

No. 14 of 2019

VIRGIN ISLANDS
INSOLVENCY (AMENDMENT) ACT, 2019

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Section 162 amended.
3. Section 163 amended.
4. Section 170 amended.

**I Assent
(Sgd.) Augustus J. U. Jaspert
Governor.**

23rd December, 2019

**VIRGIN ISLANDS
No. 14 of 2019**

An Act to amend the Insolvency Act, 2003 (No. 5 of 2003).

[Gazetted _____, 2019]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title.

1. This Act may be cited as the Insolvency (Amendment) Act, 2019.

Section 162
amended.
No. 5 of 2003

2. The Insolvency Act (hereinafter referred to in this Act as “the principal Act”) is amended in section 162

(a) in subsection (2), by inserting after paragraph (e), the following new paragraph:

“(ea) the International Tax Authority; and”

(b) in subsection (4), by inserting the words “the International Tax Authority” after the words “the Commission,”; and

(c) by inserting after subsection (5) the following new subsection:

No. 12 of 2018.

No. 18 of 2003.

“(5a) The International Tax Authority shall only make an application to appoint a liquidator under subsection (1) (c) if the company has been the subject of a determination by the International Tax Authority pursuant to section 10 of the Economic Substance (Companies and Limited Partnerships) Act, 2018 to the effect that it has been carrying on a relevant activity in breach of the economic substance requirements or has been found to be in breach of the Mutual Legal Assistance (Tax Matters) Act, 2003;”

3. Section 163 of the principal Act is amended

Section 163
amended.

- (a) in subsection (3A) by inserting the words “the International Tax Authority” after the words “the Commission,”; and
- (b) by inserting after subsection (3B) the following new subsection:

No. 12 of 2018.

“(3C) The International Tax Authority shall only make an application to appoint a liquidator under subsection (1) (c) if the foreign company has been the subject of a determination by the International Tax Authority pursuant to section 10 of the Economic Substance (Companies and Limited Partnerships) Act, 2018 to the effect that it has been carrying on a relevant activity in breach of the economic substance requirements.”

4. Section 170 of the principal Act is amended in subsection (2) by inserting after paragraph (e) the following new paragraph:

Section 170
amended.

“(ea) the International Tax Authority; and”.

Passed by the House of Assembly this 17th day December, 2019.

Julian Willock,
Speaker.

Phyllis Evans,
Clerk of the House of Assembly.

LEGAL REPORT

This Act amends the Insolvency Act, 2003 (No. 5 of 2003) (hereinafter referred to as “the principal Act.”).

Section 1 sets out the short title.

Section 2 amends section 162 (2) and (4) of the principal Act by granting the International Tax Authority powers to apply to appoint a liquidator under section 162(1). A new sub-section (5a) is also inserted under this section to allow for the International Tax Authority to appoint a liquidator under subsection 162 (1) (c), under specific circumstances.

Section 3 amends section 163 (3A) of the principal Act to grant the International Tax Authority powers to appoint a liquidator for foreign companies under section 163(1) (c). A new subsection (3C) is also inserted under this section to allow for the International Tax Authority to appoint a liquidator under subsection 163 (1) (c), under specific circumstances.

Section 4 amends section 170 (2) of the principal Act to grant the International Tax Authority powers to appoint a provisional liquidator under section 170(1) of the Act. ”.

This Act was introduced in the House of Assembly on the 17th day of December, 2019, taken through its remaining stages and passed on the 17th day of December, 2019.

In my opinion, His Excellency the Governor may properly assent to this Act in the name and on behalf of Her Majesty.

Baba Aziz
Attorney General
18th December, 2019