

No. of 2024

**VIRGIN ISLANDS**  
**PROLIFERATION FINANCING (PROHIBITION) (AMENDMENT)**  
**BILL, 2024**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Section 15 amended
3. Section 16 amended
4. Section 37 amended
5. Section 38 amended
6. New section 49A inserted

No. of 2024

**Proliferation Financing (Prohibition)  
(Amendment) Bill, 2024**

**Virgin  
Islands**

**I ASSENT**

**Governor.**

, 2024

**VIRGIN ISLANDS**

**No. of 2024**

A BILL FOR

AN ACT TO AMEND THE PROLIFERATION FINANCING (PROHIBITION) ACT, 2021 TO MAKE THE LIABILITY IDENTIFIED IN SECTIONS 15 AND 16 A STRICT LIABILITY OFFENCE, TO MAKE IT A REQUIREMENT TO REPORT ANY TRANSACTION INVOLVING ANY AMOUNT CONCERNING A DESIGNATED COUNTRY, PERSON OR ENTITY 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 Proliferation Financing (Prohibition) (Amendment) Act, 2024.

(2) This Act shall come into force on such date as the Governor may, by Proclamation published in the *Gazette*, appoint.

**Section 15 amended**

2. The Proliferation Financing (Prohibition) Act, 2021 (hereinafter referred to as “the principal Act”) is amended in section 15(1) by deleting the opening paragraph thereof and substituting the following opening paragraph

“No person shall deal with an asset that is owned, controlled or held, directly or indirectly, wholly or jointly”.

**Section 16 amended**

3. The principal Act is amended in section 16(1) by deleting the opening paragraph thereof and substituting the following opening paragraph

“No person shall make an asset available, directly or indirectly, wholly or jointly”.

### **Section 37 amended**

#### **4. The principal Act is amended in section 37**

- (a) in subsection (1)
  - (i) in paragraph (a), by deleting the words “exceeding \$10,000”; and
  - (ii) in paragraph (c), by deleting the words “of a value exceeding \$10,000”;
- (b) by inserting after subsection (1), the following new subsection

“(1A) A person who, acting in compliance with section 15 or 16, knows of any dealing or attempted dealing in an asset or the making available of an asset, shall make a report to the Agency

  - (a) in the case of a dealing or attempted dealing in an asset, by identifying the designated person or entity
    - (i) who owns, controls or holds the asset;
    - (ii) on whose behalf the asset is owned, controlled or held; and
    - (iii) at whose direction the asset is owned, controlled or held; and
  - (b) in the case of the making available of an asset, by identifying
    - (i) the designated person or entity to whom the asset is to be made available;
    - (ii) the person or entity owned or controlled by a designated person to whom the asset is to be made available;
    - (iii) the person or entity acting on behalf of a designated person or entity to whom the asset is to be made available; and
    - (iv) the designated person or entity for whose benefit the asset is to be made available.”;
- (c) in subsection (3), by deleting the words “under subsection (1)” and substituting the words “under subsection (1) or (1A)”;
- (d) in subsection (4), by deleting the words “under subsection (1)” and substituting the words “under subsection (1) or (1A)”;
- (e) in subsection (5), by deleting the words “under subsection (1)” and substituting the words “under subsection (1) or (1A)”;
- (f) in subsection (6), by deleting the words “under subsection (1)” and substituting the words “under subsection (1) or (1A)”.

## **Section 38 amended**

5. The principal Act is amended in section 38(1) by deleting paragraph (b).

## **New section 49A inserted**

6. The principal Act is amended by inserting after section 49, the following new section

### **“Power to issue guidelines**

**49A.** (1) The Agency may issue guidelines with respect to the procedures to be followed by and the conduct expected of persons on whom obligations are placed under this Act and with respect to any other matter concerning this Act.

(2) Without prejudice to subsection (1), the guidelines may provide guidance on

- (a) designations made under this Act or pursuant to a designated country resolution;
- (b) the issuing of notices to designated persons or any other persons in relation to matters of which a notice may be issued;
- (c) the freezing of assets under sections 15 and 16;
- (d) the enforcement of prohibited transactions and other activities specified under or related to this Act or a resolution of the UN Security Council;
- (e) the reporting of obligations imposed under this Act;
- (f) the reporting and verification of suspicions received from persons in relation to assets held by such persons;
- (g) the restrictions relating to the disclosure of information;
- (h) the monitoring of financial institutions and DNFBPs, to promote compliance with the requirements of this Act; and
- (i) feedback to the persons and entities subject to this Act with respect to suspicious transaction reports made by them.

(3) The guidelines may make different provisions in relation to different persons, circumstances or cases.

(4) The Agency shall

- (a) from time to time review the guidelines to ensure their relevance and practical implementation; and
- (b) publish the guidelines and any amendments thereto on its Internet site.

(5) Failure to follow guidelines issued under this section shall not, of itself, render a person liable to proceedings of any kind, but such failure may be taken into account by a court or the Agency, as the case

may be, in determining whether there has been a contravention of this Act.”.

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

Speaker.

Clerk of the House of Assembly.

## **OBJECTS AND REASONS**

This Bill, by amending the Proliferation Financing (Prohibition) Act, 2021 (“the Act”), seeks to achieve the following:

- (a) to make the liability identified in sections 15 and 16 (in relation to prohibiting dealing in or making available, assets owned, controlled or held by or on behalf or for the benefit of a designated person or entity) a strict liability offence (that is to say, an outright offence);
- (b) to remove the financial threshold (of \$10,000) identified in section 37 (1)(a) and (c) of the Act with respect to the compulsory reporting of financial transactions involving a designated country person or entity; this will effectively make it a requirement to report any transaction involving any amount concerning a designated country person or entity (as defined in section 2(1) of the Act). In addition, an obligation is placed on a person who knows of any dealing or attempted dealing in an asset or the making available of an asset to make a report to the Financial Investigation Agency (“the Agency”);
- (c) to better streamline the Agency’s power to issue guidelines by deleting paragraph (b) of section 38(1) of the Act (which deals with the Agency’s power to issue guidance and feedback to persons making reports) and subsuming that provision in the new section 49A created under clause 6 of this Bill; and
- (d) to create a new provision empowering the Agency to issue guidelines with respect to proliferation financing matters generally.

These proposed amendments have been necessitated by recommendations contained in the Virgin Islands Mutual Evaluation Report of 2024.

Accordingly, the Honourable Members of the House of Assembly are invited to kindly support the proposed measures contained in this Bill.

Attorney General