
STATUTORY INSTRUMENTS

2007 No. 1678

The Virgin Islands Constitution Order 2007

THE CONSTITUTION OF THE VIRGIN ISLANDS

CHAPTER 5

THE LEGISLATURE

Powers and Procedure

Power to make laws

71. Subject to this Constitution, the Legislature shall have power to make laws for the peace, order and good government of the Virgin Islands.

Standing Orders

72. Subject to this Constitution, the House of Assembly may make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and the passing, entitling and numbering of Bills and the presentation of Bills to the Governor for assent.

Oaths and affirmations

73. No member of the House of Assembly shall be permitted to take part in the proceedings of the House (other than proceedings necessary for the purposes of this section) until he or she has made and subscribed before the House an oath or affirmation of allegiance and an oath or affirmation for the due execution of office as such member in the forms set out in Schedule 1; but the election of the Speaker and Deputy Speaker may take place before the members of the House have made such oaths or affirmations.

Presiding in the House of Assembly

74.—(1) The Speaker or, in his or her absence, the Deputy Speaker or, if they are both absent, a member of the House of Assembly (not being a member of the Cabinet) elected by the House for that sitting shall preside at each sitting of the House.

(2) References in this section to circumstances in which the Speaker or Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Voting

75.—(1) Subject to this section, section 53(1), section 63(3) and section 69(6)(c), all questions proposed for decision in the House of Assembly shall be determined by a majority of the votes of the members present and voting.

(2) Only the elected members of the House of Assembly shall be entitled to vote—

- (a) in an election of the Speaker or Deputy Speaker;
- (b) on a motion on the Order Paper for the removal from office of the Speaker or Deputy Speaker; or
- (c) on a motion on the Order Paper that the House of Assembly should declare a lack of confidence in the Government of the Virgin Islands.

(3) The person presiding shall not vote unless on any question the votes are equally divided in which case he or she shall have and exercise a casting vote; but where the motion before the House of Assembly is one to which subsection (2) applies the person presiding shall not have a casting vote unless he or she is an elected member.

(4) In the event of an equality of votes on any question in respect of subsection (2) the motion shall be lost.

Validity of proceedings

76. The House of Assembly shall not be disqualified for the transaction of business by reason of any vacancy in its membership (including any vacancy not filled when the House is first constituted or is reconstituted at any time), and any proceedings in the House shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the House or otherwise took part in the proceedings.

Quorum

77.—(1) Subject to section 63(4), a quorum of the House of Assembly shall consist of seven members besides the person presiding at the sitting.

(2) If at any sitting of the House of Assembly any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in the Standing Orders of the House, the person presiding at the sitting ascertains that a quorum of the House is still not present, the House shall be adjourned.

Introduction of Bills, etc

78.—(1) Subject to this Constitution and the Standing Orders of the House of Assembly, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the House, and the same shall be debated and disposed of according to the Standing Orders of the House.

(2) Except on the recommendation of the Minister responsible for finance, the House of Assembly shall not

- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the House, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Virgin Islands or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to the Virgin Islands; or
- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the House, is that provision would be made for any of the purposes mentioned in paragraph (a).

Assent to Bills

79.—(1) A Bill passed by the House of Assembly shall become a law when—

- (a) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of such assent; or
- (b) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified such assent by proclamation published in the *Gazette*.

(2) When a Bill is presented to the Governor for assent the Governor shall declare that he or she assents to it or that he or she reserves the Bill for the signification of Her Majesty's pleasure; but unless the Governor has been authorised by a Secretary of State to assent to it, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which appears to him or her, acting in his or her discretion—

- (a) to be inconsistent with any obligation of Her Majesty or of Her Majesty's Government in the United Kingdom towards any other state or power or any international organisation;
- (b) to be likely to prejudice the Royal prerogative; or
- (c) to be in any way repugnant to or inconsistent with this Constitution.

Disallowance of laws

80.—(1) Any law assented to by the Governor may be disallowed by Her Majesty through a Secretary of State; but no law shall be disallowed until the expiration of a period notified by a Secretary of State to the Governor, who shall advise the Speaker of that period, in order to give the House of Assembly an opportunity to reconsider the law in question.

(2) Whenever any law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the *Gazette* and the law shall be annulled with effect from the date of publication of that notice.

(3) Section 16(1) of the Interpretation Act 1978⁽¹⁾ shall apply to the annulment of any law under this section as it applies to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Governor's reserved power

81.—(1) If the Governor considers it urgently necessary, for the purpose of complying with any international obligation applicable to the Virgin Islands, that any Bill introduced, or any motion to which this section applies proposed, in the House of Assembly should have effect, then, if the House fails to pass the Bill or carry the motion within such time and in such form as the Governor thinks fit, and notwithstanding any provisions of this Constitution or any other law or any Standing Orders, the Governor may, subject to subsection (2), declare that such Bill or motion shall have effect as if it had been passed or carried by the House, either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit which have been moved or proposed in the House or any committee of the House; and such Bill or motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Constitution and, in particular, the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall not make any declaration under this section except in accordance with the following conditions—

- (a) the question whether the declaration should be made shall first be submitted in writing by the Governor to the Cabinet and if, upon the question being submitted to it, the Cabinet advises the Governor that the declaration should be made, the Governor shall make the declaration;

(1) 1978 c. 30.

(b) if, when the question whether the declaration should be made is submitted to it as aforesaid, the Cabinet does not, within such time as the Governor thinks reasonable and expedient, advise the Governor that the declaration should be made, then the Governor may submit the said question to a Secretary of State and may make the declaration if, upon the question being submitted to him or her, the Secretary of State authorises the Governor to make the declaration.

(3) If any member of the Cabinet so desires, he or she may, within thirty days of the date of the making of a declaration under this section, submit to the Governor a statement in writing of his or her comments on the making of such declaration, and the Governor shall forward such statement, or a copy of it, as soon as practicable to a Secretary of State.

(4) This section applies to any motion—

- (a) relating to or for the purposes of a Bill;
- (b) proposing or amending a resolution which, if passed by the House of Assembly, would have the force of law; or
- (c) proposing or amending a resolution upon which the coming into force or continuance in force of any instrument subsidiary to a Bill depends.

(5) For the purposes of this section, a Bill shall be validly introduced, and a motion shall be validly proposed, if it is introduced or proposed by any one member of the House of Assembly.

(6) The powers conferred on the Governor by subsections (1) and (2) shall be exercised by the Governor in his or her discretion.

Privileges, immunities and powers of House of Assembly

82. The Legislature may by law determine and regulate the privileges, immunities and powers of the House of Assembly and of its members, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom or of its members.