The cover features a collage of portraits of political candidates in the foreground. In the background, there is a faded image of a large, classical-style building, likely the Parliament Buildings in the Virgin Islands. A large, stylized sun or moon is in the upper right corner. A diagonal banner with the Union Jack flag runs across the middle. The title is in large, bold, white letters, and the subtitle is in a red box with white text. Abstract yellow and green diagonal lines are on the left side.

HANDBOOK FOR CANDIDATES

VIRGIN ISLANDS, 2023

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Are you considering contesting in the next election? If so, congratulations! This handbook is created to give you an understanding of the legal requirements you must meet, the electoral process, and of your role and responsibilities under the law. We invite you to familiarise yourself with the processes as you proceed.

Introduction. About This Handbook

This handbook is published by the Office of the Supervisor of Elections Office (OSE), the authority, which maintains the register of voters, and conducts all elections in the Territory. This handbook applies to all persons who intend to contest in an election.

The Constitution, The Elections Act (1994) and its amendments, and Election Regulations provide the legal basis to regulate general and bi-elections in the Virgin Islands and you should be familiar with them. The OSE is of the view that this handbook would be a valuable resource to persons who may become candidates in becoming familiar with the various steps in the electoral process and electoral rules, which are pertinent in contesting in an election.

It is usual that preceding an upcoming election, reforms, which result in legislative amendments may occur. Therefore, whether you are an experienced candidate or a new comer, this handbook can serve to apprise you of the current rules and procedures that are applicable.

This handbook is not intended to substitute the Constitution, the Elections Act (1994) and its

amendments, or Election Regulations. Instead, it should be used in conjunction with, and is written in a manner whereby a firm understanding of key issues can easily be referenced. In so doing, the stages of the electoral process that include but are not limited to: (a) the legal framework and how elections are to be administered; (b) qualifications, which must be met to be a candidate; (c) procedures to be nominated; (d) procedures to be followed on Advance and Election Day; and (d) election offences and other areas.

Candidates and political parties are integral actors within the electoral process. The legal framework which governs elections is grounded within the Constitution and the Elections Act (1994) and its amendments. The public's trust or confidence in a country's electoral system, is based on the integrity of the key stakeholders and the consistent application of good governance practices, where transparency and accountability are of paramount importance.

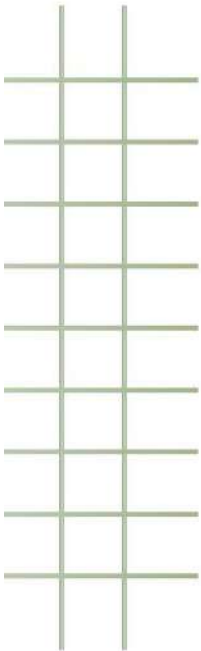
From the Desk of the Supervisor of Elections

The OSE welcomes every eligible candidate desirous of contesting an election. It is important that all candidates, whether they are running as an independent or with a political party, or whether they are an experienced or newcomer to candidacy, are knowledgeable of the legal and regulatory framework, and the policies and practices which they should follow to ensure that their electioneering activities are grounded in free, fair, transparent and accountable. We are confident that this handbook will assist all candidates.

Scherrie Griffin
Supervisor of Elections

PART 1

Elections in the Virgin Islands - Institutional and Legal Framework



The Virgin Islands is an overseas Territory of the United Kingdom, and has adopted a Westminster-Style political system. History indicates that in 1950 the first election occurred in the Territory, resulting in the first Legislative Council comprised of four members. Since then, a number of successful elections have been held.

1. Elections in the Virgin Islands: An Introduction

Successful candidates who contest in an election, have been selected by eligible voters to represent their interests in the House of Assembly (HOA). Elected representatives must always remain mindful that although they have been elected by registered voters, they are required to act on behalf of all citizens, and be diligent in their efforts to promote the best interests of all who reside within the Territory.

1.1 S. 84 and 86 Constitution; S24A Elections Act

Elections in the Virgin Islands can either be a general election or a by-election. In the case of a general election, this can occur within two months but not less than 21 days following the dissolution of the HOA. The HOA is constitutionally due to be dissolved at the expiration of four years from the date when the HOA first met after a General Election, unless dissolved sooner. Additionally, the Governor is required to make a proclamation of the dissolution of the HOA in the Gazette.

A by-election can occur whenever an elected member of the HOA vacates his/her seat for any other reason other than the dissolution of the HOA (e.g. death, resignation). As in the case of a General Election following Proclamation published in the Gazette, a by-election can occur within two months but not less than 21 days, following the dissolution of the HOA.

1.2 S. 2 Referendum Act

The Referendum Act provides that if the Executive Council (now known as Cabinet), holds the view that there is a special subject of national importance, a referendum can be held whereby voters can vote on the issue. To date, no referendum has been conducted in the Territory.

The Virgin Islands has a 13-member unicameral HOA, wherein nine persons are elected, one representing each electoral district, while there are an additional four members elected for territorial representation (at-large).

The Premier, Governor and the Supervisor of Elections consult on how soon within the stipulated timeframe following the dissolution of the HOA an election can occur.

2. Electoral legal framework

The basis of elections is founded on the legal and regulatory framework. In most countries, those rules are set in a series of legal documents, beginning with the general rules set in the Constitution as well as in the electoral laws and any regulations established by the electoral authorities. The combination of all these instruments compose comprise the electoral legal framework for the country.

The legal framework for elections in the Virgin Islands consists primarily of the Virgin Islands Constitution Order 2007, Virgin Islands Constitution Amendment Order 2015, the Elections Act (1994), its amendments (1994, 1998, 2003, 2007, 2011, 2017 and 2019), Election Regulations - Elections (Voting Symbols) Regulations amended by S.I. 40/1994, Elections (Corrections of Nomination Papers) Order S.I. 19/2003, Elections (Remuneration of Elections Officer) Regulations S.I. 56/2007, House of Assembly (Election Petitions) Rules S.I. 14/2014, Elections (Voter Registration Cards) Order S.I. 67/2018, and the Referendum Act 2002.

2.1 The Constitution

The Virgin Islands Constitution Order 2007, is a statutory instrument of the United Kingdom. The Virgin Islands Constitution Order 2007 is the fourth written constitution, which supersedes the 1976 Constitution. Of notable importance, the Constitution delegates powers to the Virgin Islands Government to represent itself in certain external affairs. Additionally, it guarantees fundamental rights and freedoms, including freedom of expression, assembly and association and participation in elections. The Constitution includes several important provisions related to elections, that include but are not limited to: (a) who is qualified to vote, and (b) who is qualified for elected membership.

Section 2 of the Constitution outlines the categories of persons who are considered “deemed to belong”, and therefore eligible to vote. In addition to being “deemed to belong”, to vote, persons must be at least 18 years of age, domiciled and resident in the Virgin Islands, or domiciled in the Virgin Islands and resident in the United States. Section 65 outlines the qualifications which a candidate must possess to be eligible to be elected as a member of the HOA. These include:

- i. he/she must be qualified prior to the commencement of the Constitution [2007];

ii. is a Virgin Islander of the age of twenty-one years or upwards; and is otherwise qualified as a voter under section 68.

Section 66 stipulates that a person cannot become an elected member of the HOA, and therefore should not be a candidate if he/she:

- (i) currently holds, or is acting in, any public office;
- (ii) has declared bankruptcy under any law in force in any country, and has not been discharged, or having been adjudged as such;
- (iii) is a person certified to be insane, or otherwise declared to be of unsound mind under any law in force in any country;
- (iv) at the date of election, a sentence of death has been imposed on him/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/ her by a court, or substituted by competent authority for some other sentence imposed on him/her by such a court; or is under such a sentence of imprisonment the execution of which has been suspended;
- (v) is disqualified for membership of the HOA by or under any law in force in the Virgin Islands relating to offences connected with elections; or
- (vi) is a party to, or a partner in a firm, or is 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/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.

Additionally, as it relates to (iv) -

(a) if a person has been sentenced to serve two or more periods of incarceration consecutively, each sentence is to be treated separately if none of the sentences exceeds twelve months. However, if any of the sentences imposed exceeds twelve months, the term should be regarded as one period; and

(b) if a sentence of imprisonment has been imposed as an alternative to, or in default of the payment of a fine, this will not be taken into consideration, and negatively impact a person desirous of contesting an election.

The legal framework that governs elections should be clear cut, allowing for consistent application and interpretation by all. Further, as society continues to develop, reforms that strive to support true democracy, impartial application and enforcement of the laws should be evidenced. Where there is variance in the laws, earnest efforts should be undertaken to remove variance and ambiguity, which can lead to inconsistent application by the Office of the Supervisor of Elections, and thereby undermine the integrity of the electoral process.

2.2 The Elections Act and Regulations

The Elections Act (1994) is the parent law, which regulates and controls the holding of elections within the Territory and also declares boundaries of electoral districts. This parent law has been amended in 1994, 1998, 2003, 2007, 2013, 2017 and 2019. As the Territory strives to strengthen its electoral processes and bringing it further in compliance with international standards, it is likely that future reforms will emerge as the Territory itself further develops. Within the Act and its amendments, “Schedules”, which provide more detail on aspects of elections are included. The “Schedules” include, among other things, stipulations on the electoral authorities and their functions, the process as it relates to registration of voters and transfer of registrations, oaths to be taken by election officers, writs, nomination forms, filing of claims and objections, direction for the guidance of voters, oaths to be administered when taking ballots in special cases or when minor discrepancies exist, oaths to be administered to candidates and/or their agents, request for recount, and certifying returns.

Complementing the electoral laws (and building on them), are Regulations and procedures developed by OSE. Among these are:

- (a) Elections (Voting Symbols) Regulations;
- (b) Elections (Corrections of Nomination Papers) Order;
- (c) Elections (Remuneration of Elections Officer) Regulations;
- (d) House of Assembly (Election Petitions) Rules; and
- (e) Elections (Voter Registration Cards) Order

The 2022 Referendum Act established the basic modalities for referendums. Among them is the provision that a referendum will only be valid if at least 50% of registered voters cast valid votes in the affirmative or negative on the subject being determined.

3. Electoral Systems

A candidate can contest in an election for any of the 13 seats. These 13 seats are classified as either local electoral/single-member district seats, or territorial/at-large seats, forming a unicameral system.

The Territory's electoral system is one where: a) the Territory has been divided into nine local districts through the use of electoral boundaries, where each local district is a single-member constituency, and b) four territorial seats/at-large wherein the four candidates who amass the largest number of votes are elected. The current voting system used is "first-past-the-post", which in the true sense does not produce true representation in a single-constituency system. Our voting system promotes a mixed-representative system.

4. Electoral Authorities

The legislative framework provides for the Governor to appoint a Supervisor of Elections and other officers that are required to enable the Supervisor of Elections to execute his/her functions as outlined in the Elections Act. The Office of the Supervisor of Elections is a Unit under the Office of the Deputy Governor, who manages its operational budget. Additionally, the High Court has jurisdiction to hear appeals in relation to validity of a candidate being elected to the HOA, or an elected member vacating his/her seat. The Office of the Supervisor of Elections can be viewed as an operational body as it relates to electoral processes.

4.1 The OSE

Section 4 of the Elections Act, Revised Edition Act (2013) authorises the Governor to appoint a Supervisor of Elections to carry out duties as it relates to elections.

The duties of the Supervisor of Elections include:

- (i) give direction and supervise the process of voter registration and the administrative conduct of elections;
- (ii) issue instructions to election officers to ensure understanding and correct application of election laws and regulations;
- (iii) publish notice to inform persons on the eligibility criteria which a person must meet in order to register to vote; and
- (iv) to enforce fair, impartial, compliance with the provisions of the Act by election officers in the execution of their duties.

Additionally, the Supervisor of Elections must:

- (i) hear claims and objections in relation to inclusion of voters on the Official List of Voters, and render decisions;

- (ii) promote public awareness on electoral processes, through the development of voter education materials;
- (iii) prepare, distribute and publish voters lists;
- (iv) conduct research, and propose reforms aimed at improving electoral processes and the attainment of universal suffrage;
- (v) maintain a near accurate database of registered voters;
- (vi) maintain and preserve the security of all records;
- (vii) with the Governor's approval, divide electoral districts into more than one polling division, taking into account geographical boundaries;
- (viii) supervise the administrative conduct of referendums;
- (ix) provide and distribute and maintain the security of ballot papers, ballot boxes and equipment for polling stations;
- (x) recruit election officers;
- (xi) announce election results;
- (xii) control election expenditure;
- (xiii) prepare election reports; and

- (xiv) execute and perform any and all other powers and duties which the Act confers upon him/her.

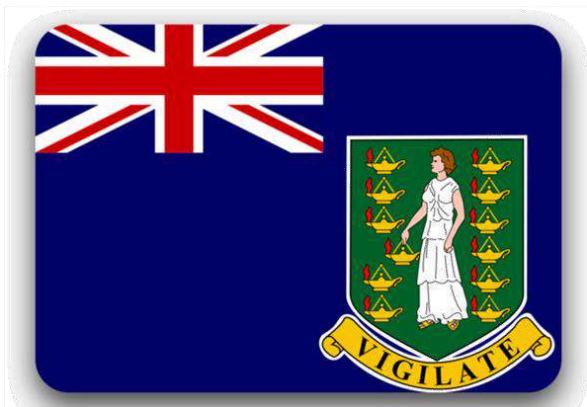
4.2 The High Court

Section 87 (1) of the Virgin Islands Constitution Order 2007 stipulates that the High Court has jurisdiction to hear and determine appeals under section 67 (9), that is where the HOA decides not to exempt a member from vacating his/her seat, or where a question arises whether:

(i) any person has been validly elected as a member of the HOA; or

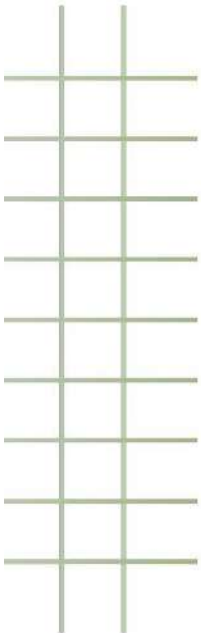
(ii) any elected member of the HOA has vacated his or her seat in the HOA or is required by virtue of section 67(4) to cease to perform his/her functions as a member.

Moreover, section 87 (2) of the Virgin Islands Constitution Order further indicates who may apply to the High Court for determination of any question under section 87 subsection (1).



