

---

STATUTORY INSTRUMENTS

---

**2007 No. 1678**

**The Virgin Islands Constitution Order 2007**

**THE CONSTITUTION OF THE VIRGIN ISLANDS**

**CHAPTER 1**

**INTERPRETATION**

**Interpretation**

- 2.—(1) In this Constitution, unless it is otherwise provided or required by the context—
- “the Chief Justice” means the Chief Justice of the Eastern Caribbean Supreme Court;
  - “the Court of Appeal” means the Court of Appeal established by the Supreme Court Order 1967(1);
  - “dollars” means dollars in the currency of the Virgin Islands or the United States of America;
  - “election” means election of an elected member of the House of Assembly and “general election” shall be construed accordingly;
  - “the *Gazette*” means the official *Gazette* of the Virgin Islands;
  - “the High Court” means the High Court established by the Supreme Court Order 1967;
  - “legal practitioner” means a person qualified as a legal practitioner as prescribed by law;
  - “the Police Force” means any police force established for the Virgin Islands under any law in force in the Virgin Islands;
  - “public office” means, subject to section 3, any office of emolument in the public service or any office of emolument under any local government council or authority in the Virgin Islands;
  - “public officer” means the holder of any public office and includes any person appointed to act in any such office;
  - “public service” means the service of the Crown in a civil capacity in respect of the Government of the Virgin Islands;
  - “session”, in relation to the House of Assembly, means the sittings of the House commencing when the House first meets after being constituted by this Constitution, or after its prorogation or dissolution at any time, and terminating when the House is next prorogued or is dissolved without having been prorogued;
  - “sitting”, in relation to the House of Assembly, means a period during which the House is sitting continuously without adjournment and includes any period during which the House is in committee.
- (2) For the purposes of this Constitution, a person belongs to the Virgin Islands if that person—
- (a) is born in the Virgin Islands and at the time of the birth his or her father or mother is or was—

- (i) a British overseas territories citizen (or a British Dependent Territories citizen) by virtue of birth, registration or naturalisation in the Virgin Islands or by virtue of descent from a father or mother who was born in the Virgin Islands; or
- (ii) settled in the Virgin Islands; and for this purpose “settled” means ordinarily resident in the Virgin Islands without being subject under the law in force in the Virgin Islands to any restriction on the period for which he or she may remain, but does not include persons on contract with the Government of the Virgin Islands or any statutory body or Crown corporation;
- (b) is born in the Virgin Islands of a father or mother who belongs to the Virgin Islands by birth or descent or who, if deceased, would, if alive, so belong to the Virgin Islands;
- (c) is a child adopted in the Virgin Islands by a person who belongs to the Virgin Islands by birth or descent;
- (d) is born outside the Virgin Islands of a father or mother who is a British overseas territories citizen by virtue of birth in the Virgin Islands or descent from a father or mother who was born in the Virgin Islands or who belongs to the Virgin Islands by virtue of birth in the Virgin Islands or descent from a father or mother who was born in the Virgin Islands;
- (e) is a British overseas territories citizen by virtue of registration in the Virgin Islands;
- (f) is a person to whom a certificate has been granted under section 16 of the Immigration and Passport Act 1977 of the Virgin Islands (in this subsection referred to as “the Act”, and references to the Act or to any section thereof include references to any enactment amending, replacing or re-enacting the same) and has not been revoked under section 17 of the Act; and (without prejudice to the right of any person to apply for the grant of such a certificate under the Act) a British overseas territories citizen by virtue of naturalisation in the Virgin Islands has a right by virtue of this Constitution to apply for the grant of such a certificate;
- (g) is the spouse of a person who belongs to the Virgin Islands and has been granted a certificate under section 16 of the Act; or
- (h) was immediately before the commencement of this Constitution deemed to belong to the Virgin Islands by virtue of the Virgin Islands (Constitution) Order 1976(2).

(3) In this Constitution, unless it is otherwise provided or required by the context, any reference to the holder of an office by a term designating or describing his or her office shall be construed as including a reference to any person who, under and to the extent of any authority in that respect, is for the time being performing the functions of that office.

(4) In this Constitution, unless it is otherwise provided or required by the context, references to the functions of the Governor shall be construed as references to his or her powers and duties in exercise of the executive authority of the Virgin Islands and to any other powers or duties conferred or imposed on him or her as Governor by or under this Constitution or any other law.

### **References to public office**

3.—(1) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that—

- (a) he or she is in receipt of a pension or other like allowance in respect of public service; or
- (b) he or she is in receipt of any remuneration or allowances in respect of his or her tenure of the office of Minister, Speaker, Deputy Speaker or member of the House of Assembly, or member of the Public Service Commission, the Teaching Service Commission, the Judicial and Legal Services Commission, or the Police Service Commission.

(2) If it is provided by any law in force in the Virgin Islands that an office shall not be a public office for the purposes of section 66(1)(a), this Constitution shall have effect accordingly as if that provision of that law were enacted herein.

(3) References in section 60 and Chapter 7 to public offices shall not be construed as including references to—

- (a) the office of a member of any board, committee or other similar body (whether incorporated or not) established by any law in force in the Virgin Islands; or
- (b) any office of emolument under any local government council or authority in the Virgin Islands.

### **Appointments**

4.—(1) In this Constitution, unless it is otherwise provided or required by the context, any reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion or transfer to that office and to power to appoint a person to perform the functions of that office during any period when it is vacant or the holder of it is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions.

(2) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to perform the functions of an office if the holder of that office is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of that office.

(3) Where this Constitution vests in any person power to make appointments to any office, a person may be appointed to that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of that office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred on the holder of that office, the person last appointed to the office shall be deemed to be the sole holder of the office.

### **Re-election or reappointment**

5. Any person who has vacated his or her seat in the House of Assembly or has vacated any office constituted by or under this Constitution may, if qualified, again be elected as a member of the House or appointed to that office, as the case may be, from time to time in accordance with this Constitution.

### **Removal from office**

6. In this Constitution, unless it is otherwise provided or required by the context, any reference to power to remove a public officer from office shall be construed as including a reference to any power conferred by any law to require or permit that officer to retire from the public service.

### **Resignation**

7. For the purposes of this Constitution, the resignation of the holder of any office that is required to be addressed to any person shall have effect from the time that it is received by that person, unless otherwise specified in the letter of resignation.

---

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

---

**Power to amend or revoke instruments**

8. Where any power is conferred by this Constitution to make any proclamation, order or regulations or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, order, regulations or directions.