



**GOVERNMENT OF THE  
VIRGIN ISLANDS**  
Ministry of Tourism, Culture  
and Sustainable Development

## **Belonger Status and Residence Policy for the Virgin Islands**

Cabinet approved as amended: 15<sup>th</sup> April 2024

## MESSAGE FROM THE PREMIER OF THE VIRGIN ISLANDS



A pleasant good day.

Immigration has played a major role in the modern development and evolution of the Virgin Islands. Our Territory's history and our communities have been shaped by the movement of people, especially with neighbouring Islands. In recent decades, we have relied heavily on foreign workers to meet the labour demand spurred by our economic growth. Additionally, expatriates have made significant investments into our economy, creating jobs and business opportunities for Virgin Islanders.

There are a number of factors that make the Virgin Islands a wonderful place to live and work, and, therefore, it should be expected that many persons would wish to make it their permanent home and feel a part of the community that they have grown to love. Immigrants have become our neighbours, church mates, class mates, friends, spouses and much more. They have birthed children who have become indistinguishable from those with ancestry spanning several generations. It is important to acknowledge and appreciate the mostly positive contribution that these individuals have made.

However, in a small minority of instances, there have been those who have migrated and impacted these islands in a negative way. Whether by breaking the law, degrading the environment, creating social disharmony, or other harmful actions, there have been some who have fallen below the high standards we expect of residents and citizens.

In addition, unmanaged migration can place a strain on our educational, health, and physical infrastructure while contributing to social tensions and unhealthy economic competition and a loss of opportunities.

In order to build a sustainable nation, it is important to balance a number of factors in order to manage immigration, population growth and economic concerns. This policy aims to help us strike a feasible balance between those various considerations, while facilitating a clear, lawful, transparent process for migrants who have demonstrated a love and commitment to the Virgin Islands to permanently make it their home.

The formulation and publication of this policy regarding the granting Certificates of Residence and Belonger Status is intended to ensure that there is clarity, understanding and transparency in how the immigration laws and processes of the Territory work, and that the overall policy objectives are achieved.

It is my genuine hope that this policy fulfils its purpose in contributing to the sustainable building of this burgeoning nation. I thank you.

Respectfully,

**Dr. the Honourable Natalio D. Wheatley, Premier**

## MESSAGE FROM THE MINISTRY OF TOURISM, CULTURE AND SUSTAINABLE DEVELOPMENT



In alignment with the principles outlined in our Public Sector Transformation Plan, the Ministry of Tourism, Culture, and Sustainable Development is proud to introduce the Belonger Status and Permanent Residence Policy for the Virgin Islands. We recognise the need for our policies and proposed legislative amendments to be a true reflection of the collective voice of our community, responsive to feedback, and driven by a commitment to inclusivity.

The development of this policy has been a journey guided by the invaluable input of our stakeholders, communities, and partners. We have diligently sought the insights and perspectives of our citizens, listened to their concerns, and welcomed their ideas to shape a policy that resonates with our shared vision for the future.

Our engagement efforts have been far-reaching, encompassing surveys, meetings with community groups, and open forums on all major islands. We have embraced transparency and responsiveness by listening to call-in programmes and directly soliciting feedback from our technical partners, ensuring that our policy is a collaborative effort that embodies the diversity of our society.

Furthermore, this policy has been thoughtfully informed by the recommendations of an independent reviewer, Mr. Kedrick Malone, who provided valuable insights and guidance to enhance its effectiveness and fairness. The collaboration with the independent reviewer has reinforced our commitment to transparency, accountability, and the pursuit of best practices in immigration management.

The result of these extensive consultations and rigorous examination of best practices is a policy that addresses immigration within the context of the National Sustainable Development Plan. We believe this policy not only reflects our collective aspirations but also sets a high standard for how we develop policies that serve the best interests of our Territory.

We are immensely grateful for the engagement and feedback received from our stakeholders and the wider community. Your contributions have been instrumental in shaping this policy, and we are confident that it will guide us toward a sustainable, inclusive, and prosperous future.

Thank you for your unwavering support and commitment to our shared vision.

Respectfully,

Joseph Smith Abbott  
Permanent Secretary (Acting)  
Ministry of Tourism, Culture and Sustainable Development

## **Table of Contents**

MESSAGE FROM THE PREMIER OF THE VIRGIN ISLANDS .....	1
MESSAGE FROM THE MINISTRY OF TOURISM, CULTURE AND SUSTAINABLE DEVELOPMENT .....	2
Table of Abbreviations .....	4
Purpose and Scope of the Policy .....	5
Applicability .....	5
POLICY GOALS .....	5
POLICY OBJECTIVES .....	6
INTRODUCTION .....	6
BACKGROUND .....	7
The Virgin Islands .....	7
The Drivers and Effects of Immigration .....	9
Managing Immigration .....	10
Rights and Privileges .....	11
Residence Status .....	11
Belonger Status .....	11
POLICY STATEMENTS .....	12
National development priorities drive the consideration of the grant of Permanent Residence and Belonger status .....	12
Guidelines for the Grant of Permanent Residence and Belonger Status .....	13
Principles Guiding the Administrative Process of Awarding Permanent Residence and Belonger Status .....	16
Length of Time for Residence and Belonger Status .....	17
Ability of a Spouse receiving Belonger Status under Section 16(6) and 16(7) of the Immigration and Passport Act, 2013 to pass that status to a new Spouse .....	18
Permanent Status and Belonger Status Quotas .....	18
Background .....	18
Proposed mechanisms to be applied to determine immigration quotas .....	19
Process for Determining Immigration Quotas .....	20
The Role of Cabinet in Quota-Setting Governance Framework .....	21
Role of the Board of Immigration in the Quota-Setting Governance Framework .....	22

Role of the Ministry Responsible for Immigration in the Quota-Setting Governance Framework .....	22
The Role of the Department of Immigration in the Quota-Setting Governance Framework ...	23
Establishing Labour and Immigration Policies which are Complimentary and Integrated, and a Working Relationship among the Respective Agencies which is Collaborative .....	24
Investor and entrepreneur programmes in the Virgin Islands, ensuring these initiatives contribute meaningfully to the development of the territory .....	25
The Role of the Minister in the Overarching Framework of Immigration Reform .....	26
The role of the Board of Immigration in the Overarching Framework of Immigration Reform ..	27
The Role of the Permanent Secretary in the Overarching Framework of Immigration Reform ..	28
The Role of the Chief Immigration Officer in the Overarching Framework of Immigration Reform .....	29
General guiding principles on the use of discretion on immigration matters .....	30
The establishment of an appeals process to give redress under the immigration framework.....	30
Broad Qualifications of Immigration Appeals Panelists.....	30
High Level Description of the Appellate Processes.....	31
Conclusion .....	32

## Table of Abbreviations

<b>Abbreviation</b>	<b>Meaning</b>
<b>BVI</b>	British Virgin Islands
<b>COI</b>	Commission of Inquiry
<b>FDI</b>	Foreign Direct Investment
<b>IT</b>	Information Technology
<b>NBLHL</b>	Non-Belonger Land Holding Licence
<b>NHI</b>	National Health Insurance
<b>SIDS</b>	Small Island Developing States
<b>UK</b>	United Kingdom
<b>US</b>	United States
<b>VI</b>	Virgin Islands

## **Purpose and Scope of the Policy**

The purpose of the Belonger and Residence Policy is to outline a fair, clear, and transparent framework and process by which individuals who are not deemed to belong or who are not permanent residents may be granted the privilege of attaining this status. It also responds to the policy recommendations of the review in response to B33 of the Framework for the Implementation of the COI Recommendations and Other Reforms. Following the publication of the review, which was written by Kedrick Malone, a series of consultations were held with the public, which also yielded valuable feedback incorporated into this policy. With this policy, Government seeks to define clear pathways to residence and Belonger Status, balancing the aspirations of those who seek to call the Territory home with the national interest.

## **Applicability**

The policy entitled *Belonger Status and Permanent Residence Policy for the Virgin Islands* will apply upon adoption by Cabinet. It is important to note that any holder of a Certificate of Residence seeking Belonger status after the passage of the amendments to the Immigration and Passport act will be assessed under the new guidelines and criteria. However, the new guidelines and criteria will not apply to those applicants who were under active consideration prior to the passage of the Immigration and Passport (Amendment) Act, 2024 bringing this policy into effect.