PART 2

Electoral Operations, Offenses and Dispute Resolution

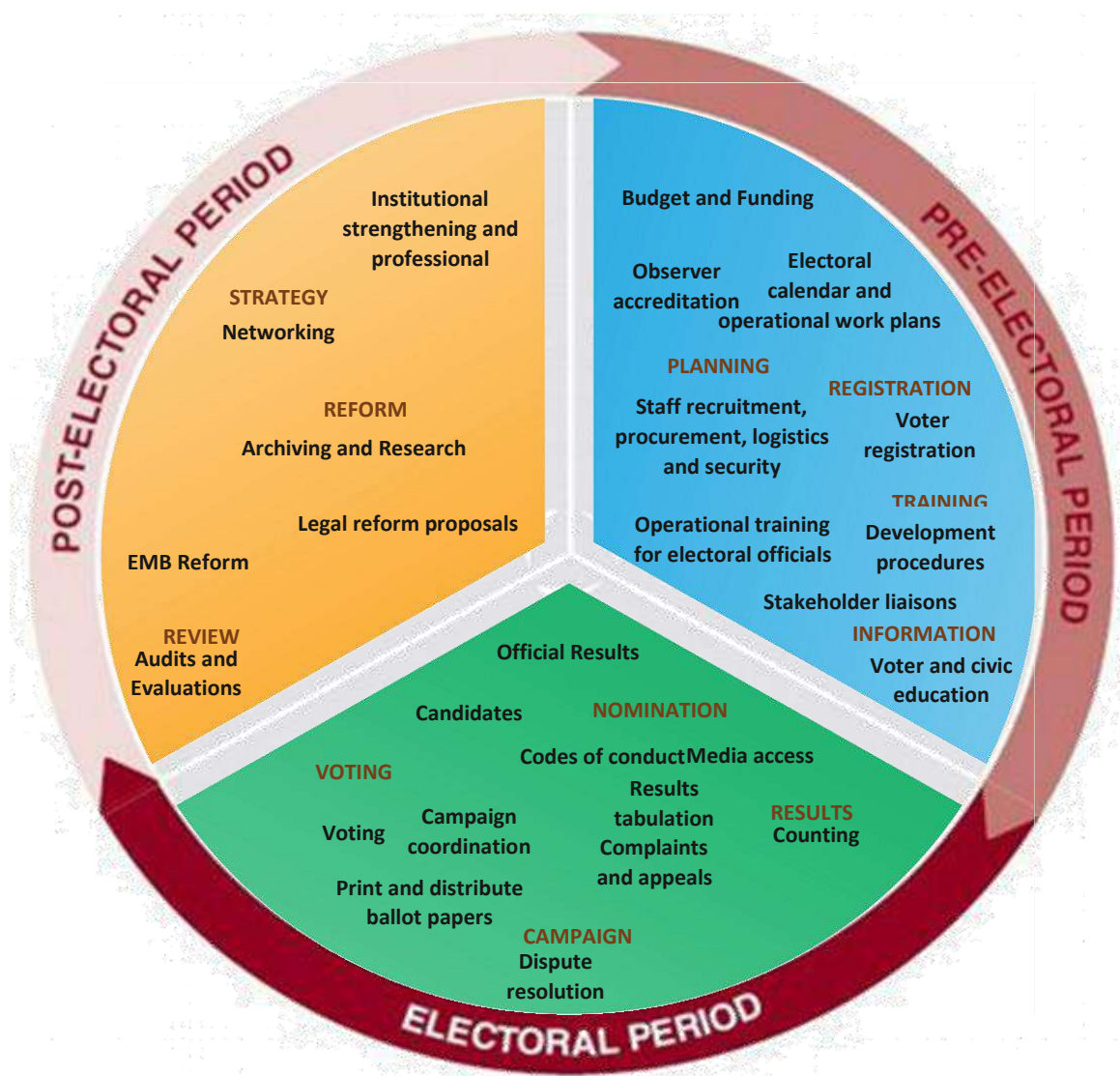


The following phases comprise the electoral cycle: legal framework, planning and implementation, training and education, voter registration, election campaign, voting operations and advance polling and election day, verification of results and post-election. A series of activities occur within each phase, sequentially, each requiring significant planning, preparation and meeting deadlines. A project plan is prepared and used to guide the OSE in its efforts to ensure electoral operations occur within established timeframes.

Key elements of electoral operations include but are not limited to: voter registration, election officer appointments and duties, issuing of writs, polling, counting, tabulation and announcement of results. Additionally, nomination of candidates, which is also an important electoral process, will be discussed separately. The degree to which these are effectively conducted has a profound impact on the election being successfully administered. Additionally, the electoral laws define a number of electoral offences which a candidate must be mindful of as well of mechanisms established to resolve electoral disputes.

5. Election Activities

The electoral cycle is best described as a series of phased activities (see image below).



It must be underscored that the electoral process is not just defined by the activities that occur during the election period; electoral process activities also occur during pre and post-election periods as well. Notwithstanding this, emphasis in this manual is placed on election period activities which candidates and political parties need to pay particular attention to. The following table highlights key activities, and the applicable time period where stipulated by law which governs the process.



GENERAL ELECTION KEY ACTIVITIES

Dissolution of the House of Assembly – per sec 84 VI Constitution	
Voter Registration/Transfer continues for 2 days following Dissolution of HOA	
Last day of Registration – ends 2 days following the Dissolution of HOA	
Publishing of the Preliminary List of Voters - per 28(1)(a) <ul style="list-style-type: none"> • First day of Public Inspection of the Preliminary List of Voters • First day to file a claim or objection 	4 day period
<ul style="list-style-type: none"> • Last day of Public Inspection of the Preliminary List of Voters • Last day to file a claim or objection • First day to hear objections 	
Last day to hear objections	
Election Writs (per sec 25) are issued	
Nomination and Polling Day announced	
Publication of the Revised List of Voters - per sec 23	
<ul style="list-style-type: none"> • First day prospective candidates to post in the Gazette or Newspaper his/her interest in any firm or company that is under contract with Government • First day for submission of applications to vote on Advance Polling 	14 day period prior to nomination day per 66 (f) VI Constitution
<ul style="list-style-type: none"> • Last day for Political Party and/or Independent candidate symbol etc. notification • Notices of Nomination to be published 	
Last day prospective candidates to post in the Gazette or Newspaper his/her interest in any firm or company that is under contract with Government	
Nomination Day	Same
Last day for submission of applications to vote on Advance Polling Day	
First day for candidate withdrawal	
Logic & Accuracy Public Testing/Media Day - per sec 36A	
Advanced Polling Day – per 47(1)(b)	4 days before Election Day
Last day for candidate withdrawal - per sec 26(7)	Not less than 3 days before Election Day
POLLING DAY	
Writs to be Returned—per sec 25	

6. Voter registration

The ultimate goal to attain in any democratic society is ensuring that all eligible persons within the territory have the ability to exercise their right to vote, otherwise stated universal suffrage exists and elections are free and fair. Key to this is facilitating access to registration, and the OSE's ability to maintain a near accurate list of registered voters. The ability to maintain an accurate list of registered voters also promotes trust in the electoral system and provides the mechanism whereby the required processes to be undertaken to facilitate registered voters being checked-in on Election Days.

The process of voter registration allows for the OSE to validate that persons who apply for registration meet the eligibility requirements to vote in an election or referendum. Moreover, voter registration also enables the OSE to effectively plan to administer an election, wherein resources can be allocated in direct proportion to the number of registered voters in each polling division.

How to register to vote

S. 2 and S.68 Constitution

6.1 Eligibility to register to vote

According to the Virgin Islands Constitution Order 2007, in order to be eligible for registration, a person must:

- i. be deemed to belong to the Virgin Islands;
- ii. be 18 years of age or older;
- iii. be domiciled and resident in the Virgin Islands on the qualifying date; or
- iv. on the qualifying date be domiciled in the Virgin Islands and resident in the United States Virgin Islands.

Voters who are domiciled and resident in the Virgin Islands must complete Form No. 1 and

for those who are domiciled in the Virgin Islands and resident in the United States Virgin Islands must complete Form No.7.

Voter registration, that is new registration and transfer of electoral districts is a continuous process, and closes temporarily a few days preceding the publication of the preliminary list

of voters. There is no fixed date or period preceding the publication of the preliminary list of voters signalling when registration temporarily closes to facilitate the publishing of the same. It must be noted that this temporary closure allows for applications to be received, but any application received after the

announced date of closure, will not be processed to be included in the preliminary list of voters which must be published by 30th September in every non election year, or within four days after the dissolution of the HOA where a vacancy occurs in either a local or territorial district.

For first-time applicants applying to become a registered voter, no supporting document is required to verify the electoral district, and where necessary the polling division which the applicant indicates that they reside in.

6.2 Non-eligibility to register to vote

An applicant is not eligible to become a registered voter if by the qualifying date:

- i. a person is certified to be insane, or pronounced to be of unsound mind under any law in force in the Virgin Islands;
- ii. is disqualified by or under any such law from being registered as a voter for the purposes of elections by reason of his/her having been convicted of an offence relating to elections;
- iii. he/she is under a sentence of death by a court; and
- iv. he/she is serving a sentence of imprisonment for a term not exceeding twelve months imposed on him/her by a court or substituted by competent authority for some other sentence imposed on him or her by a court.

The “qualifying date” referred to is the date on which a person who applies to be registered as a voter must meet the qualifications.

In reference to the term not exceeding twelve months, the following is considered:

- a. two or more sentences of imprisonment that are required to be served consecutively will be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of those sentences exceeds that term they will be regarded as one sentence; and
- b. if a sentence of imprisonment is imposed as an alternative to or in default of the payment of a fine, this should not be considered.

6.3 Documents to confirm a person belongs to the Virgin Islands

First time applicants applying to become a registered voter must submit along with either Form No. 1 or Form No. 7, any of the following documents to confirm that they are deemed to belong as stipulated in section 2 of the Virgin Islands Constitution Order:

- a. Valid BVI Passport with embossed seal;
- b. Belonger Card;
- c. Certificate of Belonger;
- d. Letter addressed to the Supervisor of Elections from the Civil Registry and Passport Office or the Department of Immigration (only available when card processing system is malfunctioning).

If persons are of the view that they are deemed to belong but do not possess any of the above documents, they must make an appointment to visit the Civil Registry and Passport Office to obtain the required document.

6.4 Transfer of Registration

S. 17 consolidated Elections Act (2013)

Registered voters who have changed their residence since their initial registration must do so by completing an application Form No. 9. These changes of residence can result in a change in the electoral district and/or the polling district in which they would be eligible to vote.

In addition to Form No. 9, voters who wish to transfer their registration to another electoral district must submit proof confirming the new address. Any of the following supporting documents listed are accepted and must be submitted along with the application to transfer:

Two months Utility bills (metered):

- (a) Electric bill
- (b) Water and Sewerage bill
- (c) Internet, Landline or Cellular Telephone, or Cable bill from local provider

Other:

- (a) Two (2) months' rental receipts immediately preceding the date the applicant applies for a transfer of registration; or
- (b) Notarised letter from the owner/lease holder of the home, confirming applicant as an occupant of their household and resident at the said address.

Once registered, voters can obtain a voter identification card. No application is required to be filled to obtain an initial card.

The card contains the following information but not limited to:

- i. Registration number
- ii. Name of registered voter
- iii. Electoral district in which registered
- iv. Polling division where authorized to vote
- v. Date of birth
- vi. Signature
- vii. Issue and expiry date

The voter identification card can be used to facilitate the check-in process on Election Day. Additionally, the HM Passport Office also accepts this card as proof of address for persons applying for a passport.

Any voter whose voter identification card has been lost, mutilated destroyed, defaced, misplaced or expired can apply to the Supervisor of Elections for a "duplicate" card using Form No. 12. No fee is payable for an expired card. In any other instance where a "duplicate" card has been applied for, the associated cost of the replacement is twenty dollars.

5.5 Voter Identification Cards

S. 24(3) and 24(7) consolidated Elections Act (2013)

7. Election Officers and their Roles

S. 3, S. 11, S. 12, S. 31 and S. 32 consolidated Elections Act (2013)

The Office of the Supervisor of Elections has to augment its human resource capacity to assist in the administration of elections. Registered voters apply to the Supervisor of Elections to be temporarily hired to perform the key roles of Returning Officers, Presiding Officers, and Poll Clerks. Following the Supervisor of Elections' selection and recommendation of individuals to these roles, the Governor, or if delegated to the Deputy Governor or Supervisor of Elections, thereafter appoints these persons, by Instrument, to the specific roles. The Supervisor of Elections must ensure that every individual appointed by instrument takes an oath.

7.1 Returning Officer Responsibilities

- i. Issuance of writs to hold elections;
- ii. Administer the nomination of candidates' process;
- iii. publishing the notice of poll – notice of nomination, statement of persons nominated and notice of situation of polling stations;
- iv. manage Presiding Officers and Poll clerks assigned to their electoral district;
- v. provide election materials (e.g. ballot papers, pens, e-poll books etc.) and necessary equipment to Presiding Officers assigned to their electoral district prior to the opening of polls;
- vi. retain custody of all election materials and equipment after the close of the poll, and transporting same to the location where the count will occur;
- vii. verify the counting of votes and recording of the results; and

- viii. ensure the writs and results of the poll are returned to the Governor following as prescribed.

The Returning Officer takes the Oath of Returning Officer [Form No. 6].

7.2 Presiding Officer Responsibilities

- i. manage polling stations and ensure the health and safety for all persons that visit polling stations;
- ii. ensure that polling stations are opened and closed in a timely manner;
- iii. manage the attendance of those entitled to be present at the polling station - candidates, agents, police officers, representatives of the Observer Mission, the Governor, and Office of the Supervisor of Elections team and ensure that they do not interfere with the voting process;
- iv. contact the Office of the Supervisor of Elections team in the office to resolve any queries that arise during the day;
- v. account for, and be responsible for, all ballot papers issued and not issued;

- vi. make sure that voters, including those with disabilities can cast their ballot in secrecy in so far as the legislation allows;
- vii. organise the layout of the polling station to ensure that access needs are met and signage posted is clear and visible;
- viii. make sure that electors are treated impartially and with respect;
- ix. instruct, supervise and assign poll clerks to duties that will facilitate the registration of voters;
- x. fill in all close of poll paperwork, including the ballot paper account correctly and accurately; and
- xi. return the ballot boxes, e-poll books, tabulating machines, other designated equipment relative to the count, and keys to the Returning Officer.

Presiding Officers take the Oath of Presiding Officer [Form No. 19].

7.3 Poll Clerk Responsibilities

To assist the Presiding Officer in carrying out the following:

- i. Complying with any instructions from the Returning Officer;
- ii. Ensuring that all electors are treated impartially and with respect, recording electors who wish to vote in the poll book;
- iii. Maintaining the secrecy of the ballot;
- iv. Facilitate the check-in process of prospective voters, that is, ensure that persons who physically appear at polling stations who are desirous to vote, identity is confirmed, and their names are included in the official list of

voters for the respective electoral district and polling station; and

- v. Fulfil any other duty assigned by the Presiding Officer to facilitate conducting the poll in an impartial manner.

Poll Clerks take the Oath of Poll Clerk [Form No. 20].

7.4 Additional Election Officers

S. 3 Elections Act 1994

In addition to those key roles listed above, the Governor under S.3 of the Elections Act 1994 has the authority to appoint additional persons to perform duties that will enable the Supervisor of Elections to carry out his/her functions. These additional roles include:

- i. Messenger
- ii. Tally Clerk *
- iii. Counting Officer *
- iv. Computer Tabulator

* If a manual voting system is to be utilised, or in the case where an electronic tabulating system is employed, if a Returning Officer following a candidate's counting agent filing Form No. 34 determines that a recount is reasonable wherein the margin of victory is less than one half of a percent of the total votes cast, these officers would be required to perform the duties associated with counting.

Schedule of Election (Remuneration of Election Officer) Regulations – S. 80(1) (S.I 56/2007)

The rate of remuneration of Election Officers, based on each appointed role is set out in

Election Regulations. Officers can be required to perform varying roles on either or both Advance Polling and/or Election Day pursuant to the recommendation of the Supervisor of Elections.

8. Writs

8.1 Issue of writs

S. 25 of the consolidated Elections Act (2013)

The issue of a writ, which is a legal document, triggers the election process and signals the nomination of candidates. The Governor issues writs under the Public Seal of the Territory addressed to the Returning Officers of the respective electoral districts for which members are to be returned. These writs are forwarded to the Supervisor of Elections for dissemination to the Returning Officers. Form No. 13 is the form used to prepare the writs that signals that elections are to be held. The writs specify the day and place of nomination of candidates, the day on which the poll [election] will occur, and the day on which the writ(s) should be returned to the Governor.

8.2 Return of writs and declaration of the poll

S. 54 and S. 55 of the consolidated Elections Act (2013)

The date on which each writ should be returned to the Governor is the day which immediately follows Election Day. Returning Officers prepare Form No. 36 which will contain the name(s) of the candidates who have received the majority of the votes cast, and certify the return. The candidates who have received the majority of the votes in both the local and territorial districts after the counting of votes has concluded are declared by the Supervisor of Elections. Thereafter, Returning Officers transmit these writ(s) along with Form No. 36 [statement of results of the poll], to the Governor via the Supervisor of Elections.

Within seven days of receipt of the return of writs, the Governor then transmits the same to the Supervisor of Elections for safe keeping; according to law, the Supervisor of Elections is responsible for safe retention of all election documents for a period of twelve months following Election Day.

9. Polling, Counting and Tabulating Results

The quality of polling and counting operations are crucial in determining the extent to which the elections are credible and ensure the acceptance of results. An understanding of counting procedures will help candidates know what to expect as results unfold. It is very important that candidates and their agents are knowledgeable of polling, and tabulating procedures to avoid misunderstandings.

