



OUR NEW CONSTITUTION

AN ANALYTICAL SUMMARY

This Summary explains the New Constitution and provides an accurate analysis of the Constitution and the importance of its provisions to each Virgin Islander.

April, 2007



PART 1 - INTRODUCTION

Message from Chief Minister, Hon. Dr. D. Orlando Smith Leader of the BVI Constitutional Negotiating Team

I am proud to introduce this summary of the new BVI Constitution, which will come into effect following the next dissolution of the Legislative Council, save for a very few provisions which take effect after the next general election. While I urge that every citizen should make themselves familiar with the full Constitution, I hope that this summary gives you a feel for what has been achieved and is expected to govern the constitutional affairs of the British Virgin Islands in the foreseeable future.

As you will know there is no greater faith a people can place in its leaders than to craft a Constitution. It is a daunting task that has been made easier by the excellent work undertaken by the BVI Constitutional Review Commission and by you, the people of the BVI, who responded so well to their call for input. I am particularly pleased to tell you that my Government felt that it was important that when taking office in addition to an oath to Her Majesty, there should also be an oath to serve the people of the BVI. I am pleased that the UK agrees and that the new oaths and affirmations for the due execution of office will be to Her Majesty and to the people of the Virgin Islands.

The BVI team that participated in the negotiations led by myself was made up of members of the Legislative Council and representatives of the Constitutional Review Commission. The recommendations in the Constitutional Commission's Report formed the basis upon which our negotiations were conducted with the United Kingdom Team. We therefore stood strong as a true representation of views and aspirations of the people of the BVI, firm in the belief that it was time for a new Constitution in step with our current level of political, social and economic development.

We acknowledge that this deepening institutional stability and maturity in the BVI as a democracy and, to varying extent, other overseas territories was equally apparent to the UK and had given rise to the publication of the 1999 *Partnership for Progress and Prosperity* White Paper. We continue to uphold the White Paper's principles of self-determination, mutual respect for rights and responsibilities, and the continuation of strong democratic institutions. We were reminded, in particular, of the White Paper's call for "a balancing of obligations and expectations" between the Overseas Territories and the UK Government.

It was this re-balancing that we wanted to achieve in the new Constitution, and while we are clear that at this point in our history we do not seek independence, we acknowledge that this is a decision that future generations may wish to make. I believe that the revised Constitution will give BVI Islanders in years to come the framework to make even greater strides in the overall governance, development and prosperity of this Territory.

It will finally provide a sustainable framework in which the basic rights of the people of the BVI shall be protected and preserved, while at the same time recognising the legitimate rights and profound contribution to the public good that comes from our diverse population.

Most importantly, it will put our people firmly on the path toward ever greater autonomy and self-determination. History tells us that on every occasion that more authority was placed in the hands of the locally-elected government, we have been able to make meaningful improvements to the quality of life of our people. Moreover, in the BVI a strong correlation between constitutional advancement and economic advancement has always been clearly demonstrated.

PART 2 – WHO WE ARE

Our new Constitution starts with a preamble that recognizes from the outset who we are. *We, the people of the territory of the Virgin Islands have over centuries evolved with a distinct cultural identity which is the essence of a Virgin Islander.*

Our Constitution further recognizes that *the people of the Virgin Islands have a free and independent spirit, and that we have developed ourselves and our country based on qualities of honesty, integrity, mutual respect, self-reliance and the ownership of the land engendering a strong sense of belonging to and kinship with these islands.*

There are two sections in the new Constitution that legally define who belongs to the Virgin Islands and who is a Virgin Islander. In addition, the Constitution provides a definition of Virgin Islander, which would be applicable to certain specific provisions of the Constitution, such as the qualification to hold elected office in the House of Assembly and appointment to the high offices of Deputy Governor and Cabinet Secretary.

The new Constitution will make some significant changes to categories of persons deemed to belong to the Virgin Islands while preserving status and rights already acquired. In relation to persons born outside the Virgin Islands, believer status has been extended to include the second generation of Virgin Islanders born outside the Territory. This cures the anomaly which exists in the present constitution and answers the call which was made loud and clear to ensure that such persons are deemed to belong to the Virgin Islands and to enjoy all rights attendant to such status. Further, the new provisions will ensure that persons who were entitled and became British Overseas Territories citizens by virtue of registration in the Virgin Islands under the British Nationality Act are likewise deemed to belong. Under the new Constitution the previous situation whereby naturalization led automatically to believer status will no longer be applicable. However, upon becoming naturalized as a BOTC in the Virgin Islands such persons will have a constitutional right to apply for believer status.