## **POLICY GOALS**

The broad goals of this policy are to do the following:

1. Establish policies and practices that facilitate sustainable population growth and dynamics management, discouraging uncontrolled and unsustainable growth, while ensuring that the demographic changes align with the Virgin Islands' economic and social capacities;
2. Enhance economic prosperity and stability in the Virgin Islands by attracting and retaining individuals who positively impact the local economy, thereby ensuring sustainable development and a robust job market;
3. Implement clear and transparent immigration policies and procedures, providing stakeholders with a comprehensive understanding of the criteria and processes involved in residence and Belonger status decisions;
4. Develop and implement support programmes that assist newcomers in integrating into the Virgin Islands' society, fostering a sense of belonging and facilitating a smooth transition into the local culture and community;
5. Establish mechanisms for accountability and fairness in the decision-making processes related to Residence and Belonger Status, in line with Recommendation B33 and other applicable guidance;
6. Adopt and adhere to international best practices in immigration management, considering the diverse needs and aspirations of individuals seeking to become part of the Virgin Islands' community.

## **POLICY OBJECTIVES**

The objectives of this policy are do the following:

1. **Social Cohesion and Inclusivity:** Promote social cohesion and inclusivity by facilitating the integration of newcomers into the Virgin Islands' society, culture, and communities.
2. **Economic Development and Prosperity:** Foster economic growth and prosperity in the Virgin Islands by attracting skilled workers, entrepreneurs, and investors who contribute to the local economy and job creation;
3. **Cultural Enrichment and National Identity:** Promote cultural enrichment and preserve the unique national identity of the Virgin Islands by welcoming individuals who contribute positively to society while protecting the rights of indigenous Virgin Islanders;
4. **Demographic Sustainability:** Address demographic challenges and sustain the Virgin Islands' population by facilitating family reunification and attracting a diverse range of residents;
5. **National Security and Border Control:** Enhance national security and effective border control measures to safeguard the well-being and interests of the Virgin Islands and its citizens;
6. **Fair and Transparent Decision-Making:** Ensure fairness, transparency, and consistency in the decision-making processes related to Residence and Belonger Status, taking into account Recommendation B33 and Guidance to Cabinet, fostering fairness, equity, and adherence to established criteria and accountability;
7. **Integration and Settlement Support:** Facilitate the successful integration and settlement of immigrants by providing support programmes that assist with cultural, linguistic, and socio-economic adaptation;
8. **Effective Enforcement and Compliance:** Ensure effective enforcement of immigration policies while upholding human rights and international obligations, maintaining a balance between security and individual freedoms.

## **INTRODUCTION**

The drivers, benefits and challenges of immigration are global. They affect and apply to almost every country inclusive of the Virgin Islands, and are by no means unique to the Territory. The risks to economies and societies from the unregulated movement of people makes it necessary for Governments to manage immigration.

As a relatively small country, with a small national population and an expatriate population that is almost twice the size, the risks of unmanaged immigration are more acute in the Virgin Islands than in bigger countries with larger populations and economies. The balance that must be struck is a very delicate one.

It should be noted that Residence and Belonger Status, generally and in most countries, are privileges granted to persons, and not considered to be a right or an entitlement. Establishing a comprehensive immigration policy, with a deliberate focus on managing the grant of Residence and Belonger Status, holds profound importance for Small Island Developing States (SIDS) such

as the Virgin Islands. In these nations, often characterized by limited resources and unique challenges, such policies play a multifaceted role in shaping their future. They serve as a catalyst for economic development by attracting investment, skills, and entrepreneurship, while also addressing demographic issues and enriching local cultures. Additionally, such policies bolster resilience and security, strengthen diplomatic ties, and ensure human rights compliance. Furthermore, they help define national identity, streamline resource allocation, foster social cohesion, and contribute to sustainable development. For SIDS, the careful management of immigration, including the judicious grant of Residence and Belonger Status, is not just a matter of policy but a pivotal element in navigating the complexities of their distinctive contexts and aspirations.

The submission of an application or satisfying all the screening criteria does not automatically guarantee that Residence and Belonger Status would be granted. In granting such privileges, Governments are entitled to take into consideration such factors as the impact on the economy or sectors, infrastructure, society and culture, capacity to absorb new, permanent entrants into their societies and its priorities for development, to name a few.

The structures and systems for managing the granting of Residence and Belonger Status must be clear and transparent so that persons are able to easily navigate through the process and so that the integrity of the system is maintained. While the administrators of the process strive to achieve their objective of balancing the legitimate considerations.

This document aims to set out the policy for the granting of Certificates of Residence and Belonger Status by the Government of the Virgin Islands and associated matters. The policy will guide legislative amendments to the principal Act, the Immigration and Passport Act, and form the basis for negotiation of constitutional amendments.

## **BACKGROUND**

### ***The Virgin Islands***

The Virgin Islands (VI) is an Overseas Territory of the United Kingdom (UK). It consists of a cluster of about 60 islands and cays located in the Leeward Islands in the West Indies. Its population is approximately 37,000 Virgin Islanders and residents, and per capita gross domestic product of approximately US\$45,500. The VI economy has a Gross Domestic Product of US\$1.09 billion, and its two main drivers are tourism and financial services.

Tourism was propelled by the Hotels Aid Ordinance 1953 and deliberate Government policies since 1961, and contributes to about 55% of overall economic activity and a greater share of employment in the VI. The International Business Companies Act 1984 paved the way for the VI to become a global centre for offshore corporate and financial services, in particular the registration of corporate entities. Financial and allied professional services (including banking and insurance) accounts for 25-30% of the economy. The VI formally adopted the US dollar as its official currency in 1959.



The advent and growth of the tourism industry spurred a construction boom that carried into the 1980s. Together, these two events drove up labour demands in excess of the capacity of the local population. Continued economic development and growth through the financial services industry further increased labour demands. Thus, activity in these three sectors, and in other complementary services that emerged, resulted in the need to import workers into the VI to meet the demand and to overcome the constraints on business development and economic expansion that would have befallen the economy due to the VI having a small national population. The labour demand was largely filled by persons from other Caribbean countries, though not exclusively as the VI attracted persons from all around the world. As the VI economy continues to grow, the need for migrant workers remains.

The structures for managing the influx of migrant persons developed incrementally and evolved over the years. Authorisation to work in the VI is regulated by the Labour Code, first introduced in 1975 and revised in 2010. Authorisation to enter and stay in the VI, and the conditions of such authorisation, for example whether the individual would be eligible to seek employment, is regulated by the Immigration and Passport Act 1977 revised in 2014, which has been amended over the years, as well as the related Immigration and Passport Regulations 2014. The Immigration and Passport Act and Regulations set out the legislative framework for the granting of Certificates of Residence and Belonger Status to persons who wish to make the VI their permanent home or to become citizens respectively.

The temporary and permanent movement of persons into and out of the VI have impacted the size and composition of the population. Between 1960 and 1970, the VI population increased from 7,340 to 10,030; a growth of 37%, mostly due to immigration. This rapid increase coincided with the Territory's economic expansion. In the period 2000 to 2021, the VI population increased by 68% from approximately 22,000 to 37,000. The average fertility and death rates are low; 9.88 per 1,000 and 3.98 per 1,000 respectively. The increase in the population has been significantly driven by foreign workers. From 2005 to 2015, the VI nationals' population increased by an average of 1.8% annually, while the expatriate population grew by an average of 3.8% annually; double the growth rate of VI nationals.

According to data from the BVI Central Statistics Office, in 2015:

1. 36% of the total population were VI nationals and 64% were expatriates;
2. The leading industries for foreign workers were Construction (20.4%); Accommodation and food service activities (15.3%); Wholesale and retail trade, motor vehicle repairs etc. (12.8%); Administrative and support service activities (9.2%); Public Administration (9.1%); and Professional, scientific and technical activities (6.6%); and
3. The leading countries of origin for foreign workers were Jamaica (14.1%); St. Vincent (13.6%); Guyana (12.2%); Dominican Republic (10.3%); US Virgin Islands (7.5%); Dominica (6.5%); United States (USA) (6.0%); and St. Kitts & Nevis (5.8%).

It should be noted that the Virgin Islands people have evolved a unique cultural identity and a society that is shaped by their collective experiences and circumstances across generations

predating the era of slavery. The *essence of a Virgin Islander* is captured in the Preamble to the Virgin Islands Constitution Order 2007, and recognises such characteristics as certain moral, spiritual and democratic values including a belief in God, the dignity of the human person; a free and independent spirit; qualities of honesty, integrity, mutual respect, self-reliance and the ownership of the land engendering a strong sense of belonging to and kinship with their Islands; their quest for social justice, economic empowerment, and political advancement; and their desire to become a self-governing people and to exercise the highest degree of control over the affairs of their country at the present stage of its development.

