citation and commencement.

1. (1) These Regulations may be cited as the BVI Business Companies (Amendment) Regulations, 2022.

(2) These regulations shall come into force on the date that the BVI Business Companies (Amendment) Act, 2022 comes into operation.

Regulation 12 amended.

2. Regulation 12 of the BVI Business Companies Regulations (hereinafter referred to as “the principal Regulations”) is amended in sub-regulation (2), by deleting the words “7 years” and substituting the words “5 years”.

Regulation 14 amended.

3. Regulation 14 of the principal Regulations is amended in sub-regulation (1) by deleting from paragraph (a) thereof the words “7 years” and substituting the words “5 years”.

Regulation 16 amended.

4. Regulation 16 of the principal Regulations is amended in sub-regulation (1), by deleting the words “7 years” and substituting the words “5 years”.

Regulation 17 amended.

5. Regulation 17 of the principal Regulations is amended, by deleting from paragraph (b), the words “7 years” and substituting the words “5 years”.

Regulation 19
amended.

6. Regulation 19 of the principal Regulations is amended –

(a) by revoking sub-regulation (1) and substituting the following sub-regulation –

“(1) For the purposes of section 199 (5) of the Act, an individual is eligible to be appointed and to act as a voluntary liquidator of a company if the individual has been appointed on or after 15 October, 2012 and –

(a) is qualified to act as a voluntary liquidator of a company under sub-regulation (1A); and

(b) is not disqualified from acting as the voluntary liquidator of a company under sub-regulation (2).”.

(b) by inserting after sub-regulation (1), the following new sub-regulation –

“(1A) Subject to sub-regulation (2), an individual is qualified to be appointed and act as a voluntary liquidator of a company if he or she –

(a) has liquidation experience of not less than 5 years;

(b) has, in the opinion of the Commission, professional competence to liquidate the specific company concerned;

(c) is able to demonstrate that he or she –

(i) holds an insolvency practitioner’s licence issued by the Commission pursuant to the Insolvency Act; or

(ii) has an appropriate professional qualification (such as in law or accountancy) and experience of providing legal or financial advice or support to companies in the financial services sector; and

(d) is fully conversant with relevant financial services legislation connected to the business of the company to be liquidated, including the Financial Services Commission Act and BVI Business Companies Act.”;

(c) in sub-regulation (2) –

- (i) by deleting the word “and” at the end of paragraph (f);
- (ii) by deleting the full-stop at the end of paragraph (g) and substituting the words “; and”; and
- (iii) by adding after paragraph (g), the following new paragraph –
 - “(h) an individual who is not resident in the Virgin Islands in accordance with **section 2 (2)** of the Act.”.

New regulation 22A inserted.

7. The principal Regulations are amended by inserting after regulation 22, the following new regulation –

“Liquidation records.

22A. (1) A voluntary liquidator shall, in the course of liquidating a company, collect the records kept and maintained by the company that are relevant for the purposes of the company’s compliance with the requirements of sections 98 and 98A of the Act.

(2) Without prejudice to sub-regulation (1), the Commission may require a voluntary liquidator to collect, during the course of liquidation, such other document or information as it considers necessary.

(3) The voluntary liquidator shall, at the conclusion of the liquidation of the company, transmit copies of the records collected pursuant to sub-regulation (1) and, if required, sub-regulation (2), to the registered agent of the company specifying the types of record collected.

(4) Where a registered agent receives the records referred to in sub-regulation (1), it shall keep and maintain those records for a period of at least 5 years from the date of receipt of the records.”.

Regulation 25 amended.

8. Regulation 25 of the principal Regulations is amended by deleting paragraph (a) and substituting the following paragraph –

“(a) that, at the date of the certificate –

- (i) the company is on the Register of Companies;

- (ii) the company has paid all fees and penalties due under the Act;
- (iii) the company –
 - (aa) has filed its register of directors with the Registrar which is complete; or
 - (bb) is not yet due to file its register of directors with the Registrar; and
- (iv) the company has filed a declaration in the approved form attesting that –
 - (aa) it has filed its financial return with its registered agent which is complete; or
 - (bb) it is not yet due to file its financial return with its registered agent; and”.

Regulation 28
revoked.

9. Regulation 28 of the principal Regulations is revoked.

Made by the Cabinet this day of , 2022.

Cabinet Secretary