



Council of the  
European Union

Brussels, 18 March 2019  
(OR. en)

7563/19  
ADD 1

FISC 200

## OUTCOME OF PROCEEDINGS

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From: General Secretariat of the Council  
To: Code of Conduct Group (Business Taxation)  
Subject: Saint Vincent and the Grenadines' International Business Companies - IBC  
regime (VC001)  
– Final description and assessment

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Also see doc. ST 7563/19 ADD 2.

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## SAINT VINCENT AND THE GRENADINES

ACT NO. 36 OF 2018

I ASSENT

[L.S.]

DR. FREDERICK BALLANTYNE  
Governor-General  
31st December, 2018.

**AN ACT** to amend the International Business Companies (Amendment and Consolidation) Act, Chapter 149.

[ 31st December, 2018 ]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:

1. (1) This Act may be cited as the International Business Companies (Amendment and Consolidation) (Amendment) Act, 2018. Short title and commencement
- (2) This Act comes into force on the 1st day of January 2019.
2. The International Business Companies (Amendment and Consolidation) Act, in this Act referred to as the principal Act, is amended in section 1(1), by deleting "International Business Companies (Amendment and Consolidation) Act" and substituting "Business Companies (Amendment and Consolidation) Act". Short title of principal Act amended
3. The principal Act, is amended as follows—
  - (a) by deleting "an international business company" wherever the phrase occurs in the following provisions and substituting "a business company"—
    - (i) in section 2, in the definitions of "articles", "authorised capital", "capital", "incorporator", "member",International business companies to be known as "business companies"

- “resolution of directors”, “resolution of members”, “surplus”, “treasury shares” and “writing”;
- (ii) in sections 3, 9(1) and (2), 10(1), (2), (3), (4) and (5), 11(1), 13, 15(2), 16(2) and (4), 18, 19(1) and (2), 20(1) and (2), 21, 22, 23(1), 25(1), 26(1), (2) and (3), 27, 28, 29(4), 32(1), (2) and (3), 33(1), 34(1), 35(1) and (2), 36(1), 38(3) and (4), 41(1), (3) and (4), 43(1) and (4), 44, 45(1), (2) and (3), 46(1), 47(1), (2), (3) and (5), 48, 49(1), (3), (4), (5), (6), (7) and (8), 58(1), 62(2), 63(1), 66, 67(2) and (3), 68(2), (3), (5)(b), (6), (7) and (8), 69(1), 74(1) and (2), 75(1) and (2), 76, 77(1) and (3), 78(1), (2) and (3), 79(1), 80, 81(1), 82, 84(1) and (2), 88(1), 89(1), 95, 97, 99(1) and (2), 100, 101(1)(a), 102(1), 103(1), 109(1), 110, 138(1), (2) and the section heading, 139(1) and (4), 141(1), 143(1), 148(3)(e) and (5)(d)(i), 149(1), 151(2)(a), 152, 153(1), 154(1), 155(1), 156(1) and (2), 157(1), 159(1)(a)(i) and (ii) and (2)(a) and (b), 160(1), (2), (8), (9) and (10), 161(1), 162, 163(1) and (2), 165(3), 167(1) and (9), 168(1), 169(1)(a), 170(1), 172(2), 173(1), 174(1), 175(1), (2) and (3), 176, 178(1) and (2), 184(1), (9) and (10), 187(1), 193 and 196(2); and
- (iii) in column 2 of the Schedule, against the following sections in column 1; 29(4) and 86(2);
- (b) by deleting “the international business company” wherever the phrase occurs in sections 11(2), 17(1), 20(3) and (4), 33(3), 45(4), 55(1), 58(2), 68(6), 77(2), 85(2), 170(3) and 174(1) and substituting “the business company”;
- (c) by deleting “international business company” wherever it appears in column 2 of the Schedule and substituting (except where specified in paragraph (a)(iii) of this section), and substituting “business company”;
- (d) by deleting “company” in the following provisions and substituting “business company”–
- (i) in section 2, in the definition of “register of members”; and
- (ii) in sections 6 (first instance), 8(6) and (7), 15(1), 16(1) (first two instances), 23(2) (first instance), 24(1) (first instance), 39(1), 40, 41(7) and (10), 49(9), 53(1), 56(1)