PART 3 – FUNDAMENTAL RIGHTS

Introduction

In democratic societies certain rights and freedoms are recognized as being of fundamental importance and essential to human existence, governance and conduct. Globally and regionally in the independent and non-independent Caribbean, the vast majority of countries' constitutions include human rights chapters with customary or usual provisions considered fundamental. In fact, many of these constitutions derive their human rights provisions from the basic instruments of the United Nations Universal Declaration of Human Rights, adopted in 1948. During the consultation undertaken by the Constitutional Review Commission the views overwhelmingly expressed by those who responded was that it was time that such rights were enshrined in the BVI Constitution. Accordingly, after much public input and consideration by a focus group and others, a fundamental rights chapter was drafted to form the first part of the Constitution.

So what does it mean ?

The Preamble to our new Constitution states from the outset how important a core set of values is to the Virgin Islander, clearly reflecting the views expressed to the Constitutional Review Commission. The new Constitution is therefore grounded in the notion that *“the society of the Virgin Islands is based upon certain moral, spiritual and democratic values including a belief in God, the dignity of the human person, the freedom of the individual and respect for fundamental rights and freedoms and the rule of law.”*

Under the Constitution the fundamental rights and freedoms of every person in the Virgin Islands are given due recognition. Such fundamental rights and freedoms are to be enjoyed without discrimination of any kind, whether of sex, race, color, language, religion, political or other opinion, national, ethnic or social origin, association with a national minority, property, family relations, economic status, disability, age, birth, sexual orientation, or marital or other status.

These principles, which are found in the opening paragraphs of Chapter 2 our new Constitution, establish the basic tenets of universality and equality.

The basic rights are

- a) life, equality, liberty, security of the person and the protection of the law,
- b) freedom of conscience, expression, movement, assembly and association; and
- c) protection for private and family life, the privacy of the home and other property and from deprivation of property save in the public interest and on payment of fair compensation

The Constitution makes clear that everyone is entitled to enjoy these basic fundamental rights, subject only to the limitations that these rights respect and do not prejudice the rights and freedoms of others and for the public interest. Public interests are generally defined as defense, public safety, public order, public morality, or public health.

It will be the first time that a human rights or fundamental rights chapter is being included as part of our Constitution since the BVI had its first Constitution following its breakaway from the Federation of the Leeward Islands. The development of this is something that we are particularly proud of. It represents growth and advancement, but it also reflects for us the ideals that lie at the heart of what we consider to be a truly modernized, progressive and evolved Virgin Islands society.

So what are the new rights ?

1. Every person has the right to life --- and this right is protected by law
2. Everyone is equal before the law
3. No person shall be subjected to torture or to inhuman or degrading treatment or punishment
4. No person shall be subjected to slavery, servitude or forced labour ---- for the majority of our population that are descendents of slaves, who went through slavery and the transatlantic slave trade– it is very important to have a provision that speaks to our fundamental human right – given to us simply at birth – that no one has the right to subject us to slavery, servitude or forced labour. This provision is also timely, as this year we commemorate 200 years since the abolition of the slave trade in the British Empire. Every person has the right to liberty – this includes provisions such as the protection from arbitrary arrest and unlawful detention.
5. Every person has the right to secure protection of the law – including the right to a fair trial, presumption of innocence, the right to defence, etc.
6. The rights of prisoners to humane treatment --- This provision is important to prevent the abuse and inhumane treatment of prisoners as we sometimes see being done and justified in some countries around the world. This right also makes provision for the segregation of juvenile prisoners from adult prisoners.
7. The freedom of movement, that is, the right to move freely throughout the Virgin Islands --- of course the full enjoyment of this right is directly related to a person's right of abode in the Virgin Islands by virtue of belonging status or residence status.
8. Everyone has the right to the protection of private and family life and privacy of home and other property.
9. Every man and woman of a marriageable age has the right to marry and found a family. Marriage is to be construed in accordance with prescribed law – that task falls to the legislators in the performance of their constitutional functions.
10. No person shall be hindered in the enjoyment of his or her freedom of conscience. This section protects religious freedom. It also ensures that private schools or religious institutions would not be prevented or hindered from providing religious education whether or not they are receiving any money or assistance from the Government.