The Virgin Islands people are on a mission of nation building, underpinned by these motivations, principles and values. Maintaining the existence and strength of their cultural identity involves managing the influence that other cultures exert on Virgin Islands culture and ensuring that there is reasonable protection so that the unique culture and identity of the Virgin Islands people, and their patrimony, are not lost.

### ***The Drivers and Effects of Immigration***

Generally, people migrate from their home countries seeking opportunities for a better life. This can include employment and business, better wages, higher quality of education, better healthcare, and better social conditions, to name a few. In more extreme situations, persons may migrate to escape discrimination, persecution and otherwise unsafe environments, where their lives and wellbeing, and that of their families, are at risk.

Receiving countries benefit from migration in several ways. For example, they gain resources for their economy in the form of labour and expertise. Migrants bring with them knowledge, skills and technology that were developed at the cost of another country, which the receiving country is able to access. They have ways of doing things that can give a fresh or diverse perspective on problem solving. Immigration can therefore be a source for accessing resources where there is a deficit in the receiving country's own population. Migrants also become assets for international networking, through whom the receiving country can access resources, such as know-how and linkages for business and trade, in other countries.

Population increases can also have a positive effect on economic activity. Immigrant workers contribute to Government revenues through the payment of taxes and contributions to social security schemes. They also add to increasing the demand for goods and services within the economy.

The presence of persons from foreign countries can result in a highly multicultural environment in a society, giving it an inclusive feel. Cross-cultural exchange enhances the social fabric and adds to a vibrant tapestry for the receiving country.

Attaining Permanent Residence and/or Belonger Status can give persons the confidence and security to make deeper and more long-term investments in the receiving country. They no longer have to think about saving or investing their money in their home country. It also encourages them to become more committed to social integration. They feel confident to do these things in their new home as the likelihood of being ejected diminishes and is no longer a threat.

With all the benefits from immigration also come financial burden and serious risks, and these factors must be managed.

Some studies have argued that immigration can potentially have a negative impact on real wages where employers may seek to hire immigrants at lower wages than native workers would be willing to accept. The impact on wages tends to be greater for the low-paid and those with less educational qualifications. Another potential effect of this is structural unemployment, where native-born workers are displaced for cheaper immigrant workers. Native-born, low-skilled workers may find it difficult to obtain new employment in higher-skilled occupations.

Immigration may provide economic opportunities for property owners who experience a demand for rental homes. However, population increases in areas with low or limited housing stock can put upward pressure on rentals and housing prices, reducing living standards and increasing housing poverty for both migrants and the native-born population who experience high living costs.

While immigration may solve problems associated with under-population, the impact of over-population can be disastrous for countries and cities. Immigration and a rise in local populations put greater pressure on social services, such as schools, hospitals, roads, sewer systems, waste management, and public transport. If the Government is unable to keep up or to stay ahead of these demands, the net result is the deterioration of the infrastructure, the quality of public amenities, and the quality of life.

Where immigration is too rapid, this can result in social disharmony and tensions. Whilst some individuals may prefer a more multi-cultural society which occurs from immigration, others can become unsettled by the sudden and dramatic change and feel like their culture and background is threatened by immigrants who do not fit into or appreciate their existing societal and cultural norms. These tensions can be exacerbated by the negative economic impacts such as the effects on wages, employment, access to housing, and the overall cost of living, as well as real or perceived conflicts between cultures and belief systems.

These factors emphasise the case that immigration, especially permanent immigration, must be carefully managed with consideration to the social, cultural and capacity impacts and the long-term sustainability of the receiving country and the well-being of the national community.

### ***Managing Immigration***

Strong economies and opportunities for work attract foreigners seeking employment and permanent residence. Countries cannot realistically accept all applicants. It is common, and logical, for Governments to establish policies for selecting persons to whom these privileges would be granted. These policies aim to select persons based on their ability to meet identified development needs or targets, while mitigating the risks of migration.

The need for managing immigration and permanent residence is imperative and unavoidable. In deciding on where the balance should fall between the various factors, taken separately and collectively, the Government must consider the sustainability of the Virgin Islands and the welfare

of its people. It is the norm around the world for Governments to prefer granting Residence or Belonger status to persons who possess special skills or qualifications in a particular field or who may otherwise provide some benefit to the country, that may enhance the local capacity, and thereby retain them within the population. Therefore, the period of residence, is only one factor in determining eligibility for the grant of status. Other factors must be considered in managing the process of awarding permanent residence and Belonger Status.

Governments also need tools to manage the growth of the population through migration, such as application moratoriums and quotas for permanent residence and Belonger Status grants.

### ***Rights and Privileges***

Residence and Belonger Status confer different benefits to individuals, which are not to be confused.

#### ***Residence Status***

Residence status extends to an individual the privilege to regularly reside in the Virgin Islands, according to the migration laws of the Territory. It does **NOT** automatically create the right to British Overseas Territories Citizenship or Belonger Status.

#### ***Belonger Status***

Belonger Status bears some similarities with, but is not identical to, the concept of citizenship; and the distinction between the two are fundamental.

In the common context, citizenship or nationality refers to a specific legal relationship between an individual and a State, which is recognised by that State. Citizenship of a country has many legal benefits, which may include the rights to vote, to hold public office, to social security, to health services, to public education, to Permanent Residence, to own land without the need for a license, or to engage in employment, amongst others.

In the particular context of the relationship between the Virgin Islands and the UK, the granting of British Overseas Territories Citizenship is within the purview of the UK under the provisions of the British Nationality Act 1981 as amended.

Granting Belonger Status is a delegated function of the Territorial Government, through which a person becomes *deemed to Belong to the Virgin Islands*. This authority is derived from Section 2 of the Virgin Islands Constitution Order 2007<sup>1</sup> and the Immigration and Passports Act 2014 Revision. The purpose of this function is to enable the Territorial Government to manage its population, and to establish and regulate the relationship between the Virgin Islands and persons deemed to Belong to the Territory. It is a recognition of a special relationship between the individual and the Virgin Islands. Persons deemed to Belong to the Virgin Islands are afforded the privileges to live and work in the Territory without immigration restrictions; to be issued with a Belonger Card; to own property without requiring a Non-Belonger Landholding license; to vote and hold public office in accordance with the criteria set out in the constitution; and to access certain social and economic benefits and privileges from the Territorial Government that are reserved for Belongers.

A new and reformed framework for immigration matters shall weigh the need to ensure that the rights of ancestral Virgin Islanders, residents, Belongers and those who have a genuine interest in making the Virgin Islands their home are prioritised.

## **POLICY STATEMENTS**

### ***National development priorities drive the consideration of the grant of Permanent Residence and Belonger status***

Our approach upholds the principle that both Permanent Residence and Belonger Status are privileges to be earned through demonstrated commitment to and integration into our community, rather than rights acquired merely through the passage of time.

The goal is to ensure that the process of granting residence and Belonger status is in harmony with the broader goals of national development, balancing the need for economic growth, cultural integration, environmental sustainability, and social stability.

1. The grant of Permanent Residence and Belonger Status will be aligned with our national development priorities, ensuring that the individuals who are granted these statuses contribute positively to our economic, social, and cultural development objectives;
2. Priority will be given to applicants who demonstrate the ability to contribute to the Virgin Islands' economy, either through their professional skills, entrepreneurship, or investment in key sectors identified in our national development strategy;
3. Applicants for Permanent Residence and Belonger Status must show a commitment to the cultural values and social fabric of the Virgin Islands, including participation in community initiatives and an understanding of our history and traditions;
4. Our immigration policies will consider the sustainable growth of our population, ensuring that the grant of Permanent Residence and Belonger status aligns with our capacity to provide infrastructure, services, and a high quality of life for all residents;
5. Our immigration policies will require sensitivity to the moral obligation to keep families together unless there is a valid reason to do otherwise;
6. Consideration for Permanent Residence and Belonger status will include an assessment of the applicant's commitment to environmental stewardship and sustainable practices, reflecting our dedication to preserving the natural beauty and ecological balance of the Virgin Islands;
7. The grant of Permanent Residence and Belonger status will be subject to thorough background checks to ensure national security and public safety, safeguarding our community from potential risks;
8. The grant of Permanent Residence and Belonger status must not have an overall harmful effect on our local labour force;
9. Consistent with our national development priorities, the path from residence to Belonger status will require a demonstrated long-term commitment to living in and contributing to the Virgin Islands, ensuring that those who are granted Belonger status have a deep, integrated connection with our community and its future.

