

No. 5 of 2021

VIRGIN ISLANDS
ELECTRONIC FILING ACT, 2021
ARRANGEMENT OF SECTIONS

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I Assent
(Sgd.) John Rankin, CMG
Governor.
6th April, 2021

VIRGIN ISLANDS

No. 5 of 2021

An Act to provide for information, forms and documents to be filed electronically with public authorities and for related matters.

[Gazetted 13th April, 2021]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement.

1. (1) This Act may be cited as the Electronic Filing Act, 2021.

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

Interpretation.

2. In this Act, unless the context otherwise requires,

“electronic filing” means the electronic transmission of documents to a public authority, and from a public authority, for the purposes of filing;

“electronic record” means information that is generated, communicated, received, or stored by electronic means or in an electronic system for transmission from one information system to another and includes a display, print out or other output of that information;

“file” means to file, register, submit, deposit, make an application or otherwise make available;

“information” includes data, text, documents, records, electronic records, images, sounds, codes, computer programmes, software and databases;

“Minister” means the Minister with responsibility for E-Commerce;

“officer”, in relation to a public authority, includes a public officer or employee of the public authority;

“public authority” means any Ministry, Department, Agency, Board, Commission or other body of the Government and includes an entity or body established by law or by arrangement of the Government or a Minister for a non-commercial public service purpose;

“security procedure provider” has the same meaning as under the Electronic Transactions Act.

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| <p>3. This Act binds the Crown.</p> | <p>Act binds the Crown.</p> |
| <p>4. (1) A public authority that, pursuant to any enactment</p> <ul style="list-style-type: none">(a) accepts the filing of documents, or obtains information in any form;(b) requires that documents be created or retained;(c) requires documents, records or information to be provided or retained in their original form;(d) issues any permit, licence or approval; or(e) requires payment of any fee, charge or other amount by any method and manner of payment, | <p>Use of electronic records and electronic signatures by public authorities.</p> |

may, notwithstanding anything to the contrary in such enactment, carry out that function by electronic means.

(2) Where a public authority performs any of the functions in subsection (1) electronically, the public authority may specify

- (a) the manner and format in which such information shall be filed, created, retained, issued or provided;
- (b) where the information has to be signed, the type of electronic signature required including, if applicable, a requirement that the sender use a particular type of secure electronic signature;
- (c) the manner and format in which such signature shall be affixed to electronic records, and the identity of or criteria that shall be satisfied by any security procedure provider used by the person filing the document;
- (d) the control processes and procedures that may be appropriate to ensure adequate integrity, security and confidentiality of electronic records or electronic payments;
or
- (e) any other required attributes for electronic records or electronic payments that are currently specified for corresponding paper documents.

(3) For the avoidance of doubt, notwithstanding anything to the contrary in any enactment but subject to any specification made under subsection (2), where a person is required by any enactment to

- (a) file a document with or provide information in any form to a public authority;
- (b) create or retain a document for a public authority;
- (c) use a prescribed form for an application or notification to, or other transaction with, a public authority;
- (d) provide to or retain for a public authority a document, record or information in its original form; or
- (e) hold a licence, permit or other approval from a public authority,

such a requirement is satisfied by an electronic record specified by the public authority for that purpose and

- (i) in the case of a requirement referred to in paragraph (a), (c) or (d), transmitted or retained, as the case may be, in the manner specified by the public authority;
- (ii) in the case of a requirement referred to in paragraph (b), created or retained, as the case may be, in the manner specified by the public authority; or
- (iii) in the case of a requirement referred to in paragraph (e), issued by the public authority.

(4) Subject to sections 13 and 14 of the Electronic Transactions Act, nothing in this Act shall by itself compel any public authority to accept or issue any document or information electronically or to accept any payment electronically.

5. Where information, forms or documents are filed by electronic filing, the time or date of filing is the time or date prescribed by regulations.

Time and date of filing.

6. (1) A person, who receives a payment of fees, taxes, interest, penalties or other charges pursuant to this Act, or any other enactment, on behalf of the Government by a debit card, credit card or preauthorised charge of an institution or person, or by another method of payment acceptable to the Minister of Finance, may deduct from the payment the amount of compensation that the Minister of Finance and the other party or person agree may be deducted.

Right to deduct compensation.

(2) For the purposes of subsection (1), the Minister may by Order, prescribe persons or entities to receive payments on behalf of the Government.

7. (1) The Minister may establish a system of authorised user identifiers and provide for the manner in which authorised user identifiers are assigned to a person or a class of persons.

Identifiers.

(2) The Minister may enter into agreements or prescribe the integration of a system of authorised user identifiers established pursuant to this section with any system of person identification established by a public authority.

Power to prescribe standards.

8. (1) The Minister may prescribe standards that persons are required to comply with for the purpose of this Act for electronic filing or adopt those standards by reference.

(2) Before prescribing any standards under subsection (1), the Minister shall consult with other Ministers to ensure that new standards do not conflict with any standards specified under section 4(2) for a particular public authority.

(3) A standard prescribed under subsection (1) may provide that it does not apply to a specification made under section 4(2).

Effect of conflict.

9. (1) Where there is a conflict between this Act and any other enactment this Act shall prevail.

(2) Subsection (1) does not apply to any provisions or specifications made under section 4(2).

Records available for inspection.

10. Where documents, records or information are required by an enactment or by contract or by deed to be made available for inspection, that requirement shall be satisfied by making such documents, records or information available for inspection in perceivable form as an electronic record.

Evidence of entries on government books.

11. (1) A certified copy of an electronically filed document recorded in a public authority shall be received as evidence of that document and of the matters, transactions and accounts recorded, where it is proved by the oath or affidavit of an officer that

- (a) the document was, at the time of the filing of the document, one of the ordinary documents stored electronically in that public authority;
- (b) the entry made in relation to the document was made in the usual and ordinary course of business of that public authority; and
- (c) the copy is a true copy.

(2) An electronic record of any transaction stored in electronically in a public authority shall be received as evidence of that record and of the matters,

transactions and accounts recorded where it is proved by the oath or affidavit of an officer that

- (a) the record was, at the time of filing of the record, one of the ordinary records stored electronically in that public authority;
- (b) the entry was made in relation to the document was made in the usual and ordinary course of business of that public authority; and
- (c) the copy is a true copy.

12. The Minister may, with the approval of the Cabinet, make regulations for carrying into effect the provisions of this Act, including prescribing anything required to be prescribed under this Act. Regulations.

Passed by the House of Assembly this 9th day of March, 2021.

(Sgd.) Julian Willock,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.