No. 12 of 2009

VIRGIN ISLANDS

BVI NATIONAL COMMISSION FOR UNESCO ACT, 2009

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BVI National Commission for UNESCO Act, 2009

Virgin Islands

I Assent

Governor

31st August, 2009

VIRGIN ISLANDS

No. 12 of 2009

An Act to provide for the establishment of a BVI National Commission for UNESCO to carry out the aims and objectives of the United Nations Educational, Scientific and Cultural Organisation and to provide for related matters.

[Gazetted , 2009]

ENACTED by the Legislature of the Virgin Islands as follows:

1. This Act may be cited as the BVI National Commission for UNESCO Act, 2009.

2. In this Act, unless the context otherwise requires,

"Executive Committee" means the Committee referred to in section 7;

"General Assembly" means the plenary meeting of the Commission;

"Chairperson" means the chairperson of the Commission;

"Commission" means the BVI National Commission for UNESCO established under section 3;

"Minister" means the Minister responsible for the Ministry;

"Ministry" means the Ministry responsible for the administration of this Act;

"Secretary General" means the Secretary General of the Commission appointed under section 11(2);
"Secretariat" means the Secretariat referred to in section 8;

"UNESCO" means the United Nations Educational, Scientific and Cultural Organisation.

3. (1) There is established by this Act, the BVI National Commission for UNESCO.

(2) The functions of the Commission are to

(a) disseminate information, generate interest and promote understanding in the Territory about the work and objectives of UNESCO;

(b) advise the Government on matters relating to UNESCO;

(c) assist in the preparation of projects for submission to UNESCO;

(d) set up and maintain a UNESCO documentation centre to provide members of the public with ready access to UNESCO publications, periodicals and other documents;

(e) serve as liaison agency between the UNESCO Secretariat and the Government and all organisations and individuals concerned with and working for the advancement of education, science, culture and communication in the Territory and give advice to them on opportunities available in UNESCO and how they may gain access to those opportunities;

(f) propose or nominate representatives to the UNESCO General Conference and to other conferences and meetings organised by UNESCO, and to act in an advisory capacity to the delegations;

(g) advise, assist and ensure the active participation of the Territory in the preparation, planning, execution and evaluation of UNESCO programmes and activities;

(h) make recommendations to the Government in respect of projects which might be undertaken by the Commission;

(i) encourage at the national level interdisciplinary dialogue and co-operation between institutions concerned with education,
science, culture and communication, with a view to helping
to bring intellectual resources to bear on certain priorities for
development;

(j) foster and develop relations with other national commissions
for UNESCO, particularly with those in the region, and to
participate with them in joint programmes and studies on
matters of interest to the Territory;

(k) inform national institutions and other bodies in the Territory
of the conclusions and recommendations adopted by the
General Assembly or other meetings, or included in studies
and reports, to encourage their discussion in the light of
national needs and priorities, and to provide for follow up
activities as may be required;

(l) provide UNESCO with information on national requirements
and priorities in the areas of education, science, culture and
communication, thereby enabling the organisation to take the
requirements of the Territory more fully into account when
preparing its programmes;

(m) contribute to UNESCO's standard of setting work and the
orientation or execution of its programmes by making known
the views of the Territory when surveys or inquiries are
carried out and by replying to questionnaires; and

(n) any other function assigned to the Commission by the
Minister.

(3) Subject to this Act, the Commission, the Secretary General and
staff of the Secretariat shall in the performance of their functions, constantly liaise
with the relevant Ministry and seek policy guidance from the Ministry.

4. (1) The Minister shall compile and submit the names of persons
qualified to be appointed as members of the Commission to the Cabinet for
consideration.

(2) Subsection (1) does not apply to the appointment of the Secretary
General to the Commission.
5. (1) The Commission shall comprise

(a) a Chairperson appointed by the Minister with the approval of the Cabinet from among the members of the Commission;

(b) a Deputy Chairperson appointed by the Minister with the approval of the Cabinet from among the members;

(c) not more than ten other members representing educational, scientific and cultural interests; and

(d) the Secretary General.

(2) Members of the Commission shall be appointed by an instrument in writing issued by the Minister.

(3) A member’s appointment shall be for a term of two years and each member is eligible for reappointment on the expiration of that period.

(4) In making reappointments or new appointments, the Minister with the approval of the Cabinet shall retain at least one-half of the existing members.

(5) The Minister with the approval of the Cabinet may revoke the appointment of a member, where the member

(a) is unable to discharge his or her duties as a result of infirmity of mind or otherwise; or

(b) misconducts himself or herself.