The ability of registered voters to participate in a polling process where they can cast a secret ballot freely, void of fear, intimidation or coercion, and where each vote is of equal importance, is the foundation of a democratic electoral process.

9.1 Polling

S. 29, S. 30 and S. 47 of the consolidated Elections Act (2013), and S. 47 Elections (Amendment) Act 2019

Within the Territory, Election Day is not fixed, and therefore can occur within any month of the year; however, it must occur on a weekday. Voting days are usually set on official working days.

Polling occurs on two days, namely Advance Election Day, and “Election” Day. Advance Polling has been identified as the day when the following persons can vote:

- i. Persons who have a physical disability;
- ii. Persons who are elderly; and
- iii. Persons who are illiterate.

These are individuals who may require additional time and the assistance of a relative/friend of their own choosing to assist them in voting.

Additionally, the following categories of persons are allowed to cast their ballot on Advance Election Day as indicated:

- i. Police Officers;
- ii. Persons employed by the Supervisor of Elections for a purpose connected with the election;
- iii. Election officers assigned to an electoral district other than the one in which he/she is entitled to vote;
- iv. Persons on remand;
- v. Persons travelling in advance of Election Day [**must apply via Form No. 30 and show confirmed travel plans**]; and

- vi. Persons unable to attend polling station on Election Day due to voter's employment [**must apply via Form No. 30 and provide proof of schedule**].

9.1.1 Polling Hours

At Advance Polls, the operational hours of the polling stations are between 9:00 a.m. and 2:00 p.m.

On Election Day, the operational hours of the polling stations are between 6:00 a.m. and 6:00 p.m.

If there are persons in line waiting to vote at the hour which the poll should close, those voters will be allowed to vote.

Outside of the above, if there is any change to the hours of operation of polling stations as stated by law, the Governor has the authority amend the hours. This amendment would be stated in the writs which are issued which triggers that a poll is to be conducted. For example, in the case of Anegada, the polling station usually closes earlier to allow for transportation of the ballots to Virgin Gorda for onward transmission to Tortola.

9.1.2 Polling Divisions/Stations

For the purposes of elections, the Territory is divided into nine local electoral districts. Each local district is then divided into polling divisions/stations, based both on geography and accessibility, and approximate number of persons within each polling station. Therefore, the number of voters assigned to polling stations vary. Voting takes place at polling stations. Currently, there are nineteen polling divisions within the Territory.

A registered voter can vote in an election only if:

- a. his/her name is reflected on the Official List of Voters;
- b. he/she presents him/herself at the polling station for the electoral district where the Official List of Voters reflects him/her being registered; and
- c. he/she presents his/her voter identification card, or any other form of Government issued identification to confirm his/her identity.

Note: On Election Day, instances may occur where voters' information may not reflect accurately on the Official List of Voters. These instances must immediately be brought to the attention of the Presiding Officer, who with the assistance of OSE staff can determine the correct polling station where a voter must cast his/her ballot.

Approved locations for polling stations are published in the Official Gazette in advance of Election Day. Polling stations are located mostly in schools and community centres, and are managed by Presiding Officers, who are assisted by Poll Clerks. Police provide security at polling locations. Candidates and/or their agents (political party or independent), and electoral observers are allowed to witness the procedures inside the polling station, but cannot disrupt the process.

Returning Officers are responsible for collecting, securing and distributing the electoral materials to be utilized at each polling station from the OSE. These materials are then given to the Presiding Officers on the morning of the day(s) when polls are to be taken. Presiding Officers are charged with the management of operations of the polling stations, and assisted by Poll Clerks.

9.1.2.1 Procedures at the Opening of the Poll

Immediately prior to the Presiding Officer declaring the poll open, the Presiding Officer invites candidates and/or their agents to have their oaths administered. The administration of the oaths to candidates and/or their agents signals that they are required to not disclose who a voter casted a ballot for if they requested the assistance of the Presiding Officer to mark their ballot.

Thereafter, in the case where the manual voting system is utilised, the Presiding Officer at the time prescribed for the poll to be opened shall:

- i. with the assistance of the poll clerk shall, and in the presence of candidates and/or their agents and voters that are present, open the ballot box and establish that there are no ballot papers or other papers within the ballot box;
- ii. lock the ballot box and keep the key in his/her possession;
- iii. place the ballot box on a table in full view of all present. The ballot box will remain there until the close of the poll;
- iv. inform the voters that the poll is open, and that voters can begin to vote.
- v. ensure that every voter's admittance to the polling station is unobstructed and/or unimpeded.

Conversely, in the case where the electronic tabulating voting system is utilised, the Presiding Officer at the time prescribed for the poll to be opened shall:

- i. in the presence of candidates and/or their agents as well as voters present, unlock the equipment [DS200-ballot box] and establish that there are no ballot papers or other papers within the DS200 [ballot box];
- ii. lock the equipment with keys, and affix the security seals. The Presiding Officer will retain the keys in his/her possession;
- iii. place equipment in full view of all present, where it will remain until the close of the poll;
- iv. verify and document the unique identifier (serial number) of the equipment delivered to the polling station;
- v. verify that the public count is zero ("0") on each applicable equipment;
- vi. verify the accuracy of the date and time on the applicable equipment;
- vii. confirm that all equipment is open for voting, as applicable; and
- viii. at a minimum print one zero tape from each applicable equipment. The Presiding Officer, along with the Poll Clerk and candidates or agents present shall sign the zero tape. Thereafter, the Presiding Officer will place the signed zero tapes in the designated pouch and keep in a safe location for the same to be returned with election materials;
- ix. inform the voters that the poll is open, and that voters can begin to vote.
- x. ensure that every voter's admittance to the polling station is unobstructed and/or unimpeded.

9.1.2.2 Procedures following the Opening of the Poll – Voter Check-in Process

Voters are required to present their voter identification card, or any other government issued identification to Poll Clerks to confirm that they are the person reflected on the Official List of Voters for the polling station where they presented themselves. Attention is paid to the sex and age of the voter.

If a person's name is not found on the Official List of Voters, the Poll Clerk conducts a check to ensure that the prospective voter's name does not appear on the list for another polling division. If the prospective voter's name appears on the list for another polling division and there is no further challenge, the Poll Clerk will issue a printout indicating the electoral district and/or polling division where the prospective voter must attend, in order to vote.

If the prospective voter makes a challenge claiming that he/she submitted an application to facilitate the transfer of his/her registration process, the Poll Clerk must immediately bring this discrepancy to the Presiding Officer. The Presiding Officer is responsible to make contact with the OSE to have a member of staff review the database of registered voters, as well as Official Voters Lists for previous years to verify:

(a) whether a transfer application was filed, and was approved for him/her to vote in a new electoral district and/or polling station;

(b) the omission of the prospective voter's name was a clerical error and not that no application for transfer was filed and approved to facilitate the person from being included on the said list.

Once the Presiding Officer confirms the prospective voter's status, he/she will therefore inform the prospective voter of his/her findings, and if it has been determined that the prospective voter should be included in the Official List of Voters for the polling station where he/she presented him/herself, he/she would instruct the Poll Clerk to continue with the check-in process.

Procedures for Voter Check-in – Manual Voting System

In the case where the manual voting system is utilised, the Poll Clerk:

- i. Enters in the poll book opposite the name of each voter as the Presiding Officer directs;
- ii. Enters in the poll book opposite the name of each voter as soon as the voter's ballot paper is deposited in the ballot box, the word "voted";
- iii. Enters in the poll book the word "Sworn" or "Affirmed" opposite the name of each voter, to whom any oath or affirmation has been administered to indicate the nature of the oath or affirmation;
- iv. Enters in the poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer" opposite the name of each voter who has refused to take an oath or affirm, when he has been legally required so to do, or has refused to answer questions which he has been legally required to answer.

Procedures for Voter Check-in – Electronic Tabulating Voting System

In the case where the electronic tabulating voting system is utilized, the Poll Clerk:

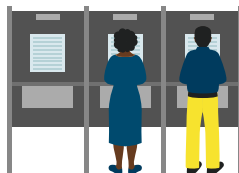
- i. Makes entries in the electronic poll book opposite the name of each voter;
- ii. Enters in the electronic poll book opposite the name of each voter as soon as the voter's ballot paper has been deposited in the DS200 tabulating machine, the word "voted";
- iii. Enters into the electronic poll book the word "Sworn" or "Affirmed" opposite the name of each voter, to whom any oath or affirmation has been administered indicating the nature of the oath or affirmation; and
- iv. Enters in the electronic poll book the words "Refused to be sworn" or "Refused to affirm" or "Refused to answer" opposite the name of each voter who has refused to take an oath or affirm, when he or she has been legally required so to do, or has refused to

answer questions which he or she has been legally required to answer.

Presiding Officers instruct voters on how to correctly complete their ballot. Any voter who is differentially abled (physical disability), or elderly, or illiterate and needs assistance in voting, may designate a person of their choice to accompany them into the voting booth. This person [a friend or relative] must be a registered voter **in the same electoral district**. In these instances, Presiding Officers administer oaths to the both the person [Form No.27] accompanying the differentially abled voter [Form No. 25] and the elderly or illiterate voter [Form No. 26].

If a differentially abled or elderly voter is not accompanied by a relative or friend of their own choosing to vote, the voter can request assistance from the Presiding Officer. Only the Presiding Officer is allowed to assist the voter, but must do so in the presence of candidates and/or their agents who will accompany the voter and the Presiding Officer to the voting booth to ensure that the Presiding Officer marks the ballot paper as instructed by the differentially abled voter.

The voter proceeds to the voting booth where the voter records his/her vote by an "X" in the case of the manual voting system, or an "X" or shading the oval(s) next to the name(s), and symbol(s) of the chosen candidate(s) in the case where the electronic tabulating system is utilized.



Thereafter, the voter then places his/her ballot paper into the ballot box/DS200, and exits the polling station.

8.1.2.3 Procedures for the Close of the Poll

All eligible voters standing in line at the polling station by Advance Poll closing hour or 6 p.m. on Election Day shall be allowed to vote. A

procedure should be in place to clearly mark

the end of the line such as having a Poll Clerk stand behind the last person in line to establish a cut-off point.

In the rare event that a Presiding Officer or a Court or other order extends the polling hours, the Poll Clerk shall stand behind the last person who is in the line waiting to vote at the closing hour.

Guidance is issued on the general mode of taking a ballot whether through the manual system or the electronic tabulating system.

Proceedings at the Close of Election Day – Manual Voting System

After the last voter has voted, the Presiding Officer shall implement the following procedures where a manual voting system was employed:

1. *Announce the close of poll and record in the poll book in the manner specified in Section 50(c) {see bullet 3 of this section} the hour at which the poll was closed;*
2. *Seal the ballot boxes with the seal provided by the Supervisor of Elections;*
3. *Count the number of voters whose names appear in the poll book as having voted and make an entry on the line immediately below the name of the voter, who voted last. The statement should read: "**The number of voters who voted at this election in this polling station is** " (stating the number in words and the hour at which the poll was closed), and sign his or her name;*
4. *Count the spoiled ballot papers, if any, and place them in the special envelope supplied for that purpose and write on it in words the number of spoiled ballot papers, seal the envelope and initial it;*
5. *Count the unused ballot papers, place them with all the counterfoils of all used ballot*

papers in the special envelope supplied for that purpose and write on it in words the

number of such unused ballot papers, seal the envelope and initial it;

- 6. Check the number of ballot papers supplied by the Returning Officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names appear in the poll book as having voted, in order to ascertain that all ballot papers are accounted for; and*
- 7. Record the number of ballot boxes in his or her possession, the number of ballot papers issued to electors, the number of unused ballot papers, the number of spoiled ballot papers and all other information required in Form No. 31. Thereafter, affix his or her signature thereto.*
- 8. The ballot boxes, poll book, envelopes containing the spoiled and unused ballot papers, official list of voters, and other documents used at a polling station shall be transmitted to the place identified for the counting of votes within the local electoral district of that polling station or delivered to the Returning Officer for that district.*
- 9. The Returning Officer for each local electoral district may specially appoint one or more persons for the purpose of collecting the ballot boxes and papers from a given number of polling stations. This/these person(s) will be responsible for delivering the ballot boxes and papers to the Returning Officer, take the oath in Form No. 33.*
- 10. Notwithstanding where a polling station within a particular local district is identified as the place to conduct the counting of votes, ballot boxes will not be transported from that polling station until all ballots for that district have been counted and the provisions of section 51 have been fulfilled.*
- 11. The candidates or their agents are entitled to accompany the ballot boxes and papers to the place identified for the counting of*

votes and subsequently to such other place identified by the Supervisor of Elections.

- 12. Where the conveyance carrying the ballot boxes cannot comfortably accommodate more than one polling agent or candidate, a polling clerk and a police officer shall accompany the ballot boxes. The polling agent or agents and candidates shall, if they so desire, be allowed to follow the conveyance carrying the ballot boxes in a separate conveyance in convoy.*
- 13. The Presiding Officer shall, with the ballot boxes and papers transmit or deliver to the Returning Officer for the appropriate district, in the envelope provided for that purpose, the keys of such ballot boxes.*
- 14. When the poll in the Territorial electoral district is conducted at the same time and in the same polling station as the poll in the local electoral district, the Presiding Officer must comply with this section separately in respect of each poll, and the poll in relation to the Territorial electoral district shall be dealt with immediately after the poll in relation to the local electoral district.*

Proceedings at the Close of Election Day – Electronic Tabulating Voting System

After the last voter has voted, the Presiding Officer shall implement the following procedures where an electronic voting system was employed:

- 1. Announce the close of poll and record in the electronic poll book in the manner specified in paragraph 50 (A) (c) {see bullet 3 bellow}, the hour at which the poll was closed;*
- 2. Seal the ballot boxes with the seal provided by the Supervisor of Elections;*
- 3. Close the poll on the electronic tabulating system and run the paper tape;*
- 4. Remove the media stick -- placing it with*

the printed report in a designated pouch;

- 5. Seal the designated pouch and place it in a second pouch which shall be sealed. Thereafter, place pouches with other elections materials in the designated carrying case;*
- 6. Verify and document the public count on the relevant equipment by verifying that the public counts match the number of votes in the electronic polling book;*
- 7. Lock and secure the tabulating equipment and election materials from any physical access to prepare for transportation;*
- 8. Count the spoiled ballot papers, if any, and place them in the special envelope supplied for that purpose and write on it in words the number of spoiled ballot papers, seal the envelope and initial it;*
- 9. Count the unused ballot papers, place them with all the counterfoils of all used ballot papers in the special envelope supplied for that purpose and write on it in words the number of such unused ballot papers, seal the envelope and initial it;*
- 10. Check the number of ballot papers supplied by the Returning Officer against the number of spoiled ballot papers, if any, the number of unused ballot papers and the number of voters whose names appear in the electronic poll book as having voted, in order to ascertain that all ballot papers are accounted for; and*
- 11. Record the number of ballot boxes in his or her possession, the number of ballot papers issued to electors, the number of unused ballot papers, the number of spoiled ballot papers and all other information required in Form No. 31. Thereafter, affix his or her signature thereto.*

- 12. The ballot boxes, electronic poll book, envelopes containing the spoiled and*

unused ballot papers, official list of voters, pouches containing media sticks, reports and other documents used at a polling station shall be transmitted to the place identified for the counting of votes.

- 13. The Returning Officer for each local electoral district may specially appoint one or more persons for the purpose of collecting the ballot boxes and papers from a given number of polling stations. This/these person(s) will be responsible for delivering the ballot boxes and papers to the Returning Officer, take the oath in Form No. 33.*
- 14. The candidates or their agents are entitled to accompany the ballot boxes and papers to the place identified for the counting of votes and subsequently to such other place identified by the Supervisor of Elections.*
- 15. The Presiding Officer or Poll Clerk and a police officer shall accompany the conveyance containing the ballot boxes, and the polling agents or agents and candidates shall if they so desire, be allowed to follow the conveyance carrying the ballot boxes in a separate conveyance in convoy.*
- 16. The Presiding Officer shall, with the ballot boxes and papers, transmit or deliver to the Returning Officer for the appropriate district, in the envelope provided for that purpose, the keys of such ballot boxes."*

A voter, a party/candidate agent or even a polling officer can lodge a complaint regarding irregularities observed during preparations for polling, polling or counting. Every attempt must be made to resolve complaints as swiftly as possible. If not satisfied, the complaint can be formally made in writing to the Supervisor of Elections.