11. The right to education -- Every child has the right to receive primary education ---- while the local law does provide for secondary education as well and more recently the Government passed a policy affording free tertiary education at the community college to Virgin Islanders, education under the constitution is only guaranteed up to the primary level, however. In line with the strong sentiments from the public to ensure that religious and cultural norms and practices, such as prayer in schools would not be deemed unconstitutional in the future, this provision ensures that these practices will continue. What the Constitution does however is explicitly state that no person, without his or her consent, would be required to take part or attend these activities. This is already the prevailing practice as some students from particular denominations or religions are exempted upon request from mandatory participation in morning devotions or assembly at public schools.
12. The freedom of expression --- this includes receiving and disseminating information.
13. The freedom of assembly and association - in both these provisions there is a some curtailment on these freedoms, especially for public officers – that is reasonably justifiable in a democratic society. What this means is that public officers do not have full protection of the freedom of expression and the freedom of assembly and association -- restrictions are imposed on public officers that “are reasonably required for the proper performance of their functions.”
14. Persons are protected from deprivation of property --- also protects remittances of money paid where property has been compulsorily acquired for some public purpose or in the public interest.
15. Protection from discrimination – and this includes the whole list relating to sex, race, color, etc
16. Provides for periods of public emergency – the Governor may declare a period of public emergency – and protections for persons detained under emergency laws including having their continued detention reviewed by an independent tribunal
17. One right that is not customary in many constitutions, but has been included in our new Constitution is the protection of the environment –in this provision the Constitution provides the framework for the legislative mechanism and leaves it to the Legislature to pass laws that prevent pollution and ecological degradation, promote conservation and secure ecologically sustainable development and use of natural resources
18. Protection of children – while this provision doesn’t enunciate any specific rights of the child, it provides for the Legislature may enact laws that it considers fit to promote the well-being and welfare of children.
19. The Constitution calls for the establishment of a Human Rights Commission to be a sort of ‘watch dog’ on human rights issues and to educate, report on and monitor human rights in the Virgin Islands.

PART 4 – THE RIGHT TO GOVERN

Introduction

In addition to the inclusion of a chapter which will constitutionally protect certain fundamental rights, many of those who responded to the consultation by the Constitutional Review Commission considered the relationship between the UK and the BVI. While there is clearly no significant call for independence, there was a call for a rebalancing of the rights and responsibilities between the BVI and the UK, especially given the progress we have made in terms of social, political and economic development.

The views clearly expressed to the Constitutional Review Commission that the Territory should therefore advance constitutionally came as no surprise; both to reflect the self governing of the Territory that happens in practice and to remove, where possible, any colonial remnants.

The changes we have agreed with the UK answered this call to establish a more proper alignment of rights and responsibilities between the Government of the BVI and Her Majesty's Government; to redefine the Governor's role and powers and to ensure that the BVI's electorate can meet what its people demand from a fully democratic government, that is political leadership and full accountability on all matters, including those which have previously been the sole preserve of the Governor.

What does this mean in practice ?

The constitutional changes that are made are all aimed at achieving this re-balancing and ensuring increased democratic accountability. While the Constitution goes into detail in all areas, below is a summary of the main elements.

The Introduction of a Cabinet Style Government

The principle of an Executive Council was established in the BVI when we became a full colony. While still an overseas territory, the nature of the relationship between the UK and the BVI has changed substantially. The BVI is essentially financially independent and exercises more autonomy in managing its political, economic and social development than when it was referred to as a "dependent" territory. It has been agreed that this should be reflected in the highest decision making political body. The Executive Council will therefore be replaced by a Cabinet and the Chief Minister will become a Premier to reflect the increased responsibility of this position.

What is the difference?

With the Cabinet system of government under the new Constitution, there are added responsibilities which the Cabinet must carry out which the Executive Council currently does not have power to perform. For instance, under the current Constitution, the Governor, not only presides but has or exercises responsibility for summoning the Council itself, controlling the agenda and determining the rules of procedure for its operation; these (apart from the Governor continuing to preside) will change under the new Constitution.

