
STATUTORY INSTRUMENTS

2007 No. 1678

The Virgin Islands Constitution Order 2007

THE CONSTITUTION OF THE VIRGIN ISLANDS

CHAPTER 2

FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Protection from deprivation of property

25.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right to or over property of any description shall be compulsorily acquired, except in accordance with law and where—

- (a) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, or the development or utilisation of any property in such manner as to promote the public benefit;
- (b) there is reasonable justification for any hardship that may result to any person having an interest in or right to or over the property;
- (c) provision is made by a law applicable to the taking of possession or acquisition—
 - (i) for the prompt payment of adequate compensation; and
 - (ii) securing to any person having an interest in or right to or over the property a right of access to the High Court, whether direct or on appeal from a tribunal or other authority, for the determination of his or her interest or right, the legality of the taking of possession or acquisition and the amount of compensation to which he or she is entitled, and for the purpose of obtaining prompt payment of that compensation; and
- (d) the same rights of appeal as are accorded generally to parties to civil proceedings in the High Court sitting as a court of original jurisdiction are given to any party to proceedings in that Court relating to such a claim.

(2) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he or she has received any amount of that compensation, the whole of that amount to any country of his or her choice outside the Virgin Islands.

(3) Nothing in any law or done under its authority shall be held to contravene subsection (1)—

- (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property, interest or right—
 - (i) in satisfaction of any tax, rate, statutory contribution, levy or due;
 - (ii) by way of penalty for breach of the law or forfeiture in consequence of breach of the law;
 - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;
 - (iv) by way of the taking of a sample for the purposes of any law;
 - (v) when the property consists of an animal, upon its being found trespassing or straying;

- (vi) in the execution of a judgment or order of a court;
- (vii) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or likely to be injurious to the health of human beings, animals or plants;
- (viii) in consequence of any law with respect to the limitation of actions or prescription;
- (ix) for so long as may be necessary for the purposes of any examination, investigation, trial or enquiry or, in the case of land, for the purpose of carrying out on it work of reclamation, erection of a utility service item for the public benefit, drainage, soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has, without reasonable excuse, refused or failed, to carry out),

provided that the provision or, as the case may be, the thing done under its authority is reasonably justifiable in a democratic society;

- (b) to the extent that the law in question makes provision for the taking of possession of, or the acquisition of any interest in or right to or over, any of the following property, that is to say—
 - (i) enemy property;
 - (ii) property vested in the Crown as *bona vacantia*;
 - (iii) property of a deceased person or a person who is unable, by reason of legal incapacity, to administer it personally, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest in it;
 - (iv) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of that person or body and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
 - (v) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or by order of a court for the purpose of giving effect to the trust.

(4) Nothing in any law or done under its authority shall be held to contravene this section to the extent that the law in question makes provision for the compulsory taking of possession of any property, or the compulsory acquisition of any interest in or right to or over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no moneys have been invested other than moneys provided from public funds.