Our immigration policies will be regularly reviewed and adapted to reflect changing national development needs and global trends, ensuring they remain relevant and effective in promoting the overall progress and prosperity of the Virgin Islands.

## **Guidelines for the Grant of Permanent Residence and Belonger Status**

The distinction between Residence, Belonger Status, and the status of individuals entering the Territory under a work permit is crucial for understanding the varying degrees of rights and privileges afforded within the Virgin Islands' immigration framework. Residence Status offers stability and certain legal rights, acting as a stepping stone towards the more inclusive Belonger Status, which confers a broader spectrum of rights akin to citizenship. In contrast, individuals on work permits have more limited rights, primarily tied to employment. The following table details these differences, providing clear details of the specific benefits and limitations associated with each category and permanent status.

<b>Categories of Rights and Privileges</b>	<b>Entry Permit Holders</b>	<b>Permanent Residence</b>	<b>Belonger</b>
Requirement to permanently reside in the Territory	No	Yes	No
Term limit to being outside of the Territory	Terms are defined within the permission to enter the Territory for work	Yes	No
Need to reapply	At the expiration of the work permit	Yes	No
Right of Abode (Internal Immigration Control) – permission to remain in the Territory without immigration restrictions	No	Yes	Yes
Access to social assistance	No	Yes (Conditions defined under the Social Assistance Grants Programme)	Yes
Access of dependents to social benefits (NHI)	No	Yes	Yes
Ability to obtain a Trade License when entering the Territory as an employee under an entry permit for the purposes of work	No	Yes	Yes
Visa requirement (where applicable)	Yes	No	No

Categories of Rights and Privileges	Entry Permit Holders	Permanent Residence	Belonger
Compliance with the provisions to hold land under Non-Belonger Land Holding Licence	Must comply with the Act	Must comply with the Act	Can hold land without a NBLHL
Right of Franchise/Voting	No	No	Yes

It is important that applicants, the Immigration officials, the Board of Immigration, Cabinet, and the public have clear guidelines for what is required in order to be granted Permanent Residence and Belonger status. This will ensure there are clear expectations when engaging in the process and a basis for accountability, consistency and fairness. These guidelines are not merely procedural but are deeply rooted in the territory’s core values. These guidelines will ensure that the Cabinet’s discretionary powers are exercised in a reasonable and fair manner, while seeking to uphold the integrity of our community and preserving the essence of what it means to be a Virgin Islander.

Cabinet may be minded to consider the following general guidelines as it decides to grant applicants residence and Belonger Status:

1. **Community Participation and Solidarity:** Applicants should demonstrate a history of active and positive participation in their current communities. This can include volunteering, involvement in community projects, or other forms of civic engagement that reflect a commitment to communal well-being and solidarity. Volunteerism may be demonstrated through significantly sustained contributions with registered Non-Profit Organisations, Civic Society or Community Based Organisations and Religious Organisations;
2. **Respect for Cultural Heritage and Integration:** Applicants should demonstrate a history of respect for and integration into the local culture and traditions where they have lived. For Virgin Islands applicants, this includes an understanding and appreciation of the Virgin Islands’ culture, history, and societal norms. Applicants may be required to attend Virgin Islands History classes and/or taking a Virgin Islands History test. Applicants should show a willingness to engage in cultural and social orientation programmes about the Virgin Islands, demonstrating their commitment to understanding and integrating into the community. For those who are non-English speakers, there must be a desire to learn English, which will assist with the integration process. Government must ensure that programmes encouraging and facilitating integration are available and accessible;
3. **Law-Abiding Behaviour:** A clear record of law-abiding behaviour is crucial. This includes the absence of criminal convictions and adherence to legal obligations in their current and past places of residence. Respect for the rule of law is paramount. This is confirmed by a clean criminal record in BVI and/or overseas and or current charges awaiting hearing;
4. **Environmental Responsibility:** Demonstrated commitment to environmental stewardship and sustainable practices. This might include involvement in environmental conservation efforts or adherence to eco-friendly practices, reflecting the Virgin Islands’ value of environmental protection;

5. **Economic Contribution and Community Integration:** While a stable work history and strong work ethic remain valuable, we recognise the diverse ways individuals can contribute to the Virgin Islands beyond traditional employment. This includes not only business investments and entrepreneurship but also cultural, social, and community contributions that enrich the BVI. Contributions through arts, sports, philanthropy, or other forms of public service are equally significant. Recognising the roles of individuals in various life stages and circumstances, such as retirees with past contributions or dependents engaging in community life, underscores our inclusive approach. We also emphasise the importance of integration, understanding, and respect for the BVI's culture and history, ensuring that applicants are well-aligned with the Territory's values and societal fabric. This broader perspective allows us to appreciate the full spectrum of contributions, from economic to cultural, ensuring that our policies are equitable and reflective of the diverse roles individuals play within our community;
6. **Demonstrated Inclusivity and Respect for Diversity:** An attitude of inclusivity and respect for diversity, evidenced by past interactions and commitments, aligns with the Virgin Islands' value of harmonious social relations among people of diverse backgrounds;
7. **Financial Stability and Responsibility:** Applicants should demonstrate not only a history of financial responsibility, including the timely fulfilment of financial obligations such as taxes, debts and any development commitment under a Non-Belonger Land Holding Licence. Evidence of financial stability and the capacity for self-sufficiency is paramount. This ensures that applicants possess the means to support themselves and contribute to the Territory's economy without imposing a burden on public resources. The assessment of financial stability may consider various factors, including but not limited to, consistent income sources, household income, savings, investments, and property ownership. While a level of debt may not automatically disqualify an applicant, excessive indebtedness that suggests financial imprudence or instability may be considered unfavourably. The goal is to ensure applicants can maintain a stable and independent financial standing that aligns with the economic sustainability and prosperity of the Virgin Islands.
8. **No History of Exploitation or Abuse:** A history free from any involvement in exploitation or abuse, either in personal or professional capacities, is crucial. This aligns with the ethical and moral standards upheld in the Virgin Islands;

The Board of Immigration will be tasked to develop a set of quantifiable metrics and a point-based system. This system will offer a more objective and transparent method for evaluating applicants for Residence and Belonger status based on the established guidelines. Metrics could include but will not be limited to factors such as the duration and nature of employment, participation in community and cultural events, and evidence of cultural knowledge or language proficiency. Once developed, these metrics will be approved by the Cabinet and officially published by Order in the Virgin Islands Gazette to ensure public accessibility. The Department of Immigration will then be responsible for the dissemination of this information, ensuring that prospective applicants have a clear understanding of how they will be assessed, thereby enhancing the fairness and clarity of the processing of applications. Using these guidelines to make decisions will ensure that migration into the Territory is complementary to our nation building process.



## ***Principles Guiding the Administrative Process of Awarding Permanent Residence and Belonger Status***

The following principles are meant to ensure transparency, fairness, and consistency while providing clear parameters for Cabinet's use of discretion:

1. **Statutory Criteria for Eligibility:** Clear statutory criteria for the grant of both residence and Belonger status must be established, approved, and published by Order in the Gazette to guide the process. These criteria must be reviewed periodically and revised as necessary;
2. **Transparent Decision-Making Process:** A transparent decision-making process with documented reasons for approval or rejection of applications must also be established. This process should be open to scrutiny and comply with principles of administrative law. The Department of Immigration shall publish its service standards inclusive of timelines for the delivery of decisions related to the processing of applications. Administrative processes will include the need for clear communication with applicants regarding the status of their applications at pre-determined steps. A pre-defined period of receipt of applications or an intake period may be established for specific periods of the year by Order published in the Gazette. Cabinet may determine the intake periods for individuals who may have qualified the year prior. These measures should allow for due diligence and greater processing efficiency to be applied;
3. **The application of the discretion of Cabinet:** Cabinet, as the highest decision-making body in the Territory, would be the body responsible for approving grants of residence and Belonger Status. The discretion of the Cabinet should be exercised in accordance with guidelines approved by that body. Where Cabinet wishes to make any decision on an applicant contrary to the recommendations of the Immigration board, there should be very clear justifications based on the above-mentioned guidelines, the law and the principles of fairness, justice, and equality;
4. **Regular Reporting and Accountability:** Cabinet and Immigration Board must provide regular reports on their decisions regarding the grant of residence and Belonger status to be elaborated in existing annual reporting mechanism at the departmental level. These reports should include statistical data and insights into the decision-making process;
5. **Appeal and Reapplication Process:** A clear and fair appeal process for applicants whose requests have been denied must also be established. This process should include an independent review mechanism to ensure that decisions are made justly and in accordance with established guidelines. Those who are denied must also have clear guidelines on the length of time necessary before reapplication for status;
6. **Training and Capacity Building:** Training for members of the Immigration Board on the legal framework, guidelines, and ethical considerations relevant to the grant of residence and Belonger status should be conducted on a regular basis;
7. **Community Feedback and Engagement:** The community's role in the process must be acknowledged and respected. The community must be consulted in the policy-making process. Regular engagement with community stakeholders can provide valuable insights and help ensure that policies align with the community's needs and values. Also, the

community must be kept informed regarding statistical trends and other data necessary for understanding the impact of immigration on the Territory;

8. **Periodic Review of Policies and Guidelines:** Policies and guidelines must be regularly reviewed and updated to ensure they remain relevant, effective, and in line with international best practices and standards;
9. **Preventing Conflicts of Interest:** Measures must be implemented to prevent conflicts of interest in the decision-making process. Members of the Immigration Board and Cabinet should disclose any potential conflicts of interest and recuse themselves from decisions where such conflicts exist.