It is important to ensure that the democratic will of the BVI people is better reflected in its highest executive body. It has therefore been agreed that a Cabinet should replace the Executive Council. The new elements will include:

- Cabinet membership will include the Premier and four other Ministers and the Attorney General as an ex-officio member, with the Governor presiding.
- The Cabinet will have responsibility for the formulation of policy and direct the implementation of that policy, insofar as it relates to every aspect of Government, except for those matters where the Governor has special responsibility.
- The Cabinet will be collectively responsible to the House of Assembly for such policies and their implementation.
- In the absence of the Governor (and any person so acting), the Premier will preside at Cabinet rather than the present situation where the Governor (in the absence of an Acting Governor) can select any member of the Council to undertake this role.
- The Cabinet will follow the principle of collective responsibility. This means that it will be jointly responsible and accountable for all decisions.
- A Cabinet Office led by a Cabinet Secretary will be created to service the increased importance and greater responsibility the Cabinet will have for governance and the proper functioning and implementation of its decisions within the Public Service. The Cabinet Secretary will be a Virgin Islander.
- The Cabinet agenda will be set by a Cabinet Steering Group comprising the Premier, Governor and Cabinet Secretary.
- The Governor will no longer have the power to veto an issue for inclusion on the Cabinet agenda.
- Only the Premier will have the power to summon public officers or statutory body officers to Cabinet, although he will summon such an individual if the Governor so requests.

Governance

The BVI maintains a strong international reputation for good governance and the extent of agreement between the BVI and the UK on the new Constitution is reflective of that. Part of the reasoning behind the formulation of a new Constitution was to ensure that appropriate checks and balances required by modern government are in place. The main changes are as follows:

The Separation of Duties of the Attorney General (AG) and the Director of Public Prosecutions (DPP)

The discharging of prosecutorial functions, as with the judicial service as a whole, must be seen to be independent and free of any interference or influence, particularly if a public officer or member of the Legislature is the subject of a criminal investigation. Adherence to principles of good governance would be better served if the prosecutorial functions and other duties of the office of Attorney General were separated and responsibility for criminal prosecutions reposed in a constitutional office of Director of Public Prosecutions. Also, effectively carrying out the demands on the office holder of Attorney General arising from the multiple functions and duties which the office is required to discharge coupled with the prosecution of crimes is be a major challenge. It was therefore proposed, and the UK agreed, that the duties of legal adviser to the Government and Chief Prosecutor be separated.

What is the difference?

Currently, the Attorney General wears many hats, some prescribed by the Constitution and others by virtue of the office or as prescribed by legislation. By virtue of the Constitution the Attorney General is a member of Executive Council, an ex officio member of the Legislative Council and, chief prosecutor - being the office which has sole authority to institute, take over and discontinue criminal proceedings. The prosecutorial powers are vested in the Attorney General to the exclusion, and are not subject to the direction or control, of any other person or authority. Furthermore, the Attorney General is a member of the Mercy Committee, and is one of three categories of persons with standing to petition the High Court to determine whether any person has been validly elected to the Legislative Council or has vacated his seat therein. Additionally, the Attorney General is the chief legal adviser to the Government, including the Governor and Executive Council, chief legislative draftsman, legal adviser to the Legislative Council and, at times, to the members in the Opposition. By virtue of the Attorney General's position as principal legal adviser of the Crown, and by English legal tradition, the Attorney General is an officer of the court and titular head of the Bar. Clearly too much responsibility vested in one individual. To address this issue, the post of an independent and constitutionally protected Director of Public Prosecutions has been established in the new Constitution. Both the AG and the DPP will be appointed by the Judicial and Legal Services Commission.

The Governor

The Governor will remain as the UK's representative in the Territory and he will continue to preside at Cabinet. However, there will be more sharing of some of his special responsibilities with the Premier or another designated Minister or with the Cabinet. While there will be no change to his role in defence or administration of the courts, in two important areas: internal security and external affairs, the BVI Government will have increased formal input. In addition, and perhaps most significantly the BVI Government will be officially consulted on the appointment of the Governor.

Internal Security

Crime and how it is dealt with matters to everyone. It can have a major impact on our personal safety and on the continued economic well being of our country, particularly in the tourism sector. BVI has been blessed with comparatively low levels of crime (although we have seen an increase), but when you elect a Government you expect them to have a role in dealing with crime and crime prevention. However, to date in the BVI, while the electorate looks to the Government to address increasing crime levels, it is solely the Governor who is responsible for policy in this regard. A Governor may choose to collaborate with the Government on how he is addressing a particular issue, but constitutionally he has no duty to do so and the Commissioner of Police reports to him alone with no obligation to even confer with the Head of the BVI Government.

Under the new Constitution this will change through the creation of a National Security Council (NSC).

What is the difference?

