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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 5

THE LEGISLATURE

*Composition*

**Composition of Legislature**

**62.** There shall be a Legislature of the Virgin Islands which shall consist of Her Majesty and a House of Assembly.

**House of Assembly**

**63.—(1)** The House of Assembly shall consist of a Speaker elected as provided in section 69, thirteen elected members, and one non-voting *ex officio* member, namely the Attorney General.

(2) A law made under section 71 may alter the number of elected members of the House of Assembly, provided that the number of elected members shall be not less than thirteen; but no such law shall come into force—

(a) unless, where the law provides for an alteration in the number of electoral districts referred to in section 64(2)(b), a Bill providing for the altered number of electoral districts and their boundaries to take account of the altered number of elected members has been passed following a report by an electoral district boundaries commission; and

(b) until the dissolution of the House of Assembly next following the enactment of such law.

(3) For its enactment a Bill for a law made in pursuance of subsection (2) shall require the support of two-thirds of the elected members of the House of Assembly.

(4) A law made in pursuance of subsection (2) shall provide for the quorum in the House of Assembly and the Cabinet.

**Elected members**

**64.—(1)** The elected members of the House of Assembly shall be persons qualified for election in accordance with this Constitution and, subject to this Constitution, shall be elected in the manner provided by or under any law for the time being in force in the Virgin Islands.

(2) Subject to section 63(2), for the purposes of elections the Virgin Islands—

(a) shall be a single electoral district and shall return four members to the House of Assembly; and

- (b) shall also be divided into nine electoral districts in such manner as may be provided by or under any law for the time being in force in the Virgin Islands, and each such district shall return one member to the House of Assembly.

### **Qualifications for elected membership**

**65.**—(1) Subject to this section and section 66, a person shall be qualified to be elected as a member of the House of Assembly if, and shall not be qualified to be so elected unless, he or she—

- (a) was so qualified immediately before the commencement of this Constitution; or
- (b) is a person who—
  - (i) is a Virgin Islander of the age of twenty-one years or upwards; and
  - (ii) is otherwise qualified as a voter under section 68.

(2) Subject to subsections (3) and (4), for the purposes of subsection (1)(b)(i) a “Virgin Islander” is a person who belongs to the Virgin Islands by birth or descent who was—

- (a) born in the Virgin Islands of a father or mother who at the time of the birth was a British overseas territories citizen (or a British Dependent Territories citizen) by virtue of birth in the Virgin Islands or by virtue of descent from a father or mother who was born in the Virgin Islands;
- (b) born in the Virgin Islands of a father or mother who at the time of the birth belonged to the Virgin Islands by birth or descent; or
- (c) born outside the Virgin Islands of a father or mother who at the time of the birth belonged to the Virgin Islands by birth or descent.

(3) A person born outside the Virgin Islands who belongs to the Virgin Islands by descent shall not be qualified to be elected as a member of the House of Assembly unless one of his or her grandparents belonged to the Virgin Islands by birth.

(4) A person, whether born in or outside the Virgin Islands, who would otherwise be qualified to be elected as an elected member of the House of Assembly by virtue of subsection (1)(b) shall not be so qualified unless—

- (a) where that person has never been domiciled in the Virgin Islands, he or she has resided in the Virgin Islands for at least five years immediately before the date of his or her nomination for election; or
- (b) where that person was formerly domiciled in the Virgin Islands but has lived outside the Virgin Islands for a continuous period of at least ten years (excluding periods related to medical or educational purposes), he or she has resided in the Virgin Islands for at least three years immediately before the date of his or her nomination for election and is domiciled in the Virgin Islands at that date.

### **Disqualifications for elected membership**

**66.**—(1) No person shall be qualified to be elected as a member of the House of Assembly who—

- (a) holds, or is acting in, any public office;
- (b) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;
- (c) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in any country;
- (d) at the date of election, is under sentence of death imposed on him or her by a court of law in any country, or is serving or has at any time within the period of five years immediately preceding that date been serving any part of a sentence of imprisonment (by whatever

- name called) of at least twelve months imposed on him or her by such a court or substituted by competent authority for some other sentence imposed on him or her by such a court; or is under such a sentence of imprisonment the execution of which has been suspended;
- (e) is disqualified for membership of the House of Assembly by or under any law in force in the Virgin Islands relating to offences connected with elections; or
  - (f) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Virgin Islands for or on account of the public service, and has not, within fourteen days before his or her nomination as a candidate for election, published in the *Gazette* or in a newspaper circulating in the Virgin Islands a notice setting out the nature of such contract and his or her interest, or the interest of such firm or company, in it.
- (2) For the purposes of subsection (1)(d)—
- (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and
  - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

### **Tenure of seats of members of House of Assembly**

67.—(1) Every elected member of the House of Assembly shall vacate his or her seat in the House at the next dissolution of the House after his or her election.