9.2 Counting

An understanding of counting procedures will help candidates and/or their agents know what to expect as results of the election are made known, and to avoid any misconstructions of how processes are conducted.

Immediately following the closing of the polls at each polling station and the Presiding Officer completion of ballot reconciliation procedures, and securing all election material, all ballot boxes/DS200 equipment are transported to the central location where counting would occur.

The Returning Officer, in the presence of candidates and/or their agents, will:

- i. Examine the ballot boxes/DS200 to ensure that the seals are securely affixed;
- ii. Count and record the number of ballot boxes and envelopes received from each polling station are in accordance with Form No. 31;
- iii. Distribute tally sheets to not less than 2 tally clerks and 2 witnesses, upon which they should keep their own score as each vote is called out by the counting officer;
- iv. Open each ballot box, one at a time, in order to count the votes;
- v. Count and record the number of votes given to each candidate, those blanks contained in ballot papers that reflect unmarked ballots in accordance to Form No. 35, allowing each candidate and/or their agent to examine each ballot.

During the count, the counting officer will declare a ballot paper invalid ("void") if: (a) any writing or mark in the ballot identifies the voter; (b) the ballot has not been marked for any candidate; (c) a ballot on which votes have

been given for more than the number of candidates to be selected for the electoral district; or (d) a ballot on which more than one vote has been cast for any one candidate. Invalid votes are not counted.

Immediately upon completion of the count, a candidate and/or his agent can complete Form. No. 34, as a formal request for a recount. Only if the Returning Officer considers the request for a recount to be reasonable, a recount will be undertaken in relation to the results to the first count.

It must be noted, that when the electronic tabulating system is utilized, if the following arises the type of recount will ensue:

- i. Automatic electronic re-tabulation: where the margin of victory is one percent but less than one half percent of the total votes cast between the two leading candidates in an electoral district; or
- ii. Manual tabulation: where the margin of victory is less than one half of a percent of the total votes cast.

9.3 Tabulation and announcement of results

At the end of the count, the Returning Officer completes Form No. 35 and submits this official report to the Supervisor of Elections. Form No. 35 is an official report and contains the following information:

- i. the polling station;
- ii. the number of valid votes cast for each candidate;
- iii. the total number of valid votes;
- iv. the total number of rejected votes;
- v. the total number of rejected ballot papers;
- vi. the total number of unmarked ballots;
- vii. grand total of ballot boxes received; and
- viii. grand total of ballot boxes in possession.

In addition to the official report, the Returning Officer must ensure that all ballot boxes/DS200, envelopes, statements and packets are also delivered to the Supervisor of Elections.

Upon verification of Form No. 35, the Supervisor of Elections will then declare the candidate(s) with the largest number of votes for both the local and territorial districts as the winner.

Returning Officers must complete Form No. 36, the writ (after the poll has been taken) within the prescribed time frame as specified in Form No. 13, and submit to the Supervisor of Elections, who will in turn facilitate transfer to the Governor.

As soon as practicable after the election, the Supervisor of Elections shall ensure that a notice is published in the official Gazette indicating the names of the new members of the House of Assembly.

10. Electoral Offences

Electoral offences are specifically breaches or violations of electoral laws and regulations. Any action that constitutes an offence in connection with polling and counting procedures will result in fines and/or imprisonment when convicted. The Elections Act (1994) sets out a number of electoral offences. These punishable offences can be committed by voters, candidates, party supporters and even election officers.

S. 65, S. 66, S.67, 6. 71, s. 72, S.73, S.74, S.75, S.76 Elections Act

The following are offences for which charges can be levied against election officers:

- i. Knowingly makes an entry in a record, return or other document which he/she knows or has reasonable cause to believe is false;
- ii. Allowing someone who they know or has reasonable cause to believe is not blind, illiterate or differentially abled to vote in a manner as such;
- iii. Refusing to allow a person who he/she knows or has reasonable cause to believe is not blind, illiterate or differentially abled to

vote in the manner prescribed for such persons;

- iv. Wilfully prevents a person from voting at a polling station which he/she knows or has reasonable cause to believe that the person is entitled to vote;
- v. Wilfully rejects or refuses to count any ballot paper which he/she knows or has reasonable cause to believe is validly case for a candidate; or
- vi. Wilfully counts a ballot paper as being cast for a candidate which he/she knows or has reasonable case to believe was not validly cast for that candidate.

Other electoral offences prescribed by law include:

- defacing and destruction of cards, documents and notices;
- not being duly registered as a voter and votes at an election;
- being in unlawful possession of ballot papers;
- destroying or interfering with sensitive electoral materials;
- voting in an unauthorised manner (in a non-designated polling station, or voting more than once);
- impersonation (voting as some other person whether that other person is living or dead or is a fictitious person);
- bribery;

- treating (giving, providing or paying voters for the purposed of influencing voters);
- undue influence;
- making false statements about candidates;
- preventing an electoral officer from carrying out his duties;
- engaging in corrupt practices like impersonation, bribery and treating or undue influence over voters;
- deliberately destroying or stealing ballot papers; and
- compromising the secrecy of the vote.

Candidates must be aware of election offences and should take great effort to ensure that during the campaign period and Election Day, they comply with the law and not commit any activity that can be determined to be an election offence. Committing an electoral offence is a criminal action that carries serious negative consequences that include the imposition of fines, imprisonment, or inability to be elected to the House of Assembly.

Persons accused of committing electoral offences must have the chance to ensure that a full defence can be assembled. A conviction must meet the standard of criminal proof - beyond reason able doubt. Appeal processes are provided for in the law.

11. Election Petitions and Complaints

The legal framework in the Virgin Islands provides the mechanisms and channels whereby challenges to the conformity and consistency in the implementation of processes can be addressed. Voters, candidates and political parties must be knowledgeable of those mechanisms to seek to promote the public's awareness of their rights, as a failure to do so can adversely affect the credibility of the process.

Electoral disputes are those where an electoral objection or complaint, often directed to and dealt with by the OSE; or those in which a legal challenge arises, and resolution is primarily sought through the judiciary. The legal framework in the Virgin Islands allows for different electoral disputes and their mechanisms for resolution. Disputes are: a) objections (to inclusion on the official list of voters); b) complaints (on the conduct of election officers or other electoral actors); c) allegations of criminal offences. and d) petitions (legal challenges to the electoral results).

The public's trust in the administrative processes of elections is crucial. A framework, which supports objections, complaints or challenges that different actors in the process might have, and the resolution of the same strengthens the legitimacy of election results. Should the integrity of elections be called into question, the mechanism to address complaints, that is, the process to ascertain the facts on whether electoral procedures were followed as prescribed by law and regulations must exist to facilitate timely and effective review. In this way, the integrity of the electoral process is guaranteed and the political rights of voter is upheld.

S. 19 and S.20 of the consolidated Elections Act (2013)

11.1 Objections to inclusion on the voters' list

Any registered voter may submit an application [Form No. 4] to the Supervisor of Elections with an objection if he/she considers that another registered voter's name should not be entitled to be listed on the voters' list. The Supervisor of Elections, should he/she deem it necessary, will inform the voter being objected to using Form No. 5. Additionally, the Supervisor of Elections may permit the objector to appear personally on the matter, and for him/her to give oral or documentary evidence in support of, or in opposition to the objection.

Should the question arise as to whether the voter is deemed to belong to the Virgin Islands, or is a British Subject, the Supervisor of Elections may seek the assistance of the Deputy Governor, who in turn will furnish a signed statement on the status of the voter.

The Supervisor of Elections may remove the name of any person from the list of voters, if satisfied with the evidence submitted in relation to the objection.

The Supervisor of Elections will inform all relevant parties of his/her decision, and if requested, will provide in writing his/her reasons for the decision rendered.

If not satisfied with the decision of the Supervisor of Elections, her decision can be appealed following a filing at the High Court.

S. 65 Elections Act of the consolidated Elections Act (2013)

11.2 Complaints against election officers

Any stakeholder can make a complaint regarding the conduct of an election officer. The complaint can be made to the Supervisor of Elections. If the complaint is found to be valid, the election officer is liable on conviction to a fine or to time in imprisonment, or both.

S. 57, S. 58, S. 59, S. 60. S. 61, S. 62 of the consolidated Elections Act (2013)

11. 3 Election Petitions

An election petition is a legal challenge to the election results, that is the election of a member(s) to the HOA.

An electoral petition can be presented by:

- i. A person entitled to vote in the electoral district and at the election to which the application relates;
- ii. A person who was a candidate in that electoral district at that election; and
- iii. The Attorney General.

The following are the timelines in which petitions must be filed:

Within 21 days - after the return made by the Returning Officer of the member to whose election the petition relates;

Within 28 days - following payment where the petition questions the return or election upon an allegation of corrupt practices and specifically alleges payment of money or other reward to have been made by a member, or on his/her account, with his/her collusion, since the time of such return.

The person filing the petition must within three days of doing so, provide security of \$5,000 in respect of all costs, charges and expenses that may become payable in relation to the petition.

Electoral petitions must be presented in writing, specifying the grounds upon which the election is disputed.

The High Court may:

- a. declare the election void;
- b. declare a different candidate (other than the person whose election is questioned) as duly elected;
or
- c. dismiss the petition and declare that the declared winner was duly elected.

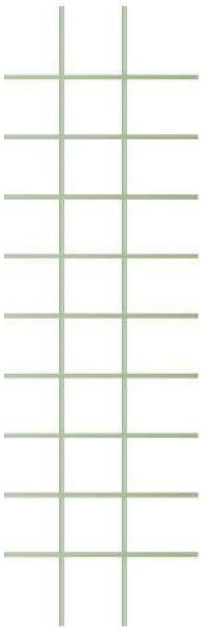
The High Court may declare void an election if:

- a. it is proven that bribery, treating, undue influence or other misconduct prevailed so extensively that they may be reasonably supposed to have affected the result of the election;
- b. there has been non-compliance with the provisions of the law, in the conduct of polling or in any other matter, so that the results of the election were affected;
- c. the candidate was at the time of his/her election a person not qualified or disqualified for election; or
- d. there was such irregularity in the counting of the votes that the result of the election was affected.

The election of a candidate is declared void if he/she is convicted by a Court of committing a corrupt practice or of attempting or conspiring to commit a corrupt practice. When an unsuccessful candidate claims victory on the grounds that he had a majority of valid votes, the High Court may direct an examination of the counted and invalid votes and of the counting of votes. The decisions of the High Court are communicated without delay to the petitioner and to the Governor. The High Court's decision is final, subject to the right to appeal to the Eastern Caribbean Supreme Court as stipulated in section 87(6) of the Virgin Islands Constitution Order.

PART 3

Running for Elected Office



So, you want to be a candidate?

Great! You are about to embark on a challenging, yet rewarding adventure. Whether you have decided on your own to do this or you are being encouraged by your friends and supporters, there are a few things you should think about in your quest for elected office (other, of course, than being very well informed regarding the laws, rules and regulations to run for office).

12. Candidate eligibility and Nomination process

In the Virgin Islands a general election or a by-election are the types of elections in which candidates are elected to become members of the HOA. Eligibility requirements are established in the Constitution and are developed in the electoral laws.

S. 65, S. 66 and S.68 Virgin Islands Constitution Order

12.1 Eligibility to run for elected membership

The Constitution stipulates that, in order to be qualified to be an elected member of the HOA, candidates must meet the following eligibility criteria:

- a. He/she must be qualified immediately before the commencement of the Constitution (2007); or:
- b. is a person who—
- c. is a Virgin Islander aged twenty-one years or older; and
- d. meets all the criteria of section 68 of the Constitution, and is a registered voter.

It is important to understand, who is a “Virgin Islander”. A Virgin Islander is a person who

belongs to the Virgin Islands by birth or descent who was:

Born in the Virgin Islands, and either their mother or father at the time of their birth, were British Overseas Territories citizen (or a British Dependent Territories citizen) by virtue of their birth [mother or father] in the Virgin Islands, or by virtue of descent from a father or mother [grandparent] who was born in the Virgin Islands;

Born in the Virgin Islands, and either mother or father who at the time of the birth belonged to the Virgin Islands by birth or descent; or

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.

Additional criteria which must be met in order to be qualified for elected membership to the HOA include:

- i. One or both grandparents of a person born outside the Virgin Islands, who belongs to the Virgin Islands by descent, must belong to the Virgin Islands by birth;
- ii. 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 section 65 subsection (1)(b), where that person has never been domiciled in the Virgin Islands, he/she must have resided in the Virgin Islands for at least five years immediately before the date of his/her nomination for election; or
- iii. 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
 - iv. medical or educational purposes), he/she must have resided in the Virgin Islands for at least three years immediately before the date of his/her nomination for election, and is domiciled in the Virgin Islands at that date;

12.2 Disqualifying factors for elected membership

- v. Must not hold, or be acting in, any public office;
- vi. Must not be adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;
- vii. (c) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in any country;

- viii. Must not at the date of election, been sentenced to death, 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/her by a court or substituted by competent authority for some other sentence imposed on him/her by such a court; or is serving a sentence of imprisonment, on which any part or whole has been the execution of which has been suspended;
- ix. Must not be convicted of committing any offence connected with elections; or
- x. Must not be 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/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.

N.B.: Candidates are required to submit copies of the notices published in local newspapers wherein they set out their interest within any firm or company that

may provide contractual service with the Government along with Form No. 15 and the nomination fee on the date fixed for nomination.

12.2 Candidate nomination process

In the Virgin Islands, the legal framework allows for candidates to be nominated as independents, or be aligned with a party, having received authority from the respective political party to operate their candidacy under that specific umbrella. The nomination of candidates is the formal procedure wherein candidates advance for an election, and the acceptance of that nomination by the Office of the Supervisor of Elections.

The candidate nomination process is the formal procedure whereby candidates aligned with political parties and individuals intending to run as independents are required to demonstrate that their candidacy meets the basic requirements for taking part in the elections as far as minimum age, being registered voters, and any other qualifications set in the Constitution or electoral laws.

S. 26 of the consolidated Elections Act (2013)

The Supervisor of Elections in consultation with the Governor agrees on the date of nomination, and the date of nomination is stated within the writ issued by the Governor in Form No. 13. At least five days before the date fixed for nomination of candidates, Returning Officers must publish the notice in Form No. 14

indicating the day and place(s) [location(s)] where the nomination of candidates is to occur in respect to the local electoral and territorial districts. The hours wherein nomination of candidates occurs are during the hours of 10:00 a.m. and 1:00 p.m. and between the hours of 2:00 p.m.

Returning Officers provide nomination papers [Form No. 15] which aspiring candidates complete on nomination day. Additionally, the nomination of each candidate must be supported by at least two registered voters of the electoral district which the candidates seek election, and one of the registered voters must sign as a witness of the completed Form No. 15.

Additionally, each candidate must swear the affidavit in Form No. 16 that he/she, to the best of his/her knowledge is not disqualified under the provisions of the Virgin Islands Constitution Order from contesting and being elected as a member of the House of Assembly.

The exception to this is where following nomination day, the candidate whose nomination paper was signed, is struck off the Official List of Voters for the relevant electoral district, and therefore their nomination is deemed invalid.

12.2.1 Rules and Procedures for Nomination to the House of Assembly

Returning Officers shall declare those candidates elected, if at 4:00 p.m. on nomination day in:

- a. a local electoral district, only one candidate has been nominated for the seat to be filled; and/or
- b. the territorial electoral district, the number of candidates nominated equals or is less than the number of seats to be filled.