The creation of the National Security Council will bring together those currently assigned this role (the Governor and the Commissioner of Police) with the democratically elected government of the BVI. The changes will be as follows:

- The NSC will comprise the Governor, the Premier, another Minister appointed by the Governor on the advice of the Premier, and the Attorney General and Commissioner of Police as ex-officio members.
- The NSC shall advise the Governor on matters relating to internal security and the Governor shall be obliged to act in accordance with its advice. If the Governor elects not to act on the Council's advice he must explain his decision at the next meeting of the Council.
- The Commissioner of Police shall provide regular briefings on matters of internal security to the NSC, including the Police Force; have responsibility for the day to day operation of the Police Force, report regularly on such operations to the Governor and inform the Premier of any significant security developments in the BVI, including the occurrence of any significant criminal activity.
- Meetings of the NSC shall be summoned by the Governor but he will summon the Council whenever the Premier so requests.

This new structure will ensure that the Government of the BVI has a direct role in addressing crime and crime prevention and can truly represent the BVI people in this crucial area.

External Affairs

To date external affairs has been the primary responsibility of the Governor. Yet BVI Ministers and officials are deeply involved in external affairs, from day to day relations with our neighbours in the US Virgin Islands and CARICOM to the international role we play when issues affect us in financial regulation and in matters regarding the European Union. Such activity has a direct impact on the continued well being of the BVI. There was therefore no doubt in our minds that in such cases the BVI Government must be more centrally responsible for managing matters that affect the Territory's interests. The Constitutional Review Commission therefore suggested that this role be shared between the Governor and the BVI and the UK Government has agreed to this principle.

What is the difference?

To date the BVI Government's formal relationships with any body outside the BVI, including the US Virgin Islands, exists in practice, because the UK permits or delegates some responsibilities to the Government. The status quo, however, creates problems not only for us, but also for those with whom we wish to engage. For example, while our relationship with our neighbours in CARICOM is strong, it is a source of frustration for them that they cannot discuss matters with us which affect the whole region without, effectively, the involvement and support of the UK. Most of these countries became independent decades ago and it is an issue for them that engaging with us fully essentially means gaining approval from what for many of them is their former colonial master. The revision of the Constitution gave us an opportunity to go some way to correcting this anomaly and ensure that our power to engage with the international community was formally recognized.

The UK in turn is concerned that the BVI does not make a declaration or sign a Treaty that would conflict with the UK's national interests. We have therefore agreed that there will be a series of checks and balances to ensure that we have the right to engage without exposing the UK to "contingent liabilities".

The changes will include:

- The Governor shall delegate to the Premier or to another Minister designated by the Premier responsibility for the conduct of external affairs as they relate to any matters that fall within all Ministerial portfolios.
- This power relates to all external affairs but the specific examples the Constitution gives are regional affairs, including the US Virgin Islands, tourism, taxation and financial services regulation and EU matters which directly affect the interests of the BVI.
- The BVI Government in turn has agreed to keep the UK fully informed of international activities in which it is involved.

House of Assembly

The creation of the Cabinet has created a body with more status and responsibility than Executive Council. The replacement of Legislative Council with a House of Assembly does the same with the Legislature. Under the present Constitution there is no expressed provision relating to Executive Council's accountability to the Legislative Council. This will now change with Cabinet formally accountable to the House of Assembly. In addition, the new Constitution provides for an annual prorogation of the House of Assembly.

Qualifications for Elected Membership

The new Constitution will ensure that persons standing for election to the House of Assembly can trace their connection to this Territory by either birth or descent and a definition of "Virgin Islander" has been introduced which seeks to ensure that this Territory will continue to be governed by Virgin Islanders at the highest levels of government. Likewise persons who would otherwise qualify for holding elected office but who have never lived in the BVI or have been domiciled abroad for a continuous period of 10 years, will have to satisfy a residency period of 3 or 5 years as the case may be in order to be eligible to hold elected office in the House of Assembly. However, persons who would have qualified to be members of the Legislative Council prior to commencement of the new Constitution will continue to be so qualified to contest elected office.

Disqualification for Elected Membership

The disqualification for elected membership under the current Constitution whereby a person who took allegiance, obedience or adherence to a foreign power or state is not in the new Constitution. That means that persons who are naturalized United States or other foreign power citizens, who would otherwise qualify for elected membership, will be able to do so under the new Constitution.

Tenure of seats of members of House of Assembly

The new Constitution provides for members to continue receiving the benefits and privileges of a member until the polling day for election for a new House of Assembly. Under the current Constitution, members cease to receive benefits and privileges once the Legislative Council is dissolved.