(first instance), 56(2) (first instance), 56(3), 57(1) (both instances), 60(2), 63(2), 64(1)(a) and (b), 64(2), 65 (first instance), 77(4) (first instance), 83 (first instance), 87, 89(4) (first instance), 90(1) (first instance) and 90(4) (first instance), 91(1) (first instance) and 91(2) (first instance), 94(1) (first instance), 96(1), (2), (3) and (4) (first instance in each case), 98 (first instance), 105(2), 108(1) and (2), 109(3) and (4), 112(1), (2) and (3) (first instance in each case), 113(1) and (3) (first instance in each case), 114(1) (first instance), 138(3) (first instance), 140(1) (first instance) and 146;

- (e) in section 10(2), by deleting “registered international business company” and substituting “registered business company”;
- (f) in section 14(1) by deleting “proposed international business company” and substituting “proposed business company”;
- (g) in section 149–
  - (i) by deleting “parent international business company” in subsections (1) and (2) and substituting “parent business company”;
  - (ii) by deleting “subsidiary international business company” in subsection (1) and substituting “subsidiary business company”; and
  - (iii) by deleting “constituent international business company” in subsection (2)(a) and substituting “constituent business company”;
- (h) in section 151(2)(b), by deleting “constituent international business company” wherever the phrase occurs in paragraphs (i) and (iii) and substituting “constituent business company”;
- (i) in the section headings to sections 161 and 169, by deleting “international business company” and substituting “business company”; and
- (j) in section 171, by deleting “any international business company” and substituting “any business company”.

- Amendment of section 2
4. Section 2 of the principal Act is amended–
- (a) by designating the current provisions as subsection (1);
  - (b) by inserting the following definitions in the appropriate alphabetical order–
    - “affiliate” has the meaning specified in subsection (2);
    - “balance date”, in relation to a business company, means–
      - (a) the close of 31 December; or
      - (b) such other date as the board by resolution adopts as the balance date of the company, with the approval of the Registrar;
    - “bearer share” means a share represented by a certificate which states that the bearer of the certificate is the owner of the share and includes a share warrant to bearer;
    - “board” or “board of directors”, in relation to a business company, means–
      - (a) the directors of the company acting together as the board of directors, by whatever name called; or
      - (b) if the company has only one director, that director;
    - “business company” means–
      - (a) a business company incorporated or continued under this Act; or
      - (b) a consolidated company within the meaning of section 147;
    - “class” in relation to shares, means a class of shares each of which has attached to it the rights, privileges, limitations and conditions specified for that class in the articles;

“file” in relation to a document, means to file the document with the Registrar;

“financial year”, in relation to a business company, means–

- (a) the period of one year ending on the balance date of the company; and
- (b) if, as a result of the date of the incorporation or registration of the business company under this Act, or a change of the balance date of the company, the period ending on the balance date is longer or shorter than a year, that longer or shorter period;

“large company” has the meaning specified in subsection (3);

“registered office”, in relation to a business company, means the registered office specified in its articles in accordance with section 67; and

“series” in relation to shares, means a division of a class of shares;

- (c) by repealing the definition of “approved custodian”;
- (d) by repealing the definition of “international business company”;
- (e) in the definition of “Register”, by deleting “International Business Companies” and substituting “Business Companies”;
- (f) by repealing the definition of “registered agent” and substituting the following–

“registered agent”, in relation to a business company, means the registered agent specified in its articles in accordance with section 68;



- (g) in the definition of "relevant licence", by inserting after "a licence", the words "to undertake the business of International Representation";
- (h) by repealing the definition of "resident"; and
- (i) by inserting the following after the existing provisions as subsections (2) and (3)–

"(2) A business company is affiliated with another business company if it is in the same group as the other business company, and "affiliate" and "affiliated business company" shall be construed accordingly.