(6) A member of the Commission may, at any time, resign his or her office by writing to the Minister.

(7) The Commission shall meet as the General Assembly in plenary twice a year, once before the Spring meeting and once before the Fall meeting, of the Executive Board of UNESCO.

(8) For purposes of subsection (7), the quorum for the Commission is ten.

(9) The quorum for other meetings of the Commission is seven of its members.
6. (1) A member of the Commission other than a public officer shall receive an allowance for the performance of the member’s functions under this Act.

(2) The allowance to be paid to a member under subsection (1) shall be determined by the Minister for Finance in consultation with the Cabinet.

(3) The allowances may vary among the members depending on their respective duties discharged under this Act.

7. (1) Notwithstanding section 5, there is established by this Act an Honorary President of the Commission, who is the Minister.

(2) The Minister may attend a meeting of the Commission especially arranged for the Honorary President to address or consult with the Commission.

8. There is established by this Act, a General Assembly, an Executive Committee and a Secretariat, which shall be the principal organs of the Commission.

9. (1) The General Assembly shall comprise the Commission and be presided over by the Chairperson and, in the absence of the Chairperson, by the Deputy Chairperson.

(2) The Secretary General shall act as secretary of the General Assembly.

(3) Decisions at meetings of the General Assembly shall be taken by a majority of the members present and voting, and the Chairperson of the Commission shall have a casting vote in the event of an equality of votes.

(4) The General Assembly may, where necessary, create ad hoc working groups or committees to consider specific issues or perform certain delegated functions, respectively and at least one Commission member shall be included on each working group or committee.

10. (1) The Executive Committee of the Commission shall comprise

(a) the Chairperson of the Commission;

(b) the Deputy Chairperson of the Commission;

(c) two other members of the Commission appointed by the General Assembly, who shall
(i) hold office for two years but may be reappointed; and

(ii) be subject to terms and conditions, including tenure, as the General Assembly may determine; and

(d) the Secretary General, who shall also act as secretary to the Executive Committee.

(2) The Executive Committee shall meet at least once every month or as often as required.

(3) The quorum for meetings of the Executive Committee shall be three.

(4) The Executive Committee shall ensure the proper management of the affairs of the Commission by the Secretariat and perform other functions assigned to it by the General Assembly.

(5) The General Assembly or the Executive Committee may establish ad hoc committees and delegate to the committees any of their respective functions as they may determine.

11. (1) The Secretariat of the Commission shall be headed by the Secretary General supported by administrative personnel recruited through the public service, transferred or seconded to the Commission under section 12.

(2) The Secretary General shall be appointed by the Governor acting on the advice of the Public Service Commission, on terms and conditions specified in the letter of appointment.

(3) The Ministry shall provide other required administrative services to the Secretariat.

(4) The Secretariat shall manage the affairs of the Commission and implement policy decisions of the General Assembly and that of the Executive Committee and in particular,

(a) prepare the draft annual programme of the Commission in consultation with the Executive Committee;

(b) prepare the annual report on the activities of the Commission;

(c) co-ordinate the activities of the organs of the Commission;
(d) ensure that there is proper co-ordination and consultation between the Commission and Government departments, institutions and agencies;

(e) initiate studies and projects in education, science, culture and information relevant to the development needs of the Territory;

(f) follow up and ensure the systematic execution of UNESCO's programmes and keep records of them;

(g) maintain contacts with the UNESCO Secretariat and with other national commissions;

(h) organise UNESCO meetings in the Territory in cooperation with other related governmental or non-governmental bodies;

(i) prepare the agenda and make the other preparations for the meetings of the Commission; and

(j) carry out other functions that may be assigned to it by the General Assembly.

12. (1) Subject to subsection (3), an officer in the public service may be transferred or seconded to the service of the Commission.

(2) Where a transfer or secondment under subsection (1) is effected, the rights of the officer as regards emoluments and relevant allowances, pension, gratuity or other benefits shall be preserved.

(3) A period of secondment shall not exceed five years.

13. The Secretary General shall be responsible for the co-ordination and supervision of all activities and functions of the Commission and in particular,

(a) be responsible for the day to day administration of the Secretariat of the Commission;

(b) follow up on matters included in the sphere of activities of the Commission and make proposals for the development of these activities;

(c) liaise with the UNESCO Secretariat to ensure a flow of information to and from, the UNESCO Secretariat;
be responsible for the planning, co-ordination and execution of the activities of the Secretariat; and

be responsible for preparing a schedule of duties and job descriptions for the Secretariat staff.