Qualifications of Voters

The new Constitution does not require persons to be British subjects to be qualified to be registered as voters for elections. Persons who are belongers of the Virgin Islands, but do not qualify to vote under the current Constitution, will be eligible to be qualified under the new Constitution. For example, there is a category of belongers, who were born outside the British Virgin Islands prior to the British Nationality Act, but did not qualify as British subjects under the current Constitution and therefore did not qualify to vote.

The British Nationality Act of 1981 also introduced disqualifications with respect to children born of unmarried parents. This anomaly has been rectified under the new Constitution. Under the new Constitution the qualification to vote is that a person has to be a believer, 18 years or older, and domiciled and resident in the BVI or domiciled in the BVI but resident in the United States Virgin Islands.

Governor's Reserve Powers (Legislative)

The new Constitution has further narrowed the Governor's Reserve powers which under the current Constitution confers on him the authority to legislate by declaration deeming a bill or motion before the Legislative Council to have been duly passed in whole or in part if he considers it necessary for the exercise of any of the Governor's areas of special responsibility. The new provision will limit the exercise of such legislative powers to matters which are urgently necessary "for the purpose of complying with any international obligation applicable to the Virgin Islands."

The Judicial Branch

The judiciary is the third arm of government. The new Constitution will for the first time address or provide for the Judiciary and, specifically the High Court and Court of Appeal of the Eastern Caribbean Supreme Court pursuant to the Supreme Court Order 1967.

The Public Service

An independent public service, free from political interference is one of the great strengths of the BVI. The BVI strongly guards and protects the independence of the public service.

Under the new Constitution the powers of the various senior public service commissions (Public Service, Teaching Service, Judicial and Legal Service and Police Service – a new body) will be strengthened to ensure balance and independence and while the power to make public service appointments will still be vested in the Governor, unless he determines that to do so would prejudice Her Majesty's service, he must act in accordance with the advice of the Commissions. Furthermore, in the exercise of their functions, the Commissions will not be subject to the direction or control of any person or authority.

What is the difference?

The Public Service Commission (PSC)

The membership will continue to be five: two appointed by the Governor, one by the Governor, acting on the advice of the Premier, one appointed by the Governor acting on the advice of the Leader of the Opposition and one appointed by the Governor, acting after consultation with the Civil Service Association. The quorum of the Commission will be four. The PSC will be responsible for all public appointments that do not fall within any of the other three Commissions (Teaching Service Commission, Judicial and Legal Services Commission or Police Services Commission). When appointing a Head of Department or more senior office the Governor will consult with the Premier. In the case of the Cabinet Secretary, the PSC will draw up a list of prospective candidates and the Premier will select one from the list put forward to the Governor who shall make the appointment acting in accordance with the Premier's advice.

Teaching Service Commission (TSC)

The Teaching Service Commission will comprise three members: one appointed by the Governor, one by the Governor acting on the advice of Cabinet and one after consultation with the BVI Teacher's Union. The TSC will be responsible for all teaching appointments, including principals and vice principals.

Judicial and Legal Services Commission (JLSC)

The JLSC will have five members. As before the Chief Justice, one judge from the Court of Appeal and the Chairman of the PSC will be members. In addition, there will be two other members appointed by the Governor, one on the advice of the Premier and one on the advice of the Leader of the Opposition. Appointments that will be the responsibility of the JLSC include the posts of Attorney General, Director of Public Prosecutions, Magistrate and any public office appointments to which require legal qualifications.

Police Service Commission

The Police Service Commission will be a new body which will consist of five members: two appointed by the Governor, one appointed by the Governor acting on the advice of the Premier, one appointed by the Governor acting on the advice of the Leader of the Opposition and one appointed by the Governor acting after consultation with the Police Welfare Association. In addition where the rank of Chief Inspector or above is concerned that advice shall require the approval of the National Security Council before being submitted to the Governor.

Legislation

The new Constitution expressly provides for the Legislature to make laws for the better and more efficient functioning of all the commissions.

CONCLUSION

The new Constitution represents a great step forward for the people of the British Virgin Islands. Most importantly, for the first time, it provides a set of guaranteed rights for everyone in the BVI. Furthermore, it rebalances the relationship between the UK and the BVI to better recognise the progress in social, economic and political terms that BVI society and government have made and ensures that we have the constitutional basis on which to progress still further.