

VIRGIN ISLANDS

ADMINISTRATION OF SMALL ESTATES (AMENDMENT) ACT, 2021

ARRANGEMENT OF SECTIONS

Section

- | | |
|------|-------------------------------------|
| 1... | Short title and commencement. |
| 2... | Section 2 amended. |
| 3... | Section 3 amended. |
| 4... | Section 7 amended. |
| 5... | Section 8 repealed and substituted. |

No. of 2021

Administration of Small Estates
(Amendment) Act, 2021

Virgin
Islands

I Assent

Governor
, 2021

VIRGIN ISLANDS

No. of 2021

A BILL for

An Act to amend the Administration of Small Estates Act (Cap. 4) and to provide for other matters connected therewith.

[Gazetted , 2021]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement. 1. (1) This Act may be cited as the Administration of Small Estates (Amendment) Act, 2021.

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

Section 2 amended. Cap. 4 2. Section 2 of the Administration of Small Estates Act (hereinafter referred to as “the principal Act”) is amended in the definition of “small estate” by deleting the words “two hundred and forty dollars” and substituting the words “twenty-five thousand dollars”.

Section 3 amended. 3. Section 3 of the principal Act is amended in subsection (1) by inserting after the words “where a person”, the words “domiciled in the Virgin Islands”.

Section 7 amended. 4. Section 7 of the principal Act is amended by deleting the words “one dollar and twenty cents” and substituting the words “twenty-five dollars”.

5. Section 8 of the principal Act is repealed and substituted as follows –

Passed this day of , 2021.

Clerk of the House of Assembly

OBJECTS AND REASONS

The Administration of Small Estates Act (Cap. 4) (“the Act”) was enacted in July 1944 and provides a simplified procedure for the administration of small estates whose value do not exceed \$240. The value of small estates, as outlined in the Act, is clearly outdated and has over the years caused problems relative to local probate practice in the Territory. The cost of securing letters of administration, for example, can equal or exceed the funds in issue. Furthermore, a problem frequently encountered is the inability of heirs of a deceased person to access monies in bank accounts. Where there is real property of small value involved, the cost of obtaining a grant is often greater than the value of the land, resulting in heirs not securing the requisite grant at all. This has often led to family land disputes or the land in question being abandoned as no heir considers it worth the time or effort to regularize.

It is clear that the Act requires appropriate reform, hence the proposed amendments contained in the Bill. It is proposed to increase the value of small estates from \$240 to \$25,000 and should apply only to persons who die while domiciled in the Territory; otherwise this would eliminate the need for full applications for probate or letters of administration in which the Virgin Islands is used in the international context and could lead to potential abuse. This may be the case as, for example, where the value of shares in BVI business companies with substantial assets is reduced as a result of substantial indebtedness. It is for this reason that section 3 (1) of the Act is amended to include the word “domiciled in the Virgin Islands”.

In addition, the penalty provision in section 8 of the Act is being increased from \$120 or six months imprisonment to \$5,000 or twelve months imprisonment. This fully takes into account inflation and changed circumstances to bring the Act into better focus in the modern setting.

These minor but important reforms will facilitate both the administration of small estates and reduce family disputes and assist practitioners in matters relating to local probate practice relative to small estates. Accordingly, Members of the House of Assembly are invited to review and support the Bill.

Minister of Finance