In any of the instances mentioned above, the Returning Officer(s) shall immediately certify by endorsing the writ [Form No.17], that is the return of such candidate(s), and immediately transmit the endorsed writ to the Supervisor of Elections for transmission to the Governor within the specified for purpose of this particular writ.

Moreover, where the numbers of candidates elected in the territorial electoral district in this manner, is less than the number of seats to be filled, the Returning Officer, following communication with the Supervisor of Elections, adjourn the election of the remainder.

12.2.1.1 Withdrawal of Nomination

Any candidate duly nominated may, no less than three days clear before the day fixed for taking the poll, withdraw his/her candidature, through formal notice in writing, to the Returning Officer of the respective electoral district, provided that on their withdrawal:

- a. In an election of a local electoral district, at least one duly nominated candidate remains;
- b. In an election in the territorial electoral district, no fewer candidates than the number of seats to be filled remain.

Returning Officer(s) shall return the candidate or candidates duly elected, without waiting for the day fixed for the poll to be taken, if after a candidate(s)' withdrawal –

- a. In a local electoral district only one candidate remains;
- b. In the territorial districts no more candidates than the number the number of seats to be filled at an election remains.

However, subject to the above instances, if any candidate withdraws their nomination after the ballots are printed, Returning Officers are required to inform each Presiding Officer of his/her constituency of the withdrawal, and when time permits, provide each Presiding Officer with a printed notice of the withdrawal.

On Election Day each Presiding Officer must post in a visible location a copy of the printed notice of the candidate(s)' withdrawal.

If time does not permit for Returning Officers to print and distribute notices to each Presiding Officer, Presiding Officers after being informed by their respective Returning Officer shall prepare hand written notices and post the same in visible locations.

Note: In both instances Presiding Officers are required to inform the prospective voter of the withdrawal of the candidate(s) when issuing instructing on how to mark and cast their ballot.

12.2.1.2 Death of a Candidate

If a Returning Officer becomes aware that a candidate has died since the close of nomination, but prior to the closing of the poll, he/she following consultation with the Supervisor of Elections, shall adjourn the election in that electoral district.

Whenever –

The election on an electoral district is adjourned on account of the death of a candidate;

The election in the territorial electoral district is adjourned in as a result of the number of candidates nominated equals or is less than the number of seats to be filled,

the period of adjournment shall not exceed one month. Additionally, the Governor by Proclamation shall amend the writ previously issued, altering the day for the nomination of candidates, the day for holding of the poll, and Election Day if necessary, and the day on which the name of the elected member or members must be certified to him/her. In the case of the election in the territorial electoral district, the Proclamation must state the number of seats remaining to be filled.

S. 27 of Elections (Amendment) Act, 2019, S. 28 of the consolidated Elections Act (2013) Act

11.2.1.3 Deposit required, forfeiture or return

Each candidate on Nomination Day when submitting their application [Form No. 15] is required to pay a deposit of \$1,000 US currency to the Returning Officer. Failure to pay the deposit to the Returning Officer before 4:00 p.m. on Nomination Day will result in the nomination of the candidate deemed withdrawn. A receipt will be issued to each candidate who has paid the required deposit to a Returning Officer.

Any candidate who is not elected forfeits the deposit paid if:

- a. in an election in a local electoral district, he/she does not exceed $\frac{1}{8}$ th of the total number of votes polled in the election in that district;
- b. in an election in the territorial electoral district he/she does not exceed such proportion of the number of votes polled in that election as determined by the following formula:

$$\frac{1}{8 \times \text{the number of seats to be filled at that election}}$$

In any other case, the deposit will be returned in full.

Please note that the number of votes polled referred to in this section, refers to the number of ballot papers, other than rejected ballot papers counted.

S. 29 of the consolidated Elections Act (2013) Act

12.2.1.4 Contested Election and power to adjourn the Poll

A poll can be taken, and the Returning Officer can adjourn the election to the day specified in

the writ, and the poll taken on the day fixed as provided if:

- a. in a local electoral district more than one candidate is duly nominated;
- b. in the territorial districts no more candidates than the number the number of seats to be filled at an election remains.

The Returning Officer, as soon as practicable after adjourning the election, must publish a notice using Form No. 18, specifying the following:

- a. The day, time, and locations of polling stations in the electoral district(s) where the poll will be taken;
- b. The names of the candidates nominated for election; and
- c. The place where, the day and time when the number of votes given to the candidates for the respective electoral district will be counted.

If the proceedings at a polling station are interrupted or obstructed by a riot, open violence, natural disaster, an outbreak of infectious disease or other calamity whether similar to the foregoing or not, the Presiding Officer may adjourn the proceedings until the following day, and thereafter from day to day as may be necessary, giving notice to the Returning Officer immediately.

If the poll is adjourned at a polling station as a result of the above, the

- a. hours of polling on the day to which it is adjourned should be the same as that of the original Election Day; and
- b. close of the poll shall be referenced as provided for within the Elections Act.

S. 84 Elections (Correction of Nomination Papers) Order (S.I. 19/23)

12.2.1.5 Correction of Nomination Papers

If a person has made or given on a nomination paper a clerical error or an inaccurate description that does not affect the substance of the matters stated on the nomination paper, the Supervisor of Elections may permit the person to correct the error or description in a manner that is acceptable to both the person and the Supervisor of Elections. The person making the corrections must initial and date the same on the nomination paper.

S. 71 Election (Voting Symbols) Regulations (S.Is. 24/1983 and 40/1994)

12.3 Statement of Candidature - Use of Voting Symbols

If it is the intent of persons who are members of a political party to be candidates in an election, the secretary of the political party must submit to the Supervisor of Elections within the timeframe specified, a statement using [Schedule 1] containing the following particulars of each candidate:

- i. Name of political party
- ii. Symbol
- iii. Name of candidate
- iv. Address
- v. Occupation
- vi. Electoral district (local and/or territorial)
- vii. Candidate(s) signatures
- viii. Description of symbol

All candidates of a political party must use the same symbol of that party.

If it is the intent of persons to be independent candidates in an election, each independent candidate party must submit to the Supervisor of Elections within the timeframe specified, a statement using [Schedule 2]

- i. Name of candidate
- ii. Address
- iii. Occupation
- iv. Electoral district (local and/or territorial)
- v. Candidate(s) signatures
- vi. Symbol
- vii. Description of symbol

The Supervisor of Elections has the authority to approve or reject a symbol submitted under the regulation. Additionally, the Supervisor of Elections may designate a symbol to a candidate who has not submitted a symbol, or whose symbol submission has been rejected.

Once approved, the respective symbol will appear next to the name of each candidate on the ballot paper. Candidates' names will appear on the ballot paper in alphabetical order using surnames.

13. Code of Conduct for Political Parties and Candidates

A hallmark of democratic societies includes its ability to promote conditions that are conducive for free and fair elections to occur. In this environment, a climate of tolerance in which activities related to elections occur without fear, coercion, intimidation or reprisals. Political parties, and their members and supporters, and all candidates and their supporters undertake voluntarily and in good faith to adhere to this Code of Conduct's general principles which are:

- To promote conditions conducive to free, fair and democratic elections conducted through a secret ballot in a climate of democratic tolerance in which political activity may take place without fear of intimidation or reprisals.
- To accept that others, have the right to present their political principles and ideas in a peaceful environment without intimidation or fear of reprisal, and must respect that right.
- That the emphasis must be on issues rather than personalities. Candidates must also avoid defamation of character of their opponents, their families and supporters.
- That no abusive attacks or innuendos may be directed to campaigners or their family members for reason of their political affiliation, race, social origins and background, education, gender, religion, or any other reason.
- That candidates must seek to be truthful about the past and present socioeconomic state of the Virgin Islands.
- That every person entitled to vote must do so freely. Victimisation of person, interference with employment rights, intimidation, and the enticement with favours are gravely wrong. Persons are entitled to express their political views without fear of persecution or victimization.

Public Commitment

Every political party and every candidate must

- (a) give wide publicity to this Code and ensure that their members and supporters are familiar with this Code and their obligation to comply with its terms; and
- (b) publicly state that throughout the Territory, everyone has the right
 - (i) to freely express their political beliefs and opinions;

- (ii) to freely challenge and debate the political beliefs and opinions of others;
 - (iii) to canvas for membership and support from voters;
 - (iv) to freely attend public meetings convened by others;
 - (v) to freely distribute campaign material;
- (c) publicly condemn any action that may undermine the free and fair conduct of elections and in particular to condemn unreservedly and publicly any violence or intimidation and co-operate with the law enforcement agencies in apprehending the culprits;
- (d) disseminate accurate information on electoral processes;
- (e) accept the result of an election or challenge the result by due process of law.

Prohibited Conduct: Politically-Motivated Violence or Intimidation

No political party or any of its members or supporters, and no candidate or any of his or her supporters, may -

- (a) use violence, hateful language or threaten violence or incite or encourage the use of violence, against anyone on account of his or her political opinions or membership or support of a political party or participation in the election, including in speeches, songs and slogans;
- (b) intimidate, or incite or encourage the intimidation, of anyone on account of his or her political opinions or membership or support of a political party; act in a way that may provoke violence or intimidation;
- (c) use violence or threats or illegal pressure to force a voter to refrain from voting or to vote for a candidate or political party against his or her will;
- (d) force a voter to reveal the identity of the candidate voted for or take reprisals against a person because of the way in which he or she has voted or is believed to have voted.

Prohibited Conduct: Other Prohibited Acts

No political party or any of its members or supporters, and no candidate or any of his or her supporters, may

- (a) publish false or defamatory allegations about a party, its candidate(s), representatives or members;
- (b) discriminate on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election or political party;
- (c) prevent the distribution of leaflets and the display of posters of other parties and candidates;
- (d) damage or deface property, including the election posters, placards, banners and other election material of another party or candidate, and any posters or other voter education materials disseminated by the Office of the Supervisor of Elections;
- (e) bar or inhibit access to meetings or to voters for the purpose of election campaigning;
- (f) carry or display weapons at political meetings or at marches, demonstrations, rallies or other public political events;
- (g) bribe a voter to exercise his or vote in a particular manner;
- (h) bribe or intimidate an election official to induce him or her to make a false entry in the voters roll or to alter or falsify election results;
- (i) coerce or offer monetary or other kinds of inducements to persons for them to participate in the activities of a political party not of their choice, or
 - i. to become or not become a member of certain political party, stand or not stand as candidates, or to withdraw or not to withdraw their candidacies or membership of a political party;
 - ii. to violate the secrecy of the vote;
- (j) procure the support or assistance of any official or public officer to act in a partisan manner or further the interest of any political party to cause;

(k) encourage a person to vote knowing that he or she is not entitled to do so;

(l) use the information on the voters list supplied by the Office of the Supervisor of Elections for commercial purposes or to harass or intimidate voters and they may not publish personal information about voters contained in the voter's list.

Compliance

Every political party and every candidate must comply with this Code and

(a) in the case of a political party, instruct its candidates, persons who hold political office in the party and its representatives, members and supporters to comply with this Code and any applicable electoral and general laws;

(b) in the case of a candidate, instruct the representative and supporters of the candidate to comply with this Code and any applicable electoral and general laws.

Every political party should restrain its office-bearers, members and supporters, and all candidates should restrain their representatives and supporters, from contravening this Code and any applicable electoral or general law, and must take or initiate appropriate disciplinary action against those who contravene this Code or that law.

Duty to Co-operate

Every political party and every candidate must co-operate-

(a) with other parties to avoid the risk of electoral-related conflict; in particular, they must endeavour not to call public meetings, marches or rallies that coincide with those called by another party or candidate contesting the election;

(b) with the election authorities to protect and enhance their role to supervise and administer elections;

(c) with law enforcement officers to maintain peace during the election period.

Conduct during Polling Period

No political party or candidate may, from midnight, twenty-four hours before Election Day in any election until polling stations are closed on that day-

- (a) convene or hold a public gathering of any kind;
- (b) publish, or cause or permit the publication, of any advertisement or statement promoting or opposing a particular party or candidate;
- (c) disrupt the work of election officials at a polling station or counting station (**also prohibited on advance Election Day**);
- (d) campaign or display campaign material within 100 yards/300 metres of a polling station or counting station (**also prohibited on advance Election Day**).

On **both advance Election Day and Election Day** in any election, all political parties and their members and supporters, and all candidates and their supporters, must -

- (a) co-operate with election officials to ensure that polling is peaceful and orderly and that voters are completely free to exercise their vote without being subjected to intimidation, annoyance or disturbance; and
- (b) generally, conduct themselves so as to respect the secrecy and integrity of the ballot.

Announcements of Results of Elections

No candidate, and no office-bearer or member of a political party, may purport to declare or announce the results of an election before it has been declared officially by the Supervisor of Elections.

Respect for Media and Journalists

Every political party and candidate

- (a) must respect the role of the news media before, during and after an election;

- (b) may not prevent access by members of the news media to public political meetings, marches, demonstrations and rallies; and
- (c) must take all reasonable steps to ensure that journalists are not subjected to harassment, intimidation, threat or physical assault by any of their representatives or supporters.”.

14. Electoral campaign

The electoral campaign period can last at minimum 21 days following the dissolution of the House of Assembly. There is a period of silence from 11:59 p.m. the night before Election Day through 6:00 p.m. the hour designated for the close of the poll.

During the campaign period, the parties and candidates work to convince the voters that they are better able than other parties or candidates to protect the interests of the country and its citizens. As mentioned in the previous section, The Code of Conduct for Political Parties and Candidates (presented above) is particularly pertinent for ensuring a campaign that is void of fear, coercion, intimidation tactics, and is grounded on presentation of issues. Also, note that many of the electoral offences are often committed during the campaign period.

Fair conditions for providing the electorate with information that is relevant to making electoral choices are critical for a credible election. In addition to being inclusive and transparent, a democratic election requires a campaign period in which rights such as freedom of opinion and expression, freedom of association, freedom of movement, security of the person, and access to information are respected and upheld by all stakeholders of the election.

An effective campaign period, where candidates actively promote their visions and programs, ensures that voters have a free choice of candidates.

The laws and regulations in place are meant guarantee that citizens are able to learn about *those* who are running for public office and understand that they may make their electoral choices freely.

Section 60 of the consolidated Elections Act 2013 states:

“Acts prohibited on polling day”- Persons should not:

Supply a loudspeaker, bunting, ensign, banner, standard or set colours, or any other flag, to a person with intent that it should be carried, worn or used on motor cars, trucks or other vehicles as political propaganda;

With intent, carry, wear or use, on motor cars, trucks or other vehicles, a loudspeaker, bunting, ensign, banner, standard or set colours, or any other flag;

Supply a flag, ribbon, label or like favour to or for a person with intent that it be worn or used by a person within an electoral district on polling day as a party badge to distinguish the wearer as a supporter of a candidate, or of the political or other opinions entertained or supposed to be entertained by that candidate;

Use or wear a flag, ribbon, label or other favour, as such badge, within an electoral district;

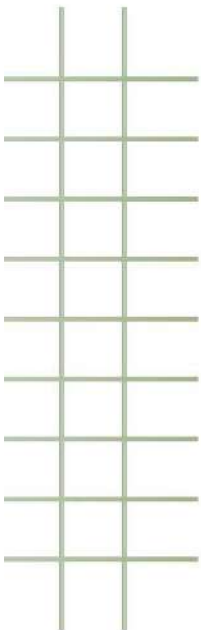
Broadcast an item on a television or wireless transmitting station which would tend to promote or procure the election of a candidate or political party;

Be on the public road or in a public place within 100 yards/300 feet of a building in which a polling station is situated seeking to influence a voter to vote for a candidate or to ascertain for what candidate a voter intends to vote or has voted.

PART 4

Candidate and Party Poll Agents

Political party and candidate agents are representatives of political parties and their candidates or independent candidates recognized by the Office of the Supervisor of Elections.



Candidate and political party representatives play an important role in the electoral process. Serving as overseers, they safeguard the interests of their candidates, by ensuring that there is transparency in the processes followed, and that the rules are impartially applied.

15. Role and importance of candidate and party/poll agents

Candidates have a range of clearly defined rights and responsibilities, but are limited in their ability to participate in the administrative conduct of an election. As such, candidates and political parties that have fielded candidates have the right to appoint agents to represent, or oversee electoral processes on their behalf, at polling stations during polling and counting.

