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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 3**

**THE GOVERNOR**

**Exercise of Governor's functions**

**40.**—(1) Subject to this section, the Governor shall consult with the Cabinet in the exercise of all functions conferred on him or her by this Constitution or any other law for the time being in force in the Virgin Islands, except—

- (a) when acting under instructions given to him or her by Her Majesty through a Secretary of State;
- (b) when exercising any function conferred on him or her by this Constitution or any such other law which is expressed to be exercisable by the Governor in his or her discretion, or in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet; or
- (c) in any case which, in his or her opinion, involves a matter for which he or she is responsible under section 60;

but in exercising his or her powers in relation to matters to which paragraph (c) applies, the Governor shall consult with the Premier.

(2) The Governor shall not be obliged to consult with the Cabinet or the Premier if, in his or her judgement—

- (a) Her Majesty's service would sustain material prejudice;
- (b) the matter is not materially significant so as to require consultation; or
- (c) the urgency of the matter requires the Governor to act before he or she can consult the Cabinet or the Premier,

but in any case falling within paragraph (c) the Governor shall, as soon as practicable, communicate to the Cabinet the measures which he or she has adopted and the reasons for them.

(3) In any case in which the Governor is required under this section to consult the Cabinet, the Governor shall act in accordance with the advice of the Cabinet unless in his or her opinion such advice would affect a matter for which he or she is responsible under section 60.

(4) Where the Governor is directed by this Constitution to exercise any function after consultation with any person or authority other than the Cabinet, he or she shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(5) Whenever the Governor, in pursuance of subsection (3), acts contrary to the advice given by the Cabinet, he or she shall, as soon as practicable, report his or her action and the reasons for it to a Secretary of State.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(6) Where the Governor is directed by this Constitution to exercise any function in accordance with the advice of, or after consultation with, any person or authority, the question whether he or she has so exercised that function shall not be enquired into in any court.