These guidelines aim to align the grant of residence and Belonger status with the principles of good governance, ensuring that decisions are made fairly, transparently, and in the best interest of the Virgin Islands community. These parameters will be enshrined into legislation, which shall govern the overall process.

### ***Length of Time for Residence and Belonger Status***

A primary objective of this immigration reform process is to ensure that law and policy are harmonised in respect to the grant of residence and Belonger status in the Virgin Islands. A clear determination of the required length of time for Permanent Residence as well as Belonger Status is necessary to properly administer a transparent, accountable process.

Under this policy, applicants must be ordinarily resident in the Territory for at least 10 years before becoming eligible to apply for Permanent Residence. To become eligible to apply for Belonger Status by tenure, an applicant must be ordinarily resident in the Territory for at least 20 years, while holding a Certificate of Residence Status for a minimum of twelve months. However, the new guidelines and criteria will not apply to those applicants who applied prior to the passage of the amendment to the Immigration and Passport Act, 2024.

The rationale for the granting of Residence Status after 10 years and Belonger Status after an additional 10 years is deeply rooted in the values previously detailed. This approach ensures that individuals have a substantial period to integrate, contribute to, and understand the Virgin Islands community, aligning with the territory's emphasis on cultural assimilation and economic contribution. The extended duration allows for a thorough evaluation of an individual's commitment to the Virgin Islands, reflecting the community's desire for residents and Belongers who are not only familiar with but also deeply respect the culture, history, and customs of the Virgin Islands. This phased approach balances the need for economic growth with the preservation of social cohesion and cultural identity, ensuring that those who attain these statuses have demonstrated a long-term investment in the well-being and future of the Virgin Islands.

It is important to reemphasise that tenure alone is not sufficient to determine the suitability of an applicant for Permanent Residence or Belonger Status, but, as was stated before, the character and skills of an applicant, among other factors, must be considered in the decision-making process.

Award of residence status may be reviewed after five years. The new step is designed to maintain the integrity and objectivity of the process of awarding residence status. The Immigration

Department will develop a process, which will include the utilisation of technology, that will monitor ongoing compliance of local laws and regulations. The rationale behind this periodic renewal is multifaceted: it allows the Government of the Virgin Islands to monitor residents' adherence to legal standards, assess their integration and contribution to the community, and evaluate their progress towards meeting the criteria for Belonger Status. Through this process, the Territory ensures that residency is maintained by individuals who actively contribute to and respect the values and laws of the Virgin Islands, paving a responsible possible path towards Belonger Status.

### ***Endorsed Children path to Residence Status***

It is important to note that a specific class of individuals deserve special consideration. Individuals attaining the age of 18 who have ordinarily resided in the Territory and attended educational institutions for no less than 10 years, and have previously been endorsed on a parent's Certificate of Residence Status may qualify for grant of Residence Status upon their 18<sup>th</sup> birthday and thus have their own status regularised. In order to qualify, individuals must have a clear police record, be of good character, demonstrating good behaviour during their tenure in the Territory, attended a minimum of 10 years in educational institutions, and has been endorsed along with a parent on their Certificate of Residence Status. The individual under consideration, who may have been a dependent but whose status may change upon attaining 18 years, is required to apply six months prior to attaining the age of 18 years old, but will be allowed to continue their residence on a temporary basis while their status is being processed.

### ***Children Born in the BVI to Non-Belonger Parents***

The status of children born in the Territory to parents of non-Belonger status deserves clarity on their path to belonging to the Territory. Children born in the Territory to Non-Belonger parents, who ordinarily reside in the Territory, may be granted Residence Status after attaining 10 years of age, irrespective of parental status, and later become eligible for the grant of a Certificate of Belonger Status upon attaining 18 years of age.

### ***Ability of a Spouse receiving Belonger Status under Section 16(6) and 16(7) of the Immigration and Passport Act, 2013 to pass that status to a new Spouse***

A spouse obtaining Belonger Status under Section 16(6) or Section 16(7) will not be able to pass the status on to a new spouse under any circumstances.

## **Permanent Status and Belonger Status Quotas**

### ***Background***

The establishment of immigration quotas is a critical component of the proposed governance framework, and it serves as a policy tool to manage and regulate the inflow of foreign nationals into the Territory. The need for immigration quotas arises from a complex interplay of economic, social, political, and demographic factors. In this context, various government entities, including

the Cabinet, Ministries of Government, the Board of Immigration, the Department of Immigration, the Department of Labour and Workforce Development collaborate to set and implement these quotas. The overarching goal is to strike a balance between facilitating immigration for specific purposes, such as meeting labour market demands, family reunification, or humanitarian considerations, while safeguarding the interests of the Territory and ensuring compliance with international obligations.

### ***Proposed mechanisms to be applied to determine immigration quotas***

The determination of immigration quotas, regardless of the type (e.g., work permits, residence permits, or permanent immigration), involves a combination of factors, policies, and mechanisms that aim to address specific needs such as labour market conditions, and social and economic objectives. Several factors should be considered in determining immigration quotas include:

1. **Labour Market Analysis:** Many countries conduct labour market assessments to identify shortages or surpluses of specific skills and occupations. This analysis helps in setting quotas that align with the country's labour market needs.
2. **Economic Priorities:** Immigration quotas may be influenced by a country's economic priorities. Governments often set quotas to attract foreign investment, stimulate economic growth, or fill gaps in industries critical to the nation's economy.
3. **Demographic Considerations:** Demographic factors, such as population growth and age distribution, can influence immigration quotas. Countries facing aging populations may use immigration to supplement their workforce.
4. **Skills-Based Quotas:** Some countries establish quotas based on the skills, qualifications, and experience of prospective immigrants. They prioritise individuals with specific skills or educational backgrounds that are in demand.
5. **Sectoral Needs:** Immigration quotas can be tailored to address sector-specific needs. For example, countries may set quotas for healthcare professionals, agricultural workers, or IT specialists based on the demand in those sectors.
6. **Temporary vs. Permanent Immigration:** Different quotas may apply to temporary workers, such as those on work permits, and permanent immigrants. Temporary quotas are often adjusted more frequently to respond to changing labour market conditions.
7. **Nationality or Country of Origin:** Some countries may have quotas or preferences for immigrants from certain countries or regions, based on diplomatic agreements, historical ties, or other considerations.
8. **Population Targets:** Governments may set immigration quotas to achieve specific population targets, either to increase overall population size or to address demographic imbalances.
9. **Social and Humanitarian Factors:** Quotas may be established to address humanitarian concerns, such as refugees or family reunification. These quotas are often influenced by international agreements and commitments.
10. **Consultation with Stakeholders:** Governments may consult with various stakeholders, including business associations, labour unions, and academic institutions, to gather input on immigration quotas and policies.

11. **Legislative and Regulatory Framework:** Immigration quotas are typically defined within the framework of immigration laws and regulations. Any changes to quotas often require legislative approval.
12. **Periodic Review:** Immigration quotas are subject to periodic review and adjustment to ensure they remain relevant to changing economic and social conditions.

