

REVIEW OF PROVIDED BVI DOCUMENTS/LEGISLATION

| Name of Document | Discretionary Provisions | Section |
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| Policy on Archives Records Management (Endorsed by the Executive Council in May 2005) | No provisions for discretionary powers by elected public officials | |
| Co-Operation Agreement for the Public Private Partnership of BVI Finance Limited | The Government may issue written guidance to the Company in relation to Strategic Objectives, the Strategic Plan or the Budget. Such written guidance may be advisory or obligatory. | 4.2 