Candidate and party agents are the recognized representatives of political parties or independent candidates. Only political parties and independent candidates that contest elections are entitled to nominate agents.

Political party and candidate agents' main role is to be essential to ensure the integrity of the polling and counting processes, and to ensure the interest of their candidates are respected. Importantly, agents must sign polling and counting [if appropriate] forms and record the results, as a transparency measure.

For party and candidate agents to successfully fulfil their role, it is important that they are well aware, and understand correctly, the polling and counting operations as well as their rights and responsibilities. It is the duty of parties and candidate to ensure that their agents are sufficiently informed of their duties prior to advance polling and polling day.

15.1 Accreditation of candidate and party agents

At a time prescribed by the Supervisor of Elections prior to advance polling and Election Day, political parties and candidates to present their application for the accreditation of agents ("representatives") to oversee the electoral process on their behalf.

Parties and candidate agents must be appointed either by an independent candidate or any registered party contesting the election.

The letter presented by the political parties or candidates for agents' authorization must include the following information:

- Name, address, phone number and email (if any) of party's chairperson or candidate.
- Name, phone number and email (if any) of contact person.
- List with all the names of authorized agents and the polling station they will monitor. (Ideally, the agent should be registered to vote in the polling station being assigned; otherwise he/she will not be able to vote there.)

A person can serve as an agent if he/ she meets the following conditions:

- To be over 18 years old.
- To be a registered voter.

If a person claiming to be an authorized agent cannot produce a letter of authority, the Presiding Officer will not permit that person to remain in the polling station. A list of all authorized political party or candidate agents is to be provided by the Supervisor of Elections to each polling station.

Party and candidate agents must remain in their designated observation area determined by the Presiding Officer at all times. Agent should respect the rights of voters, observers and polling staff and ensure that they do not interfere in the electoral processes nor influence its conduct. Any objections to processes must be noted.

15.2 Rights and responsibilities of candidate and party agents

According to the law, regulations and rules, each political party is allowed up to 3 polling agents, while independent candidate are allowed up to 2 agents per polling station. However, only 1 of the 2 polling agents for independent candidates, while only two of the 3 polling agents for each political party are allowed to remain in a polling station at a time. The exception is when they are handing over duties. Therefore, they are allowed to alternate., so they must alternate.

The Office of the Supervisor of Elections received the letter of authority for the secretary of political parties, or independent candidates ahead of Election Day, and provides this information to the respective Presiding Officers. Thereafter, the Office of the Supervisor of Elections has no further responsibility as it relates to candidate agents. Presiding Officers will allow duly recognized agents to enter the polling station. All agents should carry with them

the official letter of authority along with a photo ID. The Presiding Officer may revoke the recognition of an agent and request him/her to leave the premises, should he/she not comply with the established procedures.

Party and candidate agents may be present at the polling station to follow the polling and counting procedures. Agents have two main functions: they observe the polling and counting processes with a view of reporting whether it was conducted in accordance with the law. They also protect the interests of their nominated candidate or political party in the polling and counting processes. As such, political party and candidate agents are not just "observers", they are monitors of the process, looking to ensure that the interests of their parties and/or candidates are assured. As such, they are allowed to make comments, lodge a dispute or protest to

be included in the polling station electoral report by the Presiding Officer and Returning Officer.

While in the polling stations, the party and candidate agents must not campaign in favour of or against any candidate or political party.

15.3 Code of conduct for candidate and party agents

Every person who participates in elections as an accredited political party and candidate agent must be committed to doing the following:

- familiarize themselves with, and observe, the rules and regulations governing elections;
- understand the polling and counting processes;
- produce his/her formal appointment document (“letter of authority”) on entering a polling station, to satisfy the Presiding Officer of the status as to his/her identity;
- follow instructions from the Presiding Officer at all times while in a polling station;
- communicate only with the Presiding Officer, including when wanting to lodge a complaint;
- address all concerns to the Presiding Officer in a manner that will not obstruct the voting process;
- not communicate with polling staff and voters in the polling station;
- not interfere with any of the electoral processes, whether the polling or counting;
- not touch any electoral materials;
- not attempt to assist the electoral officers with their duties;
- not use any electronic devices inside the polling station;
- not take pictures in the polling station;
- inform the Presiding Officer of his/her intention to retire from the polling station during the poll, after which he/she may do so;
- conduct him/herself in a courteous and responsible manner. This includes showing respect for others, exercising sound judgment and observing the highest level of professional conduct at all times.

S. 49 (2) consolidated Elections Act 2013

All political parties or candidates’ agents are required to take an oath administered by Presiding Officers before the opening of the polls using Form No. 32.

A candidate agent can obtain information about the process from the presiding officer without affecting the conduct of polling or counting. Agents must NOT interfere with the processes in any way. They can bring questionable or irregular practices to the attention of the presiding officer and ask that they be included in the polling station report.

FORM NO. 6
(Section 11(3))
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT

OATH OF RETURNING OFFICER

I, having been
appointed returning officer for the electoral district do *swear/affirm
that I will faithfully perform all the duties of such returning officer in accordance with the provisions of the
Elections Act to the best of my ability.

.....
Returning Officer

* SWORN/AFFIRMED before me

Dated this day of, 20....

* Strike out inapplicable word

(Amended by Act 14 of 2011)

FORM NO. 19
(Section 31(3))
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT

OATH OF PRESIDING OFFICER

I, the undersigned, appointed presiding officer for the
polling station at in the
electoral district *swear/affirm that I will act faithfully in my said capacity of
presiding officer, according to law, without partiality, fear, favour or affection, and that I will keep secret the
names of the candidates for whom any of the voters in the above-mentioned polling station marks his or her
ballot paper in my presence at this election.

.....
Presiding Officer

* SWORN/AFFIRMED before me at day of, 20

.....
* Strike out inapplicable word

(Amended by Act 14 of 2011)

FORM NO. 20

(Section 32(2))

GOVERNMENT OF THE VIRGIN ISLANDS

ELECTIONS ACT

OATH OF POLL CLERK

I, the undersigned, appointed as poll clerk for the polling station at in the electoral district *swear/affirm that I will act faithfully in my capacity of poll clerk and also in that of presiding officer if required to act as such, according to law, without partiality, fear, favour or affection, and that I will keep secret the names of the candidates for whom any of the voters in the above-mentioned polling station marks his or her ballot paper in my presence at this election.

.....
Poll Clerk

* Sworn/Affirmed before me at day of, 20.....

.....
* Strike out inapplicable word

(Amended by Act 14 of 2011)

FORM NO. 21
(Section 34(3)(e))
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT

DIRECTIONS FOR THE GUIDANCE OF VOTERS
MANUAL VOTING SYSTEM

1. Each voter may vote only at one polling station. A voter may vote for only one candidate in a local electoral district election and for as many candidates as there are vacancies in the Territorial electoral district election.

2. Each voter will go into one of the compartments and place a cross on the right-hand side opposite the name of the candidate for whom he or she votes, thus X.

EXAMPLE A LOCAL ELECTORAL DISTRICT

Supposing JOHN JONES and GEORGE SMITH are the candidates in a local electoral district and the voter wishes to vote for JOHN JONES, he or she must place a cross opposite JOHN JONES' name as follows—

1.	Jones, John Shopkeeper Tortola	(Symbol)	X
2.	Smith, George Carpenter Virgin Gorda	(Symbol)	

EXAMPLE B. TERRITORIAL ELECTORAL DISTRICT

In the territorial electoral district in a general election, where the voter is entitled to vote for as many as four candidates, supposing there are six candidates, namely SARAH BLACK, YVONNE DOTY, REBECCA KNIGHT, HEZEKIAH MAYABA, TYRONE ROACH and ANTON ROGER. If the voter wishes to vote for HEZEKIAH MAYABA, TYRONE ROACH, REBECCA KNIGHT and SARAH BLACK, he or she must place a cross opposite their names as follows—

1.	Black, Sarah Merchant Virgin Gorda	(Symbol)	X
2.	Doty, Yvonne Beautician Anegada	(Symbol)	
3.	Knight, Rebecca Attorney-at-Law Tortola	(Symbol)	X
4.	Mayaba, Hezekiah Mechanic Jost Van Dyke	(Symbol)	X
5.	Roach, Tyrone Fisherman Salt Island	(Symbol)	X
6.	Rogers, Anton Accountant Tortola	(Symbol)	

3. The voter shall then fold his or her ballot paper so that the initials of the presiding officer and the numbers on the counterfoil can be seen and the counterfoil detached without opening the ballot paper, the voter shall then return the ballot paper so folded to the presiding officer who shall in full view of those present, including the voter, remove the counterfoil and place the ballot paper in the ballot box. The voter shall then forthwith quit the polling station.

4. If the voter inadvertently spoils a ballot paper, the voter can return it to the presiding officer who will, if satisfied of such inadvertence, give the voter another ballot paper.

5. If the voter places any mark on the paper by which the voter may afterwards be identified, or votes for more than one candidate or votes for more candidates than there are vacancies, or casts more than one vote for a candidate, then the voter's ballot paper will be rejected and will not be counted.

6. If the voter takes a ballot paper out of the polling station or deposits in the ballot box any paper other than the one given the voter by the presiding officer, the voter shall be guilty of an offence and liable on summary conviction to a fine of \$250 and to imprisonment for 3 months.

(Amended by Act 1 of 2019)

FORM NO. 24

(Section 45(1))

GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT

**OATH OF IDENTITY OF A VOTER RECEIVING A BALLOT
PAPER AFTER ANOTHER HAS VOTED IN HIS/HER NAME**

I * SWEAR/AFFIRM that I am
[name as on official list of voters]

of
[Address as an official list of voters]

whose name is entered on the official list of voters now shown me.

* SO HELP ME GOD.

* LEAVE OUT INAPPLICABLE WORDS

FORM NO. 25
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 45(4))

OATH OF PHYSICALLY INCAPACITATED VOTER

I *SWEAR/AFFIRM that I am incapable of voting without assistance by reason of physical incapacity.

*SO HELP ME GOD.

* LEAVE OUT INAPPLICABLE WORDS

(Amended by Act 14 of 2011)

FORM NO. 26
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 45(4))

OATH OF AN ELDERLY OR ILLITERATE VOTER

I
of

*SWEAR/AFFIRM that I am incapable of voting without assistance by reason of my *[being an elderly person] [illiteracy].

*SO HELP ME GOD.

*Strike out in applicable word(s)

(Substituted by Act 14 of 2011)

FORM NO. 27
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 45(5))

OATH OF FRIEND OF INCAPACITATED VOTER

1. I

*SWEAR/AFFIRM that
(Full name of friend)

I have been requested by

.....
(Full name of elderly, illiterate or physically incapacitated voter)

to mark his or her ballot paper.

2. That I will keep secret the name of the candidate for whom I marked the ballot paper of the elderly/ illiterate/ physically incapacitated voter on whose behalf I act.
3. That I have not already acted as the friend of more than one elderly, illiterate or physically incapacitated voter for the purpose of marking his or her ballot papers at this election.

*SO HELP ME GOD.

*Strike out inapplicable word(s)

(Substituted by Act 14 of 2011)

FORM NO. 28
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 46(1))

**OATH THAT THE VOTER IS THE PERSON INTENDED TO
BE REFERRED TO IN THE LIST OF VOTERS**

I *SWEAR/AFFIRM that I am qualified to vote at this election of [members] to serve in the House of Assembly and am not disqualified from voting thereat and that I verily believe that I am the person intended to be referred to by the entry in the Official List of Voters used at this polling station, of the name whose occupation is given as and whose address is given as,

*SO HELP ME GOD.

*LEAVE OUT INAPPLICABLE WORDS

(Amended by Act 14 of 2011)

FORM NO. 29
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 46(2))

OATH OF QUALIFICATION

I *SWEAR/AFFIRM—

1. That I am a Virgin Islander of the full age of 18 years; and
- *2. That I was deemed to belong to the Territory as provided for in the Constitution and was domiciled and resident in the Territory on the date of my registration as a voter; or
- *3. That I was deemed to belong to the Territory as provided for in the Constitution and was domiciled in the Territory and resident in the United States Virgin Islands on the date of my registration as a voter; or
- *4. That I was already registered as a voter in the Territory on the 1st day of June, 1977; and
5. That I am not within any of the classes of persons who lack qualification or are disqualified by reason of crime or mental incapacity;
6. That I am not disqualified under the provisions of the Elections Act;
7. That I am not the returning officer for this electoral district.

*SO HELP ME GOD.

*LEAVE OUT INAPPLICABLE WORDS

** NOTE: Paragraphs 2, 3 and 4 are in the alternative.

(Amended by Act 14 of 2011)

FORM NO. 32
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 49(2))

OATH OF AGENT OF A CANDIDATE

I, the undersigned, agent for one of the candidates at the election of a member of the House of Assembly held on this day in the electoral district do *swear/affirm that I will keep secret the names of the candidates for whom any voter voting at this polling station marks his or her ballot paper in my presence at this election.

SO HELP ME GOD.

.....
Signature

*SWORN/AFFIRMED before me at this day of 20.....

.....
* LEAVE OUT INAPPLICABLE WORDS

FORM NO. 34
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 51(8))

REQUEST FOR RECOUNT

I, [name] one of the candidates/ a
counting agent for one of the candidates at the election of a member/members* to serve in the House of Assembly
for the electoral district held on the day of
....., 20....., being dissatisfied with the accuracy of the count HEREBY DEMAND a recount
and set forth below the reasons for my demand.

REASONS

Date:

[Signature of candidate]

* Delete as appropriate

(Amended by Acts 8 of 1998 and 14 of 2011)

HOUSE OF ASSEMBLY (ELECTION PETITIONS)

RULES – SECTION 58(2)

(S.I. 14/2014)

Commencement

[4 March 2014]

Citation

1. These Rules may be cited as the House of Assembly (Election Petitions) Rules.

Interpretation

2. In these Rules, unless the context otherwise requires—

“Act” means the Elections Act;

“corrupt practice” means bribery, treating, undue influence, personation or any other offence defined or recognised as a corrupt practice by the laws of the Virgin Islands;

“Court” means the High Court of the Eastern Caribbean Supreme Court established by the Supreme Court Order 1967, 1967 No. 223;

“Court of Appeal” means the Court of Appeal of the Eastern Caribbean Supreme Court established by the Supreme Court Order 1967;

“court office” means the Registry of the High Court;

“election petition” or “petition” means an election petition or petition complaining of an undue return or undue election of a member of the House of Assembly presented to the High Court under the Elections Act and these Rules;

“judge” means a judge of the Court and includes the Chief Justice, any puisne judge and any acting Chief Justice or acting puisne judge;

“newspaper” means a newspaper published in the Virgin Islands;

“petitioner” means a person who presents a petition to the High Court under these Rules;

“Registrar” means the Registrar of the High Court;

“respondent” means a person against whom a petition is presented to the High Court;

“Returning Officer” means the Returning Officer for the electoral district to which the petition relates;

“writ” means the writ for an election.

The petition

3. A petition shall be as set out in Form 1 of the Schedule and shall—

- (a) be signed by the petitioner or by all the petitioners if more than one;
- (b) state the right of the petitioner to petition within section 57 of the Act;
- (c) state the date and result of the election to which the petition relates;

- (d) state the grounds on which relief is sought, setting out with sufficient particularity the facts relied on to sustain the prayer, but not the evidence by which they are to be proved;
- (e) be divided into consecutively numbered paragraphs, each of which, as much as possible, shall be confined to a distinct portion of the subject; and
- (f) conclude with a prayer, setting out particulars of the relief sought, for instance, that a specified person should be declared duly returned or elected, or that the election should be declared void, or that a return may be enforced.

Evidence not to be stated

4. (1) Evidence shall not be stated in the petition, but the judge may, on application, order such particulars as may be necessary to prevent surprise and unnecessary expense and to ensure a fair and effectual trial, in the same way as in ordinary proceedings in the Court, and on terms as to costs and otherwise as may be ordered.