## Process for Determining Immigration Quotas

Determining an annual immigration quota for Permanent Residence and Belonger Status involves a structured process that considers various factors and objectives. The proposed workflow for determining an annual immigration quota is as follows:

1. **Establish a Quota-Setting Committee or Task Force:** Form a technical committee or task force comprising representatives from relevant government ministries, immigration authorities, and other stakeholders. Include experts in demographics, labour market analysis, economics, and immigration policy;
2. **Define Objectives and Priorities:** Clearly articulate the territory's immigration objectives and priorities related to residence permits. These may include population control, economic development, family reunification, and social integration;
3. **Gather and Analyse Data:** Collect and analyse comprehensive data on the territory's current population, demographic trends, labour market conditions, and housing availability. Utilise surveys, census data, and economic studies;
4. **Identify Categories and Criteria:** Define the categories of entry permits, such as retirees, skilled workers, investors, and family reunification. Establish eligibility criteria and qualifications for each category;
5. **Engage Stakeholders and Public Input:** Seek input and feedback from stakeholders, including government agencies, business associations, community organisations, and the general public. Conduct consultations and public forums to ensure transparency and gather diverse perspectives;
6. **Review Economic and Social Impact:** Assess the potential economic and social impact of different categories of residence permits. Consider factors such as tax contributions, job creation, housing demand, and public services utilisation;
7. **Set Annual Quotas by Category:** Based on the analysis and stakeholder input, determine the annual immigration quotas for each category of entry permits. Ensure that quotas align with the territory's objectives and capacity;
8. **Legislative and Regulatory Compliance:** Ensure that the proposed quotas comply with existing immigration laws and regulations in the territory. Seek legislative approval if necessary for changes to the quota system;
9. **Evaluate and Adjust Quotas:** Periodically review the effectiveness of the quota system. Evaluate its impact on population growth, the economy, and social integration. Be prepared to adjust quotas as needed to address emerging challenges or changing priorities;
10. **Communicate and Publicise Quotas:** Clearly communicate the annual residence quotas to immigration authorities, relevant government agencies, and the public. Ensure that the process is transparent and easily accessible to applicants;

11. **Ensure Transparency and Accountability:** Maintain transparency and accountability in the quota-setting process by regularly reporting on the utilisation of quotas, outcomes, and any changes or adjustments made;
12. **Adapt to Changing Circumstances:** Be flexible and adaptive in responding to evolving circumstances, including shifts in demographics, economic conditions, and public needs;
13. **Engage in International Obligations:** Consider any international agreements or commitments related to immigration, such as refugee resettlement obligations or treaties that may impact residence quotas;
14. **Periodic Review and Revision:** Conduct periodic reviews of the quota-setting process and make necessary revisions to ensure that it remains relevant to the territory's goals and evolving immigration dynamics.

### ***The Role of Cabinet in Quota-Setting Governance Framework***

The Cabinet plays a vital role in the quota-setting process, particularly in areas like immigration, labour, or resource management. Its role is pivotal as it represents the highest decision-making body within a government. The role of the Cabinet in the quota-setting process is as follows:

1. Cabinet is responsible for formulating and approving policies related to quota setting. It may receive recommendations from the Board of Immigration, but the final decision rests with the Cabinet;
2. Cabinet members will review and assess recommendations from relevant ministries, agencies, and experts regarding the establishment of quotas. These recommendations are typically based on data analysis, research findings, and stakeholder consultations;
3. Cabinet considers political factors and public sentiment when making decisions about quotas. It must balance the technical and economic aspects with political realities and the potential impact on public opinion;
4. Cabinet ensures that quota-setting decisions align with the government's broader priorities and objectives. Quotas should reflect the government's vision for economic growth, social development, and other policy goals;
5. In some cases, the Cabinet approves the allocation of resources, including budgetary allocations, to support the implementation of quotas. This may include funding for enforcement, monitoring, and public awareness campaigns;
6. Cabinet considers the implications of quotas on international relations, particularly if they affect international agreements, treaties, or diplomatic relations. It ensures that quotas align with international obligations and commitments;
7. In cases of unforeseen events or crises that may impact quota setting (e.g., economic downturns or public health emergencies), the Cabinet may make adjustments to quotas to address emerging challenges;
8. Cabinet makes the final decision on the establishment or modification of quotas. Once approved, these decisions become government policy and are implemented by the relevant ministries and agencies;

9. Cabinet may oversee the monitoring and evaluation of quotas to assess their effectiveness and impact. If quotas are not achieving their intended goals, the Cabinet may consider adjustments;
10. In addition to considering quotas, Cabinet can declare moratoriums on applications for Residence and Belonger status, based on information provided by the Board of Immigration.

### ***Role of the Board of Immigration in the Quota-Setting Governance Framework***

1. **Recommend Annual Quotas by Category:** Based on the analysis and stakeholder input, upon receipt of the Quota Setting Committee, determine and subsequently recommend to Cabinet the annual immigration quotas for each category of entry permits. Ensure that quotas align with the territory's objectives and capacity;
2. **Implement and Monitor Quotas:** Implement the determined annual quotas for entry permits. Establish a system to monitor the issuance of certificates and track the utilisation of quotas throughout the year;
3. **Recommendation for moratoriums:** Recommend to Cabinet that it consider the declaration of moratoriums on receipt of applications for Residence and Belonger Status based on the technical data and relevant statistics received. Cabinet shall also have the authority to impose moratoria irrespective of a recommendation from the Board of Immigration.

### ***Role of the Ministry Responsible for Immigration in the Quota-Setting Governance Framework***

The Ministry, under the direction and control of the Minister responsible for immigration, has an essential role in the quota-setting process for immigration or other policy areas, which typically involves several key functions. The general roles the Ministry in the quota-setting process are as follows:

1. The Ministry is often responsible for developing and formulating policies related to immigration quotas. It conducts research, gathers data, and assesses the needs and priorities within the specific sector, such as immigration or labour;
2. The Ministry provides recommendations to the Cabinet or relevant government authorities regarding the establishment of annual quotas. These recommendations are based on data analysis, research findings, and an assessment of economic, social, and demographic factors;
3. The Ministry engages with stakeholders, including other government departments, industry representatives, labour unions, advocacy groups, and the public. This engagement ensures that a diverse range of perspectives is considered in the quota-setting process;
4. The Ministry collects and analyses data related to the policy area, including labour market trends, population demographics, skills shortages, and economic factors. Data-driven insights are crucial for making informed decisions;

5. If legislative amendments are required to establish or modify immigration quotas, the Ministry plays a key role in drafting and proposing the necessary legislative changes. This includes working with legal experts to ensure compliance with existing laws;
6. The Ministry conducts consultations and seeks public input on proposed quotas and policy changes. This ensures transparency and allows the public to have a say in the decision-making process;
7. In most cases, the Ministry collaborates with other government agencies and ministries to align policies and objectives. This coordination helps ensure a cohesive approach to quota setting and policy implementation;
8. The Ministry may be responsible for budgeting and resource allocation related to the quota-setting process. It ensures that the necessary financial resources are allocated to support the implementation of quotas;
9. After quotas are set, the Ministry monitors and evaluates their effectiveness. It assesses whether the quotas are achieving the intended goals and whether adjustments are needed based on changing circumstances;
10. The Ministry reports to the Cabinet, the House of Assembly, and the public on the outcomes of the quota-setting process. It is accountable for the decisions made and their impact on the policy area;
11. If immigration quotas have implications for international agreements or commitments, the Ministry ensures that these agreements are taken into account and that the quotas align with international obligations;
12. The Ministry provides expert advice and analysis to the Cabinet and government leadership. It helps guide decisions related to immigration quotas and related policies.

### ***The Role of the Department of Immigration in the Quota-Setting Governance Framework***

The role of a Department of Immigration in the quota-setting process, particularly in the context of managing immigration quotas, is crucial. The general roles and functions that the Department of Immigration may typically play in the quota-setting process is as follows:

1. The Department gathers and analyses data related to immigration trends, visa applications, and demographic factors. This data is essential for informed quota setting;
2. Based on data analysis and assessment of the labour market or other relevant factors, the Department may make recommendations and proposals to relevant authorities or ministries regarding the establishment or adjustment of immigration quotas;
3. The Department may engage with stakeholders, including government agencies, industry representatives, labour unions, and advocacy groups, to gather input and feedback on immigration quotas;
4. The Department is involved in the formulation of immigration policies, including policies related to quota categories (e.g., skilled workers, family reunification, refugees) and the numerical limits for each category;



5. Ensuring that immigration quotas and policies comply with existing immigration laws and regulations is a critical role. If legislative changes are necessary, the Department may propose these changes to relevant authorities;
6. The Department monitors the utilisation of quotas throughout the year and enforces compliance. If quotas are nearing their limits, the Department may take action to adjust processing times or notify relevant authorities;
7. The Department provides regular reports on the status of immigration quotas, including the number of permits issued, demographic details of applicants, and the impact of quotas on the labour market;
8. It communicates information about immigration quotas to the public, including eligibility criteria, application procedures, and the rationale behind quota decisions;
9. If immigration quotas have implications for international agreements, treaties, or commitments (e.g., refugee resettlement obligations), the Department ensures that the country complies with these obligations;
10. In situations of crises or emergencies (e.g., sudden influx of refugees), the Department may work with relevant authorities to address the situation, potentially adjusting quotas or processing procedures;
11. The Department provides expert advice and analysis to relevant government authorities, including the Ministry responsible for Immigration or its equivalent, and may play an advisory role in shaping immigration policies;
12. The Department ensures that immigration quotas align with the broader objectives and priorities of the government, such as economic development, labour market needs, and demographic goals;
13. It may be responsible for budgeting and resource allocation related to immigration activities, including visa processing, border control, and enforcement;
14. In some cases, the Department may provide or coordinate services to support the integration and settlement of immigrants, particularly refugees and humanitarian cases.