(3) A business company is a large company in respect of a financial year if–

- (a) the gross revenue of the company for the financial year exceeds four million dollars, or such greater sum as may be prescribed; or
- (b) as at the balance date for the financial year, its total assets exceed two million dollars, or such greater sum as may be prescribed."

5. Section 4 of the principal Act is repealed and the following substituted–

Repeal and substitution of section 4

"Application to incorporate a business company

4. (1) Subject to subsection (2), one or more persons may apply to the Registrar for the incorporation of a business company by filing–

- (a) an application to incorporate in the approved

form signed by the  
incorporators;

(b) articles of incorporation  
complying with section 14  
signed by the  
incorporators; and

(c) such other documents as  
may be prescribed.

(2) An individual may not apply to  
incorporate a business company  
under this Act if the individual—

(a) is less than eighteen years  
of age;

(b) is of unsound mind and has  
been so found by a tribunal  
of competent jurisdiction in  
the State or elsewhere; or

(c) has the status of an  
undischarged bankrupt.

(3) Only the proposed registered  
agent may file an application for the  
incorporation of a business  
company.”.

6. Section 5 of the principal Act is amended—

Amendment of  
section 5

(a) by deleting the section heading and substituting  
“Incorporation of a business company”;

(b) by repealing subsections (1) and (2) and substituting the  
following—

“(1) If satisfied that an application for the  
incorporation of a business company complies  
with this Act and the Regulations, the Registrar  
shall—

(a) register the documents filed; and



- (b) issue a certificate of incorporation bearing a unique registration number to the business company.
- (2) A certificate of incorporation issued under subsection (1) is conclusive evidence that—
- (a) the requirements of this Act as to incorporation have been complied with; and
- (b) the business company is incorporated on the date specified in the certificate of incorporation.”; and
- (c) in subsection (3), by deleting “Register of International Business Companies” and substituting “Register of Business Companies”.
- Repeal of section 7
- Repeal of section 12
- Amendment of section 14
7. The principal Act is amended by repealing section 7.
8. The principal Act is amended by repealing section 12.
9. Section 14 of the principal Act is amended—
- (a) in subsection (1)—
- (i) by repealing subparagraphs (iii) to (vi) of paragraph (e) and substituting the following—
- “(iii) a statement of the classes of shares that the company is authorised to issue and, if the company is authorised to issue two or more classes of shares, the rights, privileges, restrictions and conditions attaching to each class of shares;
- (iv) a statement that the company is not authorised to issue bearer shares, convert a registered share to a bearer share or exchange a registered share for a bearer share;
- (v) if the right to transfer shares of the company is to be restricted, a statement

that the right to transfer shares is restricted and the nature of those restrictions;”

- (ii) by repealing paragraph (i);
- (iii) in paragraph (j), by deleting “and” after the semi colon;
- (iv) in paragraph (k), by deleting the full stop and substituting “; and”

(v) by inserting after paragraph (k) the following–

“(l) any restrictions on the business that the company may carry on; and

(m) any other matter required to be set out by this Act or the Regulations.”; and

(b) by repealing subsection (3) and substituting the following–

“(3) The articles of a business company may limit the purposes, capacity, rights, powers or privileges of the company.”.

10. Section 15 of the principal Act is amended by inserting after subsection (2) the following–

Amendment of  
section 15

“(3) A business company, the board, each director and each member of a business company has the rights, powers, duties and obligations set out in this Act except to the extent that they are negated or modified, as permitted by this Act, by the articles.”.