(2) Where an allegation is made against a person for the commission of an election offence under the Act, the particulars which may be requested shall include—

- (a) the name of the person in the petition against whom the alleged election offence was committed;
- (b) the name, address, telephone number and occupation on the register of the person who is alleged to have committed the election offence; and
- (c) the time when and the place where each offence is alleged to have been committed and the amount and nature.

(3) In any case in which the judge orders that particulars of any allegation made in a petition be delivered to the respondent, he may fix the time within which the particulars shall be delivered and may also order that the petitioner, at the trial of the petition, may be precluded from going into any case in respect of which the particulars have not been duly delivered, unless it is otherwise ordered.

Petitioner to give address for service

5. The petitioner shall in his or her petition give the name and address of a legal practitioner whom he or she authorises to act on his or her behalf, or state that he or she acts for himself or herself, and in either case give an address for service within three miles of the office of the Registrar.

Presentation of petition

6. (1) A petition shall be presented in accordance with the Act.

(2) The petitioner shall file the petition along with three copies of it at the court office and the Registrar or his or her deputy or clerk shall give a receipt for it, if required to do so.

Publication of Notice of the petition

7. (1) On presentation of the petition, the Registrar shall immediately cause a Notice of the petition to be published in the *Gazette* and in a newspaper of general circulation in the Virgin Islands.

(2) The costs of publication of the Notice of the petition and of any other matter required to be published by the Registrar under these Rules shall be paid to the Registrar before the publication by the petitioner or other person moving the matter in the first instance and shall form part of the general cost of the petition.

Service of petition

8. (1) The petitioner shall serve a petition on the respondent by delivering a notice of the presentation of the petition together with a copy of the petition to the respondent personally within ten days after the presentation of the petition.

(2) Notwithstanding sub rule (1), a judge may, on the application of the petitioner, no later than fourteen days after the petition is presented and supported by affidavit showing what has been done, and on being satisfied that all reasonable effort has been made to effect personal service and cause the matter to come to the knowledge of the respondent, order that what has been done shall be considered sufficient service, subject to any conditions which he may think fit to impose.

(3) Where a respondent is evading service, the petitioner may apply to the judge for an order deeming the posting of—

- (a) a Notice in the office of the Registrar; or
- (b) a Notice published in a newspaper of general circulation in the Virgin Islands,

stating that the petition has been presented, the name of the petitioner, the prayer and the nature of the proposed security as personal service on the respondent.

(4) The application under sub rule (3) shall be supported by evidence on affidavit.

(5) A respondent shall, within ten days after service on him or her of the Notice of the petition, lodge with the Registrar and serve on the petitioner a statement of particulars of an address for service similar to those required by rule 5 to be stated by a petitioner in the petition, and he or she shall state the said particulars in any application made by him or her for the purpose of objecting to the security given by the petitioner or otherwise.

Security for costs

9. (1) At the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the petitioner—

- (a) to any person summoned as a witness on his or her behalf; or
- (b) to the member whose election or return is complained of; or
- (c) to any other person named as a respondent in the petition,

shall be given by the petitioner.

(2) The security shall be \$5,000 and shall be given by one or more recognizance to be entered into by any number of sureties approved by the Registrar, not exceeding four or by deposit of money in the Court, or partly in one way and partly in the other to the satisfaction of the Registrar.

(3) The recognizance shall contain the name and usual place of abode of each surety with sufficient description as shall enable him or her to be found or ascertained.

(4) Within three days after the giving of security as required by this Rule, notice of the nature of the security given shall be served by the petitioner on the respondent.

(5) When the security is given wholly or partly by recognizance, it is lawful for the respondent within ten days from the date of service on him or her of the notice to object to the recognizance on the ground that—

- (a) one or more of the sureties is insufficient;
- (b) a surety is dead;
- (c) a surety cannot be found or ascertained for want of sufficient description in the recognizance; or
- (d) a person named in the recognizance has not duly acknowledged the same.

(6) An objection to the security shall be made by application before a judge supported by affidavit of the facts relied on, but the judge may require the person giving evidence on affidavit to attend for personal examination.

(7) The application shall be made on not less than four days' notice to the petitioner and the costs of the application shall be in the discretion of the judge who may decide which party shall pay them.

(8) The costs of hearing and deciding an objection on the ground of insufficiency of a surety shall be paid by the petitioner, unless at the time of leaving the recognizance with the Registrar the petitioner also left with the Registrar an affidavit sworn by each surety before a justice of the peace, or other person duly authorised to administer oaths, that he or she is possessed of immovable property of the value of double the amount for which he or she is bound by the recognizance, after satisfying all other debts and liabilities due to other persons.

Removal of objection where security declared insufficient

10. (1) If by order made on the application the security is declared insufficient and the objection is allowed, it is lawful for the petitioner, within a time not exceeding ten days as may be ordered by the judge before whom the application is heard, to remove the objection by depositing with the Court a sum of money as the judge may direct for the purpose of making the security sufficient.

(2) If the petitioner does not remove the objection by deposit of the sum of money so directed to be deposited within the period fixed by the order of the judge, no further proceedings shall be taken on the petition and the application stands dismissed.

When petition at issue

11. If by order made upon such summons the security be declared sufficient, or if no objection is made to the sufficiency of the security within the time limited by these Rules for making objection thereto, the petition shall be at issue.

Amendment of petition

12. (1) A petition which has been presented questioning a return or election other than on an allegation of a corrupt practice may, for the purpose of questioning the return or election on an allegation of a corrupt practice, be amended with the leave of the Court.

(2) An application for leave to amend must be made to the Court in accordance with the Act.

Withdrawal of petition

13. (1) A petition may be withdrawn with the leave of the Court made on notice of application in Form 10.

(2) No application under sub rule (1) shall be made for the withdrawal of a petition until the petitioner has given notice of his or her intention to the Registrar and the respondent, and the Registrar shall immediately cause the same to be published in the *Gazette* and in a newspaper of general circulation in the Virgin Islands.

(3) Where there is more than one petitioner, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(4) Before leave for the withdrawal of a petition is granted—

(a) a party to the petition and his or her legal practitioner; and

(b) the election agents of the parties who were candidates at the election,

shall produce affidavits to the effect stated in sub rule (5), but the Court may, on cause shown, dispense with the affidavit of a particular person if on special grounds it appears to the Court just to do so.

(5) Each affidavit shall state that, to the best of the deponent's knowledge and belief—

(a) no agreement or terms of any kind whatsoever has, or have been, made; and

(b) no undertaking has been entered into,

in relation to the withdrawal of the petition, but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set out that agreement and shall make the foregoing statement subject to what appears from the affidavits.

(6) The affidavits of the applicant and his or her legal practitioner shall further state the ground on which the petition is sought to be withdrawn.

(7) No person shall make any agreement or terms, or enter into any undertaking, in relation to or for the withdrawal of a petition in consideration—

(a) of any payment;

(b) that the seat shall at any time be vacated; or

(c) of the withdrawal of any other petition.

(8) A person who contravenes this sub rule commits an offence and is liable to a fine of \$500.

Substitution of a new petitioner

14. (1) A person who might have been a petitioner in respect of the election to which the petition relates may, within five days after the publication by the Registrar in the *Gazette* of a copy of the notice of application for leave to withdraw the petition, apply to the Court to be substituted as a petitioner for the petitioner who desires to withdraw the

petition, and the judge may at the hearing of the application, if he or she thinks fit, substitute the applicant as a petitioner.

(2) Where in the opinion of the judge, the proposed withdrawal of a petition is induced by any corrupt bargain or consideration or is the result of any agreement, terms or undertaking prohibited by these Rules, he or she may, by order, direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner.

(3) If no order under sub rule (2) is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of an original petitioner and subject to like conditions, shall be given on behalf of the substituted petitioner within five days after the order of substitution and before he or she takes any step in the proceedings.

(4) Subject to this rule, a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities, as the original petitioner.

(5) If a petition is withdrawn, the petitioner is liable to pay the costs of the respondent.

Abatement of petition

15. (1) A petition shall be abated by the death of a sole petitioner or the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability of the petitioner's legal personal representative to pay the costs previously incurred.

(3) On the abatement of a petition, a party or person interested in the petition shall give to the Registrar notice of the abatement and the Registrar shall immediately cause the notice to be inserted in the *Gazette* and in a newspaper of general circulation in the Virgin Islands.

(4) Within one month after publication of the notice in the *Gazette* a person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court to be substituted as a petitioner.

(5) The judge may, if he or she thinks fit, substitute as a petitioner the applicant on whose behalf security to the same amount as is required in the case of an original petition is given and the security shall be subject to the same objection as the security given in an original petition.

Addition or substitution of respondent

16. (1) If, before the trial of a petition—

- (a) the respondent dies, then a person entitled to be a petitioner in respect of the election to which the petition relates may give notice of the death of the respondent by publication in the *Gazette* and in a newspaper of general circulation in the Virgin Islands; or
- (b) the respondent gives notice to the Registrar and to the petitioner that he or she does not intend to oppose the petition, the Registrar shall give notice of the intention of the respondent by publication in the *Gazette* and in a newspaper of general circulation in the Virgin Islands.

(2) Within twenty-one days after publication of the notice under sub rule (1) in the *Gazette*, a person may apply to the Court to be admitted as a respondent to oppose the

petition, and the person shall be admitted accordingly either with the respondent, if there is a respondent, or in place of the respondent.

(3) Any number of persons not exceeding three may be admitted.

Notice of intention not to oppose petition

17. A respondent who does not intend to oppose the petition shall, not less than seven days before the day fixed for the trial, serve notice to that effect on the petitioner and all other parties.

Respondent not opposing not to appear as party

18. A respondent who has given the prescribed notice that he or she does not intend to oppose the petition shall not appear or act as a party against the petition in any proceedings on the petition.

Several petitions as to the same election

19. Where more than one petition relating to the same election or return is presented, all the petitions shall be dealt with as one petition, in the manner and on the terms, as the judge directs.

Notice of recrimination when petition complains of undue return and claims seat

20. (1) When a petition complains of an undue return and claims the seat for some person other than the person returned, the respondent may, within ten days after the service of the notice of the petition, give notice in writing to the petitioner that he intends to give evidence to prove that the person on whose behalf the seat is claimed was not duly elected.

(2) The grounds on which a respondent intends to complain that a person on whose behalf the seat is claimed was not duly elected shall be set out in the notice and the Rules applicable to a petition and the particulars of charges made in the petition shall apply to every notice.

Returning Officer if complained of to be respondent

21. Where a petition complains of the conduct of a Returning Officer, the Returning Officer shall for the purposes of these Rules, except the substitution of respondents in his or her place, be deemed to be a respondent.

Petition complaining of no return

22. A petition complaining of no return may be presented to the Court, and is deemed to be an election petition, and the judge may—

- (a) make an order on the petition as he or she thinks expedient for compelling a return to be made; or
- (b) allow the petition to be heard in manner provided with regard to petitions.

Mode of trial of petitions

23. The following provisions apply to the trial of a petition—

- (a) the trial shall take place in open court at a time as a judge may appoint, not being less than seven days after notice of trial has been given to the parties and published in the *Gazette* and in a newspaper of general circulation in the Virgin Islands;
- (b) the judge may adjourn the trial from time to time, but the trial of every petition so far as practicable, consistently with the interests of justice in respect of the trial, shall be continued from day to day on lawful days until its conclusion;
- (c) the judge may make a special report to the Governor upon any matter arising in the course of the trial, an account of which in his or her judgment ought to be submitted;
- (d) where it appears to the judge, on application by either party or without the application, that the case raised by the petition can be conveniently stated as a special case, he or she may direct the same to be stated by the petitioner and the respondent accordingly, and any special case shall, as far as may be, be heard before the Court, and the decision of the Court shall be the decision on the petition;
- (e) in case the petitioner and the respondent differ on the stating of the special case, the Court may refer the same to be settled by a legal practitioner conferred with the rank of Queen's Counsel or Senior Counsel;
- (f) a copy of the case stated as settled shall be sent to the parties within seven days of settlement of the case stated;
- (g) the court office shall give the parties at least fourteen days' notice of the date, time and hearing of the special case;
- (h) the judge shall certify to the Governor his or her determination in reference to a special case.

Power to reserve question of law for Court of Appeal

24. (1) If it appears to the judge, on the hearing of any election petition or any special case, that any question of law requires further consideration by the Court of Appeal, he or she may postpone the hearing, or the granting of any certificate to the Governor, until the determination of the question by the Court of Appeal and for this purpose may reserve any question of law for the determination of the Court of Appeal.

(2) A reference to the Court of Appeal under sub rule 24(1) shall be by way of a special case stated under rule 23.

Evidence of corrupt practice receivable before proof of agency

25. On the trial of a petition, unless the judge otherwise directs, any charge of a corrupt practice may be gone into, and evidence in relation to the charge received, before any proof has been given of agency on the part of any candidate in respect of the corrupt practice.

Witnesses

26. (1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in a civil trial.

(2) At the trial, the Court may, by order under the hand of the judge, require a person who appears to him or her to have been concerned in the election to attend as a witness, and a person wilfully refusing to obey the order shall be guilty of contempt of court.

(3) A witness may, after his or her examination by the Court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(4) A person called as a witness respecting an election before the Court shall not be excused from answering any question relating to any offence at or connected with the election, on the ground of privilege.

(5) Notwithstanding sub rule (4)—

- (a) a witness who answers truly all questions which he or she is required by the Court to answer shall in the discretion of the Court be eligible to receive a certificate of indemnity under the hand of the judge stating that the witness has so answered; and
- (b) an answer by a person to a question put by or before the Court is not admissible in evidence against that person in civil or criminal proceedings, except in the case of any criminal proceeding for perjury in respect of the evidence.

(6) The reasonable expenses incurred by a person in appearing to give evidence at the trial of a petition, if allowed to the person by order of the judge, is payable in the first instance by the party who calls him or her as a witness and the amount payable shall be ascertained and certified by the Registrar.

(7) The expenses under sub rule (6) may be included in the costs of the petition and shall be paid by the party directed to pay those costs.

(8) The expenses of a witness called and examined by the judge are deemed to be costs of the petition and shall be paid as directed by the order of the judge.

General costs of petition

27. (1) Except where specifically provided for in these Rules, all costs, charges and expenses of and incidental to the presentation of a petition, or of any consequent proceedings shall be in the discretion of the Court and shall be defrayed by the parties to the petition in a manner and in proportions as the Court may determine.

(2) The Court may disallow any costs, charges or expenses which may, in its opinion, have been caused by—

- (a) vexatious conduct;
- (b) unfounded allegations; or
- (c) unfounded objections,

on the part of either the petitioner or the respondent, and shall have regard to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether or not the parties are on the whole successful.

(3) The rules and regulations of the Court with respect to costs to be allowed in actions, causes and matters in the Court shall, in principle and so far as practicable, apply

to the costs of election petitions and connected proceedings and the amount of the costs may be fixed by the judge or may be directed to be assessed.

(4) Where the petitioner is ordered to pay any costs and he or she fails to pay the costs within fourteen days from the date of the order of the Court—

- (a) the Registrar shall pay the costs out of any money deposited with the Court as security under these Rules and execution may be issued against the petitioner and the sureties jointly and severally for any balance not covered by the deposit; or
- (b) where security has been given by recognizance, the Registrar shall, on an affidavit of the respondent stating—
 - (I) the amount of the costs directed to be paid by the petitioner; and
 - (ii) that neither the petitioner nor any of the sureties has paid them within fourteen days after the order to pay the same,

certify the recognizance to be forfeited.

(5) Execution shall immediately issue out of the Court for the recovery of the amount of the costs ordered to be paid against the petitioner and the sureties jointly and severally to the extent of the amount for which they are bound by the recognizance, but the petitioner is always liable to pay the full amount of the costs.

(6) If the security given by the petitioner is in the form of money deposited with the Court, the petitioner is entitled to a refund of a portion of the money exceeding the amount of the costs ordered to be paid by him or her.

(7) If a respondent who is ordered to pay any costs to the petitioner fails to do so within fourteen days from the date of the order directing the payment, execution shall immediately be issued out of the Court for the recovery of the amount of costs.