***Establishing Labour and Immigration Policies which are Complementary and Integrated, and a Working Relationship among the Respective Agencies which is Collaborative***

Considering that the majority of migrants in the Virgin Islands came to the BVI for employment purposes, the Ministry and Department responsible for Labour must work very closely with the Ministry and Department responsible for Immigration, and their policies must be well-aligned.

This alignment will ensure the following:

1. That human resource from persons with foreign origins that are necessary for the functioning of our society is allowed to enter and contribute in meaningful ways;
2. That the human resource of local origin is protected and allowed the opportunity to make meaningful contributions in their own home;
3. That those seeking to work are subject to rigorous scrutiny for national security purposes among other relevant considerations;

4. That there are clear and distinct processes for applying to work and applying for Permanent Residence or Belonger Status;
5. That administrative measures are implemented to ensure business continuity and the prosperity of our economy;
6. That there are appropriate controls in place to manage foreign labour for the purpose of protecting locally based businesses;
7. That the Virgin Islands adheres to its international obligations, including upholding human rights standards. That all are treated fairly and justly, including being protected from exploitation and abuse;
8. That the Ministry responsible for Labour also utilises tools such as moratoriums and quotas in particular areas to correspond with and support quotas and moratoriums for Permanent Residence and Belonger Status;
9. That relevant government agencies collaborate in collecting and sharing data necessary for conducting population studies and assessing labour needs. This collaborative effort ensures the accuracy and effectiveness of the quota determination process;
10. That the government engage in ongoing consultation with relevant stakeholders, including business communities, labour unions, and civil society organisations, to ensure that the integrated Labour and Immigration Policies remain responsive to the evolving needs and dynamics of our economy and wider society.

***Investor and entrepreneur programmes in the Virgin Islands, ensuring these initiatives contribute meaningfully to the development of the territory***

This policy also acknowledges the important role that investors play in the Virgin Islands economy and the need to provide incentives and security for those making substantial investments in the Territory. In light of the existing policy on residency for direct investment, it is crucial to establish a cohesive partnership between the Ministry responsible for attracting Foreign Direct Investment (FDI), Investment Promotion and Trade and the Ministry responsible for Immigration for the effective administration of the programme. The collaboration will foster an environment where FDI will be harnessed while emphasising the distinct roles each Ministry will play, particularly assigning the management of residency aspects to the Ministry responsible for Immigration:

1. The Ministries will collaborate in administering the residency for direct investment policy to attract foreign direct investment, ensuring a seamless integration of economic and immigration objectives. This partnership will involve shared planning, coordination, and execution of the policy's various components;
2. The Ministry responsible for eliciting foreign direct investment responsibilities will include assessing and approving investment projects, liaising with potential investors, and ensuring that the investments align with the Territory's economic goals and standards;
3. The Ministry responsible for Immigration will be responsible for managing the residency aspects of the policy. This includes processing residency applications from approved investors, ensuring compliance with immigration laws and policies, and maintaining the integrity of the residency programme;

4. Both Ministries will be involved in a joint evaluation process to assess and approve applications under the residency for direct investment policy. This process will ensure that investments meet the required economic criteria and that applicants satisfy all residency requirements;
5. The Ministries will develop transparent and streamlined procedures for investors to navigate the residency for direct investment process. This approach will provide clarity, reduce bureaucratic hurdles, and enhance the attractiveness of the programme to potential investors;
6. Both Ministries will regularly review the residency for direct investment policy and make necessary adjustments to respond to evolving economic contexts, investor feedback, and immigration trends, ensuring the policy remains effective and competitive;
7. The Ministries will establish mechanisms for efficient information sharing and data management regarding the residency for direct investment programme. This will facilitate informed decision-making and efficient processing of applications;
8. The Ministries will engage with relevant stakeholders, including the business community, investment experts, and immigration specialists, to gather feedback and insights for the continual improvement of the residency for direct investment policy;
9. Both Ministries will collaborate on public communication and marketing strategies to promote the residency for investment programme, highlighting the benefits and opportunities it offers to potential investors;
10. The Ministries will monitor compliance with the residency conditions set for investors, ensuring that the programme's integrity is upheld and its objectives are met.

These policy statements aim to establish a clear, effective, and collaborative approach between the Ministries in administering the residency for direct investment policy, ensuring that the programme effectively contributes to the Virgin Islands' economic development while maintaining robust immigration management.

## **The Role of the Minister in the Overarching Framework of Immigration Reform**

In the administration of the grant of Residence and Belonger Status and further, in the comprehensive framework of the Virgin Islands' immigration policy, the role of the Minister can be pivotal in several key areas to ensure the effective and fair administration of the policy. Incorporating provisions for the Minister's involvement in reviewing decisions by the Chief Immigration Officer, particularly when national development goals or critical labour needs are at stake, the role of the Minister in the comprehensive immigration policy framework is important. By reinforcing provisions for the Minister to review decisions by the Chief Immigration Officer, the role of the Minister becomes more integral in aligning immigration practices with the Virgin Islands' strategic goals and labour market needs. This ensures a more dynamic and responsive approach to immigration administration and enforcement. The responsibilities of the Minister may include the following:

1. The Minister is responsible for setting strategic directions for immigration policy, ensuring alignment with national goals, and overseeing its implementation;
2. Ensuring that immigration laws and regulations are current, comprehensive, and align with international standards, and proposing new legislation or amendments as necessary;
3. The Minister has the authority to review decisions made by the Chief Immigration Officer, particularly in cases where there are compelling reasons related to procedural errors or misapplication of the law. This review mechanism is to be used judiciously and responsibly. Importantly, any decision taken by the Minister to reverse or alter a decision must be fully documented, justifying the rationale behind such action;
4. Making decisions in complex or sensitive immigration cases, particularly where discretion is required;
5. Representing the Virgin Islands in international forums related to immigration and forging collaborations and agreements with other countries and international bodies;
6. Communicating key immigration policies and changes to the public, advocating for the role of immigration in the Territory's development;
7. Ensuring that the resources of the Department of Immigration and related agencies may be available for effective operations;
8. Conducting regular monitoring and evaluation of the impact and effectiveness of immigration policies;
9. Engaging with various stakeholders, including community groups, business leaders, and legal experts, to inform policy decisions;

## **The role of the Board of Immigration in the Overarching Framework of Immigration Reform**

In the redefined, overarching framework of immigration reform, the Board of Immigration plays a crucial role in ensuring that immigration policies and practices are effectively implemented, aligned with national interests, and responsive to the needs of the Virgin Islands community. The Board's responsibilities within this reformed framework can be outlined as follows:

1. Reviewing applications for Residence Status, Belonger status, and other immigration matters that require detailed assessment making recommendations based on established criteria, ensuring that each case is evaluated fairly and in accordance with the law.
2. Providing oversight of the implementation of immigration policies with respect to the grant of Residence and Belonger Status to ensure they are administered effectively and consistently.
3. Conducting inquiries and gathering statistical data related to designated matters, as required by the Minister or deemed necessary by the Board itself. This includes maintaining records of all entries and departures from the Territory to support evidence-based decision-making and policy development in immigration matters.
4. Implementing established quotas for Residence and Belonger Status applications by advising on the annual quota limits based on economic needs, labour market conditions,

and demographic trends. Assess the impact of quotas, recommend adjustments, and ensure that quotas align with national development priorities.

5. Monitoring the effectiveness of quota allocations and providing feedback for policy adjustments to maintain a balanced and sustainable approach to immigration.
6. Broadly recommending reforms to the immigration status' framework resulting in the improvements to governance and process efficiency.