(2) Notwithstanding that a member of the House of Assembly has vacated his or her seat by virtue of subsection (1), every such member shall be entitled to continue receiving the benefits and privileges of a member until the polling day for election for a new House of Assembly, provided that such benefits and privileges shall cease if the member fails to win a seat at the general election.

(3) An elected member of the House of Assembly shall also vacate his or her seat in the House—

- (a) if he or she resigns it by writing under his or her hand addressed to the Speaker;
- (b) if he or she is absent from the sittings of the House for such period and in such circumstances as may be prescribed in the Standing Orders of the House;
- (c) if he or she ceases to be qualified for election;
- (d) subject to subsections (4), (5) and (6), if any circumstances arise that, if he or she were not a member of the House, would cause him or her to be disqualified for election as such by virtue of any provision of section 66(1) other than paragraph (f); or
- (e) subject to subsection (7), if he or she becomes a party to any contract with the Government of the Virgin Islands for or on account of the public service or if any firm in which he or she is a partner, or any company of which he or she is a director or manager, becomes a party to any such contract, or if he or she becomes a partner in a firm, or a director or manager of a company, which is a party to any such contract.

(4) If circumstances such as are referred to in subsection (3)(d) arise because a member is declared bankrupt, adjudged to be of unsound mind, under sentence of death or imprisonment or convicted of an offence relating to elections and if it is open to the member to appeal against the decision (either with the leave of the court or other authority or without such leave) he or she shall forthwith cease to perform his or her functions as a member but, subject to subsection (5), he or she shall not vacate his or her seat in the House until the expiration of a period of thirty days thereafter; but the Speaker may, at the request of the member, from time to time extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House of Assembly.

(5) If, on the determination of any appeal, the circumstances referred to in subsection (4) continue to exist and no further appeal is open to the member or if, by reason of the expiration of any period for entering an appeal or notice of appeal or the refusal of appeal or for any other reason, it ceases to be open to the member to appeal, he or she shall forthwith vacate his or her seat.

(6) If at any time before the member vacates his or her seat the circumstances referred to in subsection (4) cease to exist, the seat of that member shall not become vacant on the expiration of the period referred to in subsection (4) and he or she may resume the performance of his or her functions as a member.

(7) If in the circumstances it appears just to the House of Assembly to do so, the House may exempt any elected member from vacating his or her seat under subsection (3)(e) if such member, before becoming a party to such contract as there described, or before or as soon as practicable after becoming otherwise interested in such contract (whether as a partner in a firm or director or manager of a company), discloses to the House the nature of such contract and his or her interest or the interest of any such firm or company in it.

(8) Any request by an elected member for exemption under subsection (7) shall be made by way of motion, which shall be placed on the Order Paper for a decision of the House of Assembly.

(9) In any case in which the House of Assembly, under subsection (7), decides not to exempt an elected member from vacating his or her seat, the member may appeal to the High Court against the decision, and subsections (4), (5) and (6) shall apply in the same manner as they do in the circumstances there specified.

### **Qualifications of voters**

**68.**—(1) Subject to subsection (3), a person shall be qualified to be registered as a voter for the purposes of elections if, and shall not be so qualified unless, he or she belongs to the Virgin Islands and on the qualifying date has attained the age of eighteen years and he or she either—

- (a) is domiciled and resident in the Virgin Islands on the qualifying date; or
- (b) on that date is domiciled in the Virgin Islands and resident in the United States Virgin Islands.

(2) Subject to subsection (3), any person who was qualified to be registered as a voter immediately before the commencement of this Constitution shall continue to be so qualified thereafter.