14. The funds and resources of the Commission shall consist of

(a) moneys appropriated by the House of Assembly for the running of the Commission;

(b) moneys from UNESCO and other agencies received by the Government on behalf of the Commission for the performance of the Commission’s functions;

(c) donations, endowments and other gifts received by the Government on behalf of the Commission; and

(d) moneys raised by the Commission from activities organised by the Commission.

15. The Commission shall keep proper accounts of its receipts, payments, assets and liabilities, and the accounts shall be audited annually by an auditor appointed in each year by the Commission with the approval of the Minister, but the Auditor General shall be responsible for auditing the accounts of the Commission until that appointment is made.

16. (1) The Commission shall, in each year, prepare and submit to the Minister on or before the thirtieth day of April, a report on its activities during the twelve months ending on the last day of December in the preceding year, and a statement of its audited accounts in accordance with section 15.

(2) The Minister shall, within three months from the date of receipt of the report and statement, lay copies of the report and statement on the table of the House of Assembly.

17. The Minister may make Regulations for the effective implementation of this Act and in particular for the proper performance of the Commission’s functions, discharge of its duties and exercise of its powers under this Act.
18. A function performed, duty discharged, power exercised or an act done by a person acting as Secretary General or under his or her authority prior to the commencement of this Act, which is consistent with this Act, is on the commencement of this Act deemed to have been performed, discharged, exercised or done under this Act.

Passed by the House of Assembly this 24th day of July, 2009.

(Sgd) ROY HARRIGAN,
Speaker.

(Sgd) PHYLLIS EVANS,
Clerk of the House of Assembly.
LEGAL REPORT

This Act provides for the establishment of a National Commission for United Nations Educational, Scientific and Cultural Organisation (UNESCO). As is well-known, the purpose of United Nations Educational, Scientific and Cultural Organisation is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

The proposed National Commission for United Nations Educational, Scientific and Cultural Organisation (UNESCO) will essentially play the role of coordinating the activities of the Government, relevant institutions, agencies and non-Government organisations and the United Nations Educational, Scientific and Cultural Organisation (UNESCO) headquarters in their pursuit of this objective.

Sections 1 and 2 of the Act deal with the short title and interpretation of certain expressions used in the draft, respectively.

Section 3 establishes the National Commission for UNESCO and sets out the functions. Sections 4 and 5 set out the composition of the Commission whilst clause 6 deals with allowances. Section 7 enables the appointment of an Honourary President.

Section 8 sets out the principal organs of the Commission.

Section 9 deals with the composition of the General Assembly of the Commission. The General Assembly is a meeting of the full membership of Commission. For purposes of the General Assembly, the quorum for the Commission is set at ten (Section 5(9)).

Section 10 deals with the composition of the Executive Committee of the Commission. The Secretariat of the Commission is headed by the Secretary-General who is supported by an administration of public servants recruited, transferred or seconded to the Commission and the Ministry (Section 11). The principal duty of the Secretariat is to manage the day to day affairs of the Commission and implement policy decisions of the General Assembly. Section 12 deals with the transfer and secondment of persons from the public service to the Commission. Subsection (3) of the clause provides that a period of transfer shall not exceed five years.

Section 13 states the responsibilities of the Secretary General as the co-ordinator and supervisor of the activities and functions of the Commission, and head of the day to day administration.
Section 14 deals with the source of funds of the Commission while section 12 obliges the Commission to keep proper accounts of its receipts, payments, assets and liabilities. The accounts would be audited annually by an auditor appointed by the Commission with the approval of the Minister. The Auditor General is to act as the auditor of the Commission until a substantive auditor is appointed in accordance with section 15.

Section 16 requires the Commission to prepare and submit an annual report on its activities and a statement of accounts to the Minister on or before the thirtieth day of April each year. The Minister is obliged to lay copies of the annual report and statement of audited accounts on the table of the House of Assembly within three months from the date of receipt of the report and statement.

Section 17 allows the Minister to make Regulations for the proper implementation of the Act.

Section 18 deals with transitional provisions. This clause seeks to ratify a function performed, duty discharged, power exercised or an act done by a person duly acting as the Secretary General to the extent of its consistency with the Act.

The Act was introduced as a Bill in the House of Assembly on the 26th of May, 2009 and passed through the remaining stages on the 24th of July, 2009.

In my opinion, His Excellency the Governor may properly assent to this Act in the name of and on behalf of Her Majesty.

Kathleen D.K. Quanyay
Attorney General
Date: 17th August, 2009