## **The Role of the Permanent Secretary in the Overarching Framework of Immigration Reform**

In the overall framework of a comprehensive immigration policy, the role of the Permanent Secretary is crucial in ensuring effective administration, policy implementation, and operational oversight. The Permanent Secretary functions under the direction of the Minister and must bridge the gap between policy formulation and operational execution, ensuring that the immigration system functions smoothly and aligns with the strategic goals and objectives set by the government of the Virgin Islands. The responsibilities of the Permanent Secretary may include the following:

1. The Permanent Secretary is primarily responsible for implementing the immigration policies as formulated by the Minister. This involves overseeing the administration of various immigration programmes, and ensuring that policies are executed efficiently and effectively;
2. Ensuring that all operations within the Department of Immigration are running smoothly. This includes supervising the Chief Immigration Officer and supporting the provision of necessary resources, to address the department meets its operational goals and objectives;
3. Acting as a key liaison between the Minister and the department, the Permanent Secretary ensures that the Minister's directives are clearly communicated and implemented. They also provide feedback to the Minister on operational issues and policy outcomes;
4. Providing expert advice to the Minister on matters related to immigration policy, based on operational insights and the analysis of immigration trends and data;
5. Engaging with other government agencies, non-governmental organisations, community groups, and international bodies on immigration matters. This role involves collaboration and coordination to ensure a holistic approach to immigration management;
6. Ensuring that the department's operations comply with relevant laws, regulations, and international agreements. The Permanent Secretary monitors compliance and advises on legal matters related to immigration; and
7. Monitoring the performance of the Department of Immigration, including the progress of policy implementation, and reporting to the Minister and other stakeholders on achievements and challenges;

## **The Role of the Chief Immigration Officer in the Overarching Framework of Immigration Reform**

In the redefined, overarching framework of immigration reform, the role of the Chief Immigration Officer is pivotal in operational execution, policy enforcement, and direct management of immigration services. The Chief Immigration Officer is responsible for the practical aspects of implementing the immigration policy, working under the guidance of the Permanent Secretary and the Minister. The proposed outline of the role is as follows:

1. The Chief Immigration Officer is chiefly responsible for the direct implementation of immigration policies. This involves interpreting and applying policy guidelines in the processing of applications for Residence and Belonger Status;
2. Overseeing the day-to-day operations of immigration services, including border control;
3. Managing the department's budget and resources to ensure that they are used efficiently and effectively in support of immigration policies and programmes;
4. Overseeing the training and development of department staff to ensure they have the necessary skills and knowledge to effectively implement immigration policies;
5. Ensuring compliance with immigration laws and regulations. The Chief Immigration Officer is tasked with the enforcement of these laws, which includes addressing illegal migration, overstaying, and unauthorised and illegal transfer of employment;
6. Providing expert advice and operational insights to the Permanent Secretary and the Minister on immigration matters, based on ground realities and the effectiveness of policy implementation;
7. Managing the immigration department staff, ensuring they are well-trained, equipped, and capable of carrying out their duties effectively. This includes fostering a professional work environment, publishing service standards and providing timelines and periods for the delivery of administrative processes and ensuring that staff are updated on the latest immigration policies and procedures;
8. Coordinating with other government agencies, law enforcement, and international bodies on matters related to immigration. This includes collaborating on border security, human trafficking, and international immigration agreements;
9. Overseeing the collection, management, and analysis of immigration data. This is essential for informed decision-making, policy adjustments, and reporting to higher authorities on immigration trends and issues;
10. Ensuring that the public is well-informed about immigration policies and procedures. This involves overseeing the delivery of customer-oriented services to applicants, addressing queries, and providing guidance;
11. Leading the response to immigration-related emergencies or crises, ensuring prompt and effective action to manage the situation;
12. Providing feedback on the effectiveness of immigration policies and recommending changes or improvements based on operational experience and changing circumstances.

## **General guiding principles on the use of discretion on immigration matters**

1. National Security should be given paramount importance.
2. National developmental priorities shall guide decision making.
3. Human rights shall be protected as enshrined in the Virgin Islands Constitution Order, 2007 or any subsequent Constitutional Order.
4. All individuals shall be subject to the principles of natural justice, fairness and due process.
5. Except for the appointment of the Chief and Deputy Chief Immigration Officer, the policy and administrative powers conferred to the Governor should be assigned to the Minister responsible for immigration matters throughout the entire immigration framework.
6. Persons who are awaiting decisions regarding the approval of work permits should be given time to reside in the Territory while their applications for continued time under an Entry Permit are considered by the Department of Immigration. Time spent outside of the Territory awaiting a decision by the Department of Immigration should not adversely impact their periods of being ordinarily resident in the Territory.
7. Unless there are important factors dictating otherwise, insofar as possible, there shall be an effort to keep families together who work and reside in the Territory.

## **The establishment of an appeals process to give redress under the immigration framework**

An Immigration Appeals Panel should be established. Its establishment would mark a pivotal shift in the immigration policy framework, aimed at enhancing fairness and due process. This Panel, which would be comprised of three qualified individuals appointed by the Minister would review decisions made by the Chief Immigration Officer, with the authority to overturn decisions that do not compromise national security. The Panel's ability to decline appeals based on the reasonableness of the initial decisions underscores a commitment to maintaining a balanced and just immigration system.

Based on the Immigration and Passport Act, appeals before an Immigration Appeal Panel could include, but may not be limited to, decisions related to the following areas where the authority or discretion of the Chief Immigration Officers may be exercised: special leave to land, denial of requests for extensions of time to reside in the Territory, removal by administrative orders, revocation of certificates; and the imposition of fines, among others.

### ***Broad Qualifications of Immigration Appeals Panellists***

For the Immigration Appeals Panel to function effectively, individuals serving on it should possess a mix of qualifications that ensure a comprehensive and fair review process. Ideally, panel members should have a strong legal background, particularly in areas relevant to immigration, human rights, or administrative law, to navigate the complex legalities of immigration appeals.

Experience in immigration matters is crucial, whether through direct involvement in immigration services, policy development, or enforcement, providing the panel with practical insights into the nuances of immigration processes. In addition to legal and immigration expertise, the panel should include representatives from the Virgin Islands community who bring a deep understanding of the social, economic, and cultural fabric of the territory. This ensures that decisions made by the panel are grounded in the local context and values.

Ethical integrity is paramount for panel members, as their role demands fairness, impartiality, and a commitment to justice. The ability to resolve conflicts effectively is another key qualification, as it enables panel members to mediate disputes and reach equitable decisions. Moreover, the composition of the panel should reflect the diversity of the Virgin Islands, encompassing various genders, cultural backgrounds, and areas of professional expertise. These individuals must be Virgin Islanders or should hold Certificates of Belonger Status for no less than 25 years, as is the case with the Immigration Board.

Together, these qualifications form the foundation for an Immigration Appeals Panel that is capable, fair, and attuned to the complexities of immigration issues and the broader interests of the Virgin Islands community.

### ***High Level Description of the Appellate Processes***

At a high level, the procedural aspects of an immigration appeals process typically involve several key steps to ensure fairness, transparency, and efficiency. The process begins with the filing of an appeal by an individual or entity aggrieved by an immigration decision, such as visa denial, or residency status refusal. This filing must occur within a specified timeframe following the decision.

Upon receiving an appeal, the Immigration Appeals Panel reviews the submission to determine its admissibility based on established criteria, such as the grounds for appeal and compliance with procedural requirements. If deemed admissible, the Panel schedules a hearing, providing both the appellant and the immigration authorities an opportunity to present their cases, including evidence and arguments.

The Panel deliberates on the information presented, considering relevant laws, policies, and the specific circumstances of the case. The decision-making process may involve consultations with legal experts or other advisors to ensure a comprehensive evaluation.

Once a decision is reached, it is communicated to all parties involved, detailing the rationale behind the decision and any further steps, such as the implementation of the Panel's orders or additional recourse available to the appellant. The entire process is designed to be conducted within a reasonable timeframe to prevent undue delays and ensure timely justice.

Throughout the process, principles of natural justice, such as the right to be heard and the right to an unbiased review, are upheld to maintain the integrity and fairness of the immigration appeals system.



## Conclusion

This policy has been established through a rigorous, transparent, and collaborative process. Sir Gary Hickenbottom's Commission of Inquiry Report, past reports of Auditor Generals, the review of Kedrick Malone, and stakeholder consultations have all played a role in establishing a policy that addresses challenges identified in the grant of Permanent Residence and Belonger Status over a number of decades. The socio-economic changes that occur rapidly will necessitate a regular review of this policy to ensure it remains fit for purpose and consistent with the national development objectives of the Territory.

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## ENDNOTES

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