(3) No person shall be qualified to be registered as a voter under this section who on the qualifying date—

- (a) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Virgin Islands;
- (b) is disqualified by or under any such law from being registered as a voter for the purposes of elections by reason of his or her having been convicted of an offence relating to elections; or
- (c) is under sentence of death imposed on him or her by a court or is serving a sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him or her by a court or substituted by competent authority for some other sentence imposed on him or her by a court.

(4) In this section “the qualifying date” means such date as may be appointed by or under any law in force in the Virgin Islands as the date with reference to which the qualifications of any person for registration are to be ascertained.

(5) For the purposes of subsection (3)(c)—

- (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of those sentences exceeds that term they shall be regarded as one sentence; and
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

### **Speaker and Deputy Speaker**

**69.**—(1) When the House of Assembly first meets after any general election and before it proceeds to the despatch of any other business it shall elect a person to be the Speaker of the House.

(2) If the office of Speaker falls vacant for any reason other than a dissolution of the House of Assembly, the House shall as soon as practicable elect another person to that office.

(3) The Speaker shall be elected from among the elected members of the House of Assembly or from persons qualified to be elected members of the House, other than Ministers, and no person shall be elected as Speaker if he or she is a person disqualified for election as a member of the House by virtue of any provision of section 66(1) other than paragraph (f).

(4) When the House of Assembly first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker, it shall elect a member of the House who is not a member of the Cabinet to be Deputy Speaker of the House.

(5) If the office of Deputy Speaker falls vacant for any reason other than a dissolution of the House of Assembly, the House shall as soon as convenient elect to that office another member of the House who is not a member of the Cabinet.

(6) A person shall vacate the office of Speaker or Deputy Speaker—

- (a) on dissolution of the House of Assembly;
- (b) if he or she announces the resignation of his or her office to the House of Assembly or if by writing under his or her hand addressed to the House and received by the Clerk of the House he or she resigns that office;
- (c) if a motion on the Order Paper for his or her removal is carried by the votes of a majority of all the elected members of the House; or
- (d) if he or she is appointed to be a member of the Cabinet.

(7) A person shall also vacate the office of Speaker—

- (a) if he or she ceases to be a person qualified for election as a member of the House of Assembly;
- (b) if any circumstances arise that would cause him or her to be disqualified for election as an elected member of the House by virtue of any provision of section 66(1) other than paragraph (f);
- (c) on the expiration of a period of thirty days from the date of his or her election if he or she was at that date a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Virgin Islands for or on account of the public service and if, before the expiration of that period, he or she has not disclosed to the House of Assembly the nature of such contract and his or her interest, or the interest of such firm or company, in it and the House has not exempted him or her from vacating his or her office under this paragraph; or
- (d) if any circumstances arise that, if he or she were an elected member of the House of Assembly, would cause him or her to vacate his or her seat under section 67(3)(d).

(8) A person shall also vacate the office of Deputy Speaker if—

- (a) he or she ceases to be a member of the House of Assembly for any reason other than a dissolution of the House; or
- (b) by virtue of section 67(4), he or she is required to cease to perform his or her functions as a member of the House.

### **Leader of the Opposition**

- 70.**—(1) Subject to this section, the Governor may appoint a Leader of the Opposition.
- (2) The Governor shall appoint as the Leader of the Opposition—
- (a) a member of the House of Assembly recommended by a majority of the elected members of the House who are members of any opposition party whose numerical strength in the House is greater than that of any other opposition party; or
  - (b) if there is no such party or if no recommendation is made under paragraph (a), the member of the House of Assembly who in the judgement of the Governor is best able to command the support of the members of the House in opposition to the Government.
- (3) If at any time between the polling in a general election and the next following dissolution of the House of Assembly the Governor is satisfied that, if the office of the Leader of the Opposition were then vacant, he or she would appoint to that office a person other than the person then holding that office, the Governor shall revoke the appointment of the Leader of the Opposition.
- (4) The office of the Leader of the Opposition shall also become vacant—
- (a) if for any reason other than a dissolution of the House of Assembly the holder of that office ceases to be a member of the House; or
  - (b) if the holder of that office is appointed as a Minister.
- (5) In this section “opposition party” means a group of members of the House of Assembly in opposition to the Government who are prepared to support one of their number as their leader.
- (6) In the exercise of his or her functions under this section the Governor shall act in his or her discretion.