11. Section 20 of the principal Act is amended–

Amendment of  
section 20

(a) by inserting after subsection (1) the following–

“(1A) A business company has the capacity to carry on its business, conduct its affairs and exercise its powers–

- (a) in the State; and
- (b) in any jurisdiction outside the State, to the extent that the laws of the State

and of that jurisdiction permit.”; and

(b) by inserting after subsection (4) the following—

“(5) This section does not authorise any business company to carry on any business or activity in breach of—

(a) any enactment prohibiting or restricting the carrying on of the business or activity; or

(b) any provision requiring any permission or licence for the carrying on of the business or activity.”.

Amendment of  
section 25

12. Section 25 of the principal Act is amended—

(a) by inserting at the end of the section heading, “and rights attaching to shares”;

(b) in subsection (2), by deleting “Unless otherwise specified in the articles or by-laws or upon the issue of a share, each share of an international business company has attached to it the following rights” and substituting “Subject to subsection (3), a share in a business company confers on the holder”; and

(c) by inserting after subsection (2), the following—

“(3) If authorised by its articles, a business company may issue—

(a) more than one class of shares;

(b) a class of shares in series; and

(c) shares subject to terms that negate, modify or add to the rights specified in subsection (2).”.

Amendment of  
section 26

13. Section 26 of the principal Act is amended in subsection (1) by repealing paragraph (a).

Amendment of  
section 29

14. Section 29 of the principal Act is amended—

(a) in subsection (1), by deleting “Unless expressly authorised to do so by its articles in accordance with section 14, an

international business company” and substituting “A business company”;

(b) by inserting after subsection (1), the following—

“(1A) A business company shall not issue a bearer instrument, including an option and a convertible instrument, that gives the holder a right, whether conditional or otherwise, to a share in the business company.”;

(c) by repealing subsections (2) and (3);

(d) in subsection (4), by deleting “or a segregated cell company that contravenes subsection (3)”;

(e) by repealing subsection (5).

15. The principal Act is amended by repealing section 30.

Repeal of section  
30

16. Section 31 of the principal Act is amended by deleting “a company incorporated under this Act” and substituting “a business company”.

Amendment of  
section 31

17. Section 37 of the principal Act is amended by deleting “a company incorporated under this Act” and substituting “a business company”.

Amendment of  
section 37

18. Section 38(2) of the principal Act is amended by deleting “a company incorporated under this Act” and substituting “a business company”.

Amendment of  
section 38

19. Section 39 of the principal Act is amended in subsection (2) by deleting “or the beneficial interest in a bearer share”.

Amendment of  
section 39

20. Section 41 of the principal Act is amended by inserting after subsection (1), the following—

Amendment of  
section 41

“(1A) An instrument of transfer shall also be signed by the transferee if registration as a holder of the share imposes a liability to the business company on the transferee.”.

21. The principal Act is amended by repealing section 42.

Repeal of section  
42

22. Section 43(5) of the principal Act is amended by deleting “A company incorporated under this Act” and substituting “A business company”.

Amendment of  
section 43

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|-------------------------|-----|---|
| Amendment of section 49 | 23. | Section 49 of the principal Act is amended by repealing subsection (2).   |
| Amendment of section 50 | 24. | Section 50 of the principal Act is amended by deleting "a company incorporated under this Act" and substituting "a business company".   |
| Repeal of section 51    | 25. | The principal Act is amended by repealing section 51.   |
| Amendment of section 52 | 26. | Section 52 of the principal Act is amended— <ul style="list-style-type: none"> <li>(a) in the definition of "guarantee member"— <ul style="list-style-type: none"> <li>(i) by deleting "company" and inserting "business company"; and</li> <li>(ii) by repealing paragraphs (b), (c) and (d); and</li> </ul> </li> <li>(b) in the definitions of "shareholder" and "unlimited member", by deleting "company" and inserting "business company".</li> </ul>  |
| Amendment of section 53 | 27. | Section 53 of the principal Act is amended in subsection (2) by inserting after "shall be a guarantee member", the words "and if the company is authorised to issue shares, a guarantee member may also be a shareholder".  |
| Amendment of section 54 | 28. | Section 54 of the principal Act is amended— <ul style="list-style-type: none"> <li>(a) in subsection (1)— <ul style="list-style-type: none"> <li>(i) by deleting "An international business company may" and substituting "A business company shall";</li> <li>(ii) in paragraph (a), by deleting subparagraphs (v) and (vi);</li> <li>(iii) in paragraph (c), by deleting the comma and substituting a full stop; and</li> <li>(iv) by deleting the words from "but the company may delete" to the end of the subsection;</li> </ul> </li> <li>(b) by inserting after subsection (1), the following— <ul style="list-style-type: none"> <li>"(1A) The registers of members shall contain such other information as may be prescribed.</li> <li>(1B) The Regulations may prescribe the circumstances in which information relating</li> </ul> </li> </ul> |