(8) Execution shall be levied in accordance with the law governing execution in civil actions in the Court.

Application of Eastern Caribbean Supreme Court Civil Procedure Rules 2000

28. In any matter not provided for by the Act or by these Rules, the practice and procedure set out in the Eastern Caribbean Supreme Court Civil Procedure Rules 2000, relating to the service of documents other than the election petition, and the conduct of a civil trial may be applied, if a judge so directs.

Forms

29. In proceedings regulated by these Rules, the forms contained in the Schedule, or forms to the like effect, shall be used as the documents described by the headings of the forms.

SCHEDULE

(Rule 3)

FORMS

FORM NO. 1

PETITION

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

VIRGIN ISLANDS

ELECTIONS ACT, 1994 No. 16 OF 1994

Election for *(state the electoral district)* held on the day of, 20

BETWEEN

A.B. Petitioner.

and

X.Y. Respondent.

The petition of A.B. of (or of

A.B. of and C.D. of)(*as the case may be*) whose name is subscribed.

1. Your petitioner A.B. is a person who voted (*or had a right to vote, as the case may be*) at the above election (*or claims to have had a right to be returned at the above election, or was a candidate at the above election*); and your petitioner C.D.

.....
(*here state in like manner the right of each petitioner*).

2. Your petitioner states that the election was held on the day of, 20...., when E.F., G.H. and I.J. were candidates, and the Returning Officer has returned E.F. as being duly elected.

3. Your petitioner says that (*here state in specific paragraphs the facts and grounds on which the petitioner relies*).

WHEREFORE your petitioner prays that it may be determined and the said E.F. was not duly elected or returned, and that the election was void (*or that the said G.H. was duly elected and ought to have been returned, or as the case may be*).

Dated thisday of, 20.....

.....
Petitioner

FORM 2

(Rule 8)

APPLICATION FOR SUBSTITUTED SERVICE
IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
VIRGIN ISLANDS
(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of *(full address)*
applies to the court for an order for substituted service _____
The grounds of the application are—

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant :

This application will be heard by [the Judge in Chambers] [Master xxxxx] on
the day of , at a.m./p.m. at
[xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —
N.B. This notice of application must be served as quickly as possible on the
respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays.

FORM 3

(Rule 9)

RECOGNIZANCE GIVING SECURITY FOR COSTS UNDER RULE 9

(Title as in the Case of the Petition)

Be it remembered that on the day of , 20....., before me (name and description) came A.B. of (name and description as above) and acknowledged himself (or severally acknowledged themselves) to owe to Our Sovereign Lady the Queen the sum of (in words) dollars (or the following sums) (that is to say) the said C.D., the sum of (in words) dollars,

the said E.F., the sum of (in words) dollars, and the said G.H., the sum of(in words) dollars to be levied on his (or their respective) goods and chattels, lands and tenements to the use of Our said Lady the Queen, Her heirs and successors.

The condition of this recognizance is that if (here insert the names of all the petitioners, and if more than one, add, or any of them) shall well and truly pay all costs, charges and expenses in respect of the election petition signed by him (or them) relating to (here insert the name of the electoral district) which shall become payable by the said petitioner under the Legislative Assembly (Election Petitions) Rules to any person, then this recognizance to be void, otherwise to stand in full force.

.....
Petitioner and Sureties

Taken and acknowledged by the above named (names of petitioner and sureties) on the..... day of, 20....., before me.

.....
*A Justice of the Peace or
person authorised to administer
oaths*

FORM 4

(Rule 9)

NOTICE OF PRESENTATION OF PETITION AND OF THE NATURE OF THE SECURITY

(Title as in the Case of the Petition)

Take notice that a petition complaining of

(state the grounds of complaint briefly) and praying that

(state briefly the prayer of the petition) was presented to the Court on theday

of, 20....., and that security for the costs, charges and expenses thereof has been given *(state the nature of the security given, i.e. whether by deposit of money or by recognizance and the names and the description of the sureties and the amounts for which each surety has bound himself).*

Dated the day of, 20.....

To:

(Name of Respondent)

(Address)

.....
Petitioner

FORM 5

(Rule 9)

APPLICATION OBJECTING TO SECURITY
IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
VIRGIN ISLANDS
(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of *(full address)*
applies to the court for an order that the security given by the respondent be rejected.

The grounds of the application are—

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

This application will be heard by [the Judge in Chambers] [Master xxxxx] on
the day of , 20..... at a.m./p.m. at [xxx
xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

N.B. This notice of application must be served as quickly as possible on the
respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays.

FORM 6

(Rule 10)

ORDER UPON AN APPLICATION OBJECTING TO SECURITY

(Title as in the Case of the Petition)

Before Mr./Mde. Justice

The day of, 20.....

Upon objection to the security given by the petitioner herein made by application on the..... day of, 20..... And Upon reading the affidavit of dated the day of, 20..... , and hearing the evidence of witnesses personally examined, *(if such evidence was required)* and counsel on behalf of the parties.

It is declared that the security given by the petitioner in the above-mentioned petition is insufficient and it is ordered that the objection be allowed but that the petitioner be at liberty to remove the objection thereto by depositing with the High Court the sum of *(in words)* dollars withindays from this day (the period is not to exceed ten days).

(In case the security is declared sufficient this order shall read—It is Declared that the security given by the petitioner in the above-mentioned petition is sufficient and it is ordered that the objection be disallowed and that the costs of this objection be paid by the petitioner or the respondent, as the case may be).

By the Judge

.....

Registrar

FORM 7

(Rule 4)

APPLICATION FOR PARTICULARS

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

VIRGIN ISLANDS

(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of

(full address)

applies to the court for an order that the petitioner deliver to the respondent or his
legal practitioner particulars in writing of ...

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

This application will be heard by [the Judge in Chambers] [Master xxxxx] on
the day of , 20..... at a.m./p.m. at [xxx
xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

N.B. This notice of application must be served as quickly as possible on the respondent to
the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays.

FORM 8

(Rule 4)

PARTICULARS DELIVERED

(Title as in the Case of the Petition)

The following are the particulars delivered by the petitioner to the
respondent on the
day of , 20

(This form may be adapted to suit other election offences under the Act.)

BRIBERY								
No in particulars	Name of person bribed	Address	Register or occupation	Name of bribing person	Address	Time when bribed	Place where bribed	Amount and character of bribe

FORM 9

(Rule 12)

APPLICATION TO AMEND PETITION
IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
VIRGIN ISLANDS
(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of

(full address)

applies to the court for an order that the petition be amended.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

:

This application will be heard by [the Judge in Chambers] [Master xxxxx]

the day of , 20..... at a.m./p.m. at
[xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

N.B. This notice of application must be served as quickly as possible on the respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays.

FORM 10

(Rule 13)

**NOTICE TO REGISTRAR AND RESPONDENT OF APPLICATION FOR
LEAVE TO WITHDRAW A PETITION**

(Title as in the Case of the Petition)

1. The petitioner proposes to apply to withdraw his petition upon the following grounds:

..... (Here state the grounds).

2. He accordingly prays that a day may be appointed for hearing the application.

Dated the day of, 20

.....

Petitioner

To:

The Registrar.

FORM 11

(Rule 13)

NOTICE TO PUBLIC OF APPLICATION FOR LEAVE TO WITHDRAW PETITION

(Title as in the Case of the Petition)

Notice is hereby given that the above petitioner has on the day of
....., 20, lodged at the High Court Registry notice of an
application to withdraw the petition of which notice the following is a copy—

(Here set out a copy of the notice to Registrar and respondent)

And take notice that by the Rule made by the Chief Justice any person who might have
been a petitioner in respect of the said election may, within five days after the publication
by the Registrar of this notice, give notice in writing of his or her intention on the hearing
to apply for leave to be substituted as a petitioner.

Dated the day of, 20

.....

Registrar

FORM 12

(Rule 13)

APPLICATION FOR LEAVE TO WITHDRAW PETITION
IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
VIRGIN ISLANDS
(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of *(full address)*
applies to the court for an order that his or her petition be withdrawn.
The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

This application will be heard by [the Judge in Chambers] [Master xxxxx] on
the day of , 20..... at a.m./p.m. at [xxx
xxx xxx]

If you do not attend this hearing an order may be made in your absence. OR The [Judge in
Chambers] [Master] will deal with this application by —

N.B. This notice of application must be served as quickly as possible on the
respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays.

FORM 13

(Rule 15)

NOTICE OF ABATEMENT OF PETITION

(Title as in the Case of Petition)

Take notice that the petitioner (or the survivor of the several
petitioners) in the above petition died on the day of, 20.....

....., at in the of

and that consequently the said petition was abated by such death.

Dated the day of, 20.....

.....

A party or person interested
in the petition

FORM 14

(Rule 15)

**APPLICATION FOR SUBSTITUTION OF A PETITIONER
IN PLACE OF A DECEASED PETITIONER**

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

VIRGIN ISLANDS

(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of _____ *(full address)*

applies to the court for an order substituting _____ as a petitioner in place
of the deceased petitioner _____.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

:

This application will be heard by [the Judge in Chambers] [Master xxxxx] on
the day of , 20..... at a.m./p.m. at
[xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

N.B. This notice of application must be served as quickly as possible on the
respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays

FORM 15

(Rule 16)

NOTICE TO BE PUBLISHED OF DEATH OF THE RESPONDENT

(Title as in the Case of the Petition)

Take notice that the respondent
died on the day of,
20.....,
at in the of

.....
A person entitled to be a
petitioner in respect of the
election questioned

FORM 16

(Rule 16)

**NOTICE TO BE PUBLISHED BY RESPONDENT OF
INTENTION NOT TO OPPOSE THE PETITION**

(Title as in the Case of the Petition)

Take notice that I the undersigned respondent do not intend to oppose the above petition.

.....
Respondent

To:
The Registrar and the petitioner

FORM 17

(Rule 16)

APPLICATION TO BE ADMITTED A RESPONDENT TO OPPOSE THE PETITION
IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
VIRGIN ISLANDS
(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of *(full address)*
applies to the court for an order to be admitted as a respondent to oppose the
petition in place of _____ who died on the day of , 20__.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

NOTICE:

This application will be heard by [the Judge in Chambers] [Master xxxxx] on
the day of , 20..... at a.m/p.m at
[xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —

N.B. This notice of application must be served as quickly as possible on the
respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays

FORM 18

(Rule 20)

NOTICE OF RECRIMINATORY GROUNDS

(Title as in the Case of the Petition)

Take notice that I the respondent in the above-mentioned petition intend to complain of the election of the person on whose behalf the seat is claimed undue and that the following are the grounds on which I intend to rely in support of that complaint—

.....
(Here set out the grounds which the respondent intends to complain of)

.....
Respondent or his or her Legal
Practitioner

To:

The petitioner and his or her legal representative.

FORM 19

(Rule 23)

NOTICE OF TRIAL

(Title as in the Case of the Petition)

Take notice that the above petition (or petitions) will be tried in
the High Court in Brades on the day of
20,
commencing at a.m./p.m. and on such other
subsequent days as required.

.....
Registrar

To:
The petitioner and the respondent and their legal practitioner.

FORM 20

(Rule 23)

APPLICATION TO TURN PETITION INTO SPECIAL CASE
IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT
VIRGIN ISLANDS
(Title as in the Case of the Petition)

Notice of Application

The Petitioner A.B. *(full names)*, of *(full address)*
applies to the court for an order that the case raised by the petitioner be stated as a
special case, and that in the event of the parties differing the same be referred to
settle, and that the costs of this application be costs in the petition.

The grounds of the application are —

A draft of the order that I seek is attached.

[An affidavit in support accompanies this application]

Dated

Signed.....

[Legal Practitioner for the] Applicant

NOTICE:

This application will be heard by [the Judge in Chambers] [Master xxxxx] on
the day of , 20..... at a.m/p.m at
[xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

OR

The [Judge in Chambers] [Master] will deal with this application by —
N.B. This notice of application must be served as quickly as possible on the
respondent to the application.

The court office is at [xxx xxx xxx] telephone number xxx-xxxx, Facsimile
xxx.xxxx. The office is open between [..... a.m.] and [.....p.m.]
..... to except public holidays.

FORM NO. 14

(Section 26(1))

GOVERNMENT OF THE VIRGIN ISLANDS

ELECTIONS ACT

NOTICE OF NOMINATION

The Governor having issued his or her Writ of Election for the election of a member of the House of Assembly for electoral district the Returning Officer for the said district will on the day of 20.... next ensuing between the hours of ten o'clock in the forenoon and one o'clock in the afternoon and between the hours of 2 o'clock and 4 o'clock in the afternoon attend at to receive nomination papers for candidates for election as a member for the electoral district.

Dated this day of, 20....

.....
Returning Officer
for the electoral district of

(Amended by Act 14 of 2011)

FORM NO. 15

(Section 26(3))

**GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT**

NOMINATION PAPER

We, the undersigned voters for the electoral district do hereby nominate the following person as a proper person to serve as a member of the electoral district and we certify that to the best of our belief he or she is qualified for election as a member of the House of Assembly.

Candidate's Surname	Other Name	Address	Occupation
------------------------	------------	---------	------------

Nominated by the following Voters:

Voter's Surname	Other Name	Address	Occupation	Signature
--------------------	---------------	---------	------------	-----------

(1)

(2)

Consent of Candidate

I,, nominated in the foregoing nomination paper hereby consent to such nomination as candidate for election as a member of the House of Assembly for the electoral district.

.....
Signature of Candidate

Witness my hand this day of, 20....

.....
Signature of Witness

(Substituted by Act 7 of 2003 and amended by Act 14 of 2011)

FORM NO. 16

(Section 26(5))

GOVERNMENT OF THE VIRGIN ISLANDS

ELECTIONS ACT

AFFIDAVIT

I [name of candidate]

of [address]

[occupation]

make oath/affirm and say that to the best of my knowledge I am not disqualified under the provisions of the Constitution from contesting the election in the district and being elected as a member of the House of Assembly.

SWORN/AFFIRMED)

this day)

of,)

20....

).....

before me)

.....

(Amended by Act 14 of 2011)

FORM NO. 17

(Section 26(6))

GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT

RETURN OF UNCONTESTED ELECTION

I hereby certify that the members elected for the electoral
district in pursuance of the within Writ

[is] [are]

[Insert name(s), address and occupation of member(s) elected as stated on the nomination
paper.] no other candidate(s) having been nominated.

Dated this day of, 20....

.....
Returning Officer

(Amended by Act 14 of 2011)

FORM NO. 18

(Section 29(2))

GOVERNMENT OF THE VIRGIN ISLANDS

ELECTIONS ACT

NOTIFICATION OF ELECTION

TAKE NOTICE that a poll will be taken for the election of:

[a member for the electoral district]

[..... members for the Territorial electoral district]

to serve in the House of Assembly.

The poll will be opened on the day of, 20...., at o'clock in the morning and will remain open until o'clock in the afternoon. Voters may vote at a polling station in the electoral division of the electoral district in which they are registered. The following polling stations will be open in the electoral district:

.....

.....

.....

The candidates in the [.....] [Territorial] electoral district are as follows

—

Candidates —

.....

.....

.....

The number of votes given to the several candidates will be counted on the day of 20...., at..... o'clock in the [morning] [afternoon] at..... of which all persons are hereby required to take notice and govern themselves accordingly.

Dated this day of, 20.... .

.....

Returning Officer

for the electoral district.

(Amended by Act 14 of 2011)

FORM NO. 32
GOVERNMENT OF THE VIRGIN ISLANDS
ELECTIONS ACT
(Section 49(2))

OATH OF AGENT OF A CANDIDATE

I, the undersigned, agent for one of the candidates at the election of a member of the House of Assembly held on this day in the electoral district do *swear/affirm that I will keep secret the names of the candidates for whom any voter voting at this polling station marks his or her ballot paper in my presence at this election.

SO HELP ME GOD.

.....
Signature

*SWORN/AFFIRMED before me at this day of 20.....

* LEAVE OUT INAPPLICABLE WORDS

