



SAINT VINCENT AND THE GRENADINES

ACT NO. 29 OF 2002

I ASSENT

MONICA DACON
Governor-General's Deputy
30th May, 2002

[L.S.]

AN ACT to make provision for assisting overseas regulatory authorities to obtain information from within Saint Vincent and the Grenadines and other related matters.

[30th May, 2002]

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. This Act may be cited as the Exchange of Information Act 2002. Short title
2. In this Act Interpretation

"foreign regulatory authority" means a statutory authority which, in a country or territory outside Saint Vincent and the Grenadines, exercises functions of a regulatory authority.

"Minister" means the Minister responsible for finance;

"offshore entity" means any legal entity established pursuant to offshore legislation;

"offshore legislation" includes the Offshore Finance Authority Act, the Registered Agent and Trustee Licencing Act, the International Trusts Act, the International Banks Act, the International Business Companies Act, the International Insurance Act, the Mutual Funds Act, Regulations made under any of those Acts, and any other laws and regulations of the State relating to the provision of offshore financial services or relating to the regulation of entities formed in the State to render these services;

Schedule

“regulatory authority” means any authority specified in the Schedule to this Act;

“regulatory functions” means the statutory functions of a regulatory authority.

Matters to be considered in relation to request for assistance

3. (1) Subject to subsection (2), the powers conferred by section 4 are exercisable by a regulatory authority for the purpose of assisting a foreign regulatory authority which has requested assistance in connection with inquiries being carried out by it or on its behalf in respect of any regulatory functions.

(2) A regulatory authority shall not exercise the powers conferred by section 4 unless it is satisfied that

- (a) the assistance is necessary for the purpose of enabling or assisting a foreign regulatory authority in the exercise of its regulatory functions;
- (b) the assistance requested by the foreign regulatory authority may be granted under any agreement to which Saint Vincent and the Grenadines and the foreign state requesting authority are parties;
- (c) the foreign regulatory authority requesting the assistance has given a written undertaking to provide corresponding assistance to an authority exercising regulatory functions in Saint Vincent and the Grenadines;
- (d) the nature and seriousness of the matter to which the inquiries relate and the importance to the inquiries of the information sought in Saint Vincent and the Grenadines warrant disclosure of the information;
- (e) the assistance cannot be obtained by other means; or
- (f) the relevant country or territory has enacted similar laws with relation to the exchange of information.

(3) If there are public interest considerations in the giving of the assistance sought by the foreign regulatory authority, the regulatory authority must obtain written direction from the Attorney General before providing the information requested.

(4) Where the regulatory authority requires a written undertaking from a foreign regulatory authority under subsection (2), the undertaking shall be in a form as the regulatory authority may determine.

(5) The regulatory authority may decline to exercise the powers conferred under section 4 unless the foreign regulatory authority undertakes in writing to make such contributions towards the cost of the exercise of those powers as a regulatory authority considers appropriate.

4. (1) If in accordance with the requirements of section 3 a Regulatory Authority is satisfied that assistance should be provided with respect to a request by a foreign regulatory authority, it may request in writing any person

Powers of
Regulatory
Authority to
require
information to
be furnished

- (a) to furnish it with information with respect to any matter relevant to the inquiries to which the request relates;
- (b) to produce any documents relevant to the inquiries to which the request relates; or
- (c) to provide it with any assistance in relation to the inquiries to which the request relates as a regulatory authority may specify.

(2) If a person fails to comply with a request issued under subsection (1) within three days from the date of the request or such longer period as a regulatory authority may permit, the Attorney General at the request of the regulatory authority may apply to a Judge in Chambers for an order requiring the person to comply with the request.

(3) Notice of an application made pursuant to subsection (2) shall be served on the person against whom an order is sought and he shall be given an opportunity to be heard.

(4) Where documents are produced pursuant to this section, a regulatory authority may take copies or extracts from them.

(5) A person shall not under this section be required to disclose information or produce a document that he would be entitled to refuse to disclose or produce on grounds of legal professional privilege, except that a barrister or solicitor may be required to furnish the name and address of his client.

(6) Where a person claims a lien on a document, its production under this section is without prejudice to his lien.

(7) In this section, "document" includes information recorded in any form, and, in relation to information recorded otherwise than in legible form, the power to require its production includes power to require the production of a copy of its legible form.

subject to subsection (2) information which

- i) is supplied by a foreign regulatory authority in connection with a request for assistance; or
- ii) is obtained by virtue of the exercise of powers under this Act;

disclosed by a regulatory authority or by any person who obtains information directly or indirectly from it, without the consent of the person from whom a regulatory authority obtained the information, to the person to whom it relates.

Information obtained in accordance with this Act may be

- i) pursuant to an order of a court of competent jurisdiction in Saint Vincent and the Grenadines;
- ii) to the regulatory authority;
- iii) to a foreign regulatory authority;
- iv) to any person for the purpose of discharging any duty or exercising any power under this Act.

No suit shall lie against a Regulatory Authority or any person acting in good faith in the performance of any function under this Act.

A person shall not be required to disclose any information or document under this Act if to do so would expose him to an offence.

A person commits an offence if the person,

- i) fails to comply with an order of the court made pursuant to section 4 (2); or
- ii) intentionally furnishes false information in purported compliance with any such direction or order.

A person commits an offence if the person mutilates, in any way destroys or does any thing to prevent the production of a document, or does any thing to impede the provision of information in relation to any matter relevant to any inquiry being a matter in respect of which a request for assistance made by any foreign regulatory

(3) A person who contravenes section 5 commits an offence.

(4) A person who commits an offence under this section is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of two years or both.

8. The Minister may by order published in the Gazette, amend the schedule.

Minister may
amend schedule

9. The Confidential Relationships Preservation (International Finance) Act is repealed.

Repeal
No. 17 of 1996

SCHEDULE

[Section 2]

REGULATORY AUTHORITIES

1. The Attorney General
2. The Registrar of Companies
3. The Registrar of International Business Companies
4. The Offshore Finance Authority
5. The ~~Commissioner of Insurance~~ *The Ministry of Finance*
6. The Commissioner of International Insurance
7. The Registrar of Insurance
8. The Registrar of International Trusts
9. The Registrar of Mutual Funds
10. *The Eastern Caribbean Central Bank*

*Amended by
SRC 48/2002*

*Amended by
SRC 48/01*

Passed in the House of Assembly this 29th day of May, 2002.

NICOLE HERBERT
Clerk of the House of Assembly (Ag.)

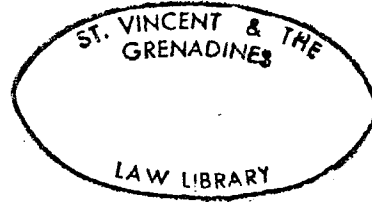
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**SAINT VINCENT AND THE GRENADINES
EXCHANGE OF INFORMATION ACT, 2002**

ARRANGEMENT OF SECTIONS



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17/96

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