to a former member of a business company  
may be deleted from a register of members.”;

(c) by repealing subsections (2) and (3);

(d) by repealing subsection (4) and substituting the following–

“(4) The entry of the name of a person in the register of members as a holder of a share in a business company is *prima facie* evidence that legal title in the share vests in that person.”; and

(e) by inserting after subsection (4), the following–

“(5) No notice of a trust, whether express, implied or constructive, shall be entered on the registers of members.”.

29. The principal Act is amended by inserting after section 54, the following–

Insertion of  
section 54A

“Requirement to  
file details of  
members

54A. (1) A business company shall, within the time period specified in subsection (2), file a notice in the prescribed form setting out the prescribed information in respect of each member entered in its register of members.

(2) A notice under subsection (1) shall be filed within the first occurring of–

- (a) thirty five days after the issue of a certificate of incorporation of the business company; or
- (b) seven days after the first member has, or the first members have, been entered on its register of members.



(3) A business company shall file a notice in the prescribed form of—

- (a) a change in the members of the company, whether as the result of a person becoming or ceasing to be a member, or both; or
- (b) a change in the name or address of a member of the company.

(4) A notice under subsection (2) shall be filed within ten days of—

- (a) the change occurring, in the case of a person becoming or ceasing to be a member; or
- (b) the business company first becoming aware of the change, in the case of the death of a member or a change in the name or address of a member.

(5) A business company that fails to comply with this section commits an offence and is liable as specified in the Schedule.”

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|-------------------------|----|--|
| Amendment of section 55 | of | 30. Section 55 of the principal Act is amended in subsection (1)(a), by inserting after “is omitted”, the words “or deleted”.  |
| Amendment of section 57 | of | 31. Section 57 of the principal Act is amended in subsections (1), (2) and (3), by deleting “or by-laws”.  |
| Amendment of section 66 | of | 32. Section 66 of the principal Act is amended— <ul style="list-style-type: none"> <li>(a) in paragraph (b), by deleting “; and” and substituting a full stop; and</li> <li>(b) by repealing paragraph (c).</li> </ul> |



33. Section 67(1) of the principal Act is amended by repealing subsection (1) and substituting the following— Amendment of section 67
- “(1) A business company shall at all times have a registered office which—
- (a) shall be a physical address in the State; and
- (b) may be the office of its registered agent.”.
34. Section 68 of the principal Act is amended— Amendment of section 68
- (a) by repealing subsection (1) and substituting the following—
- “(1) A business company shall have a registered agent in the State, who shall be a person who holds a relevant licence.”;
- (b) in subsection (5)—
- (i) by repealing paragraph (a); and
- (ii) by deleting “to a company incorporated under this Act” and substituting “of a business company”; and
- (c) by inserting after subsection (8), the following—
- “(9) A business company commits an offence and is liable as specified in the Schedule if it—
- (a) does not have a registered agent; or
- (b) appoints as its registered agent a person who does not hold a relevant licence.”.
35. Sections 70 to 73 of the principal Act are repealed and the following substituted— Repeal and substitution of sections 70 to 73
- “Records of business company to be kept at office of registered agent 70.(1) A business company shall keep the following documents at the office of its registered agent—

