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STATUTORY INSTRUMENTS

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**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 discrimination**

**26.**—(1) In this section, the expressions—

- (a) “discriminatory” means affording different treatment to different persons on any ground such as sex, race, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national minority, property, family relations, economic status, disability, age, birth, sexual orientation, marital or other status; and
- (b) “public authority” means any statutory body or company or association in which the Government of the Virgin Islands has an interest and which performs a public function or duty.

(2) Subject to subsections (4), (5) and (7), no law shall make any provision that is discriminatory either of itself or in its effect.

(3) Subject to subsections (6), (7) and (8), no person shall be treated in a discriminatory manner by any person acting under any written law or performing the functions of any public office or any public authority.

(4) Subsection (2) shall not apply to any law so far as the law makes provision—

- (a) for the imposition of taxation or appropriation of revenue by the Government of the Virgin Islands or any local authority or body for local purposes;
- (b) with respect to the entry into or exclusion from, or the employment, engaging in any business or profession, movement or residence within, the Virgin Islands of persons who do not belong to the Virgin Islands, or for any other purpose with respect to such persons to the extent that the provision is reasonably justifiable in a democratic society;
- (c) for the application, in the case of persons of any such description as is mentioned in subsection (1)(a) (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description; or
- (d) whereby persons of any such description as is mentioned in subsection (1)(a) may be subjected to any disability or restriction or may be accorded any privilege or advantage that, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing in any law shall be held to contravene subsection (2) to the extent that it makes provision with respect to qualifications (not being qualifications specifically relating to any such description as is mentioned in subsection (1)(a)) for service as a public officer or as a member of a

disciplined force or for the service of a local government authority or a body corporate established by law for public purposes.

(6) Subsection (3) shall not apply to anything that is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5).

(7) 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 whereby persons of any such description as is mentioned in subsection (1)(a) may be subjected to any restriction on the rights and freedoms guaranteed by section 18, 19, 20, 21, 22, 23 or 24 if that restriction would, in accordance with that section, be a restriction authorised for the purposes of that section on the ground that—

- (a) the provision by or under which it is imposed is reasonably required in the interests of a matter, or for a purpose, specified in that section; and
- (b) the provision and the restriction imposed under it are reasonably justifiable in a democratic society.

(8) Nothing in subsection (3) shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.