- (a) the articles and by-laws of the company and a copy of any unanimous shareholder agreement together with any amendments of any of these documents;
- (b) the registers of members or copies of the registers of members;
- (c) the register of directors or a copy of the register of directors;
- (d) the register of charges required to be maintained under section 139 or a copy of the register of charges; and
- (e) a copy of each notice and other document filed by the company in the previous ten years;

(2) If a business company keeps a hard copy of a register referred to in subsection (1)(b), (c) or (d) at the office of its registered agent, as permitted by subsection (1), the company shall—

- (a) provide the registered agent with a written record of the physical address of the place at which the original register is kept; and
- (b) ensure that it notifies the registered agent in writing of any change in the

register within five working days of the change.

(3) If the place at which an original register or document referred to in subsection (1) is changed, a business company shall provide the registered agent with the physical address of the new location of the register or document within five working days of the change of location.

(4) A business company that contravenes subsection (1), (2) or (3) commits an offence and is liable as specified in the Schedule.

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|-------------------------------------|--------|--|
| Minutes of meetings and resolutions | 71.(1) | A business company shall keep—                         |
|                                     |        | (a) minutes of each meeting of—                        |
|                                     |        | (i) directors;   |
|                                     |        | (ii) members and classes of members;                   |
|                                     |        | (iii) committees of directors; and                     |
|                                     |        | (iv) committees of members and classes of members; and |
|                                     |        | (b) a copy of each resolution consented to by—         |
|                                     |        | (i) directors;   |
|                                     |        | (ii) members and classes of members;                   |

(iii) committees of directors; and

(iv) committees of members.

(2) The minutes and resolutions specified in subsection (1) shall be kept—

(a) at the office of the registered agent or at such other place in or outside the State as the directors determine; and

(b) for a period of at least ten years following the date of the relevant meeting or resolution.

(3) If a business company keeps the minutes or resolutions, or any of them, at a place other than the office of its registered agent, the company shall—

(a) provide the registered agent with a written record of the physical address of the place at which the minutes or resolutions are kept; and

(b) if the place at which the minutes or resolutions are kept is changed, provide the registered agent with the physical address of the new location where the minutes or resolutions are kept within five working days of the change of location.

(4) A business company that contravenes subsection (1), (2) or (3)

commits an offence and is liable as specified in the Schedule.

Financial records 72.(1) A business company shall keep financial records, including underlying documentation, that are sufficient—

- (a) to show and explain its transactions;
- (b) to enable its financial position to be determined with reasonable accuracy, at any time;
- (c) to enable it to prepare such financial statements, or declaration of solvency, and make such returns as it is required to prepare and make under this Act and the Regulations and, if applicable under any other enactment; and
- (d) if applicable, to enable its financial statements to be audited in accordance with the requirements of any other enactment.

(2) The financial records of a business company may be kept at the office of its registered agent or at a place within or outside the State as the directors may determine.

(3) If a business company keeps hard copies of its financial records at a place other than the office of its registered agent, the company must ensure that it keeps at the office of its registered agent—

- (a) financial records that disclose with reasonable accuracy the financial position of the company at intervals not exceeding three months;
- (b) a written record of the place where the financial records are kept; and
- (c) if the place at which the financial records are kept is changed, provide the registered agent with the physical address of the new location where the financial records are kept within five working days of the change of location.

(4) The financial records under this section shall be kept for at least seven years after the end of the financial year to which they relate.

(5) For the purposes of this section, "underlying documentation" includes invoices, receipts, contracts and any other documents that—

- (a) evidence—
  - (i) a transaction entered into by the business company;
  - (ii) a sum of money received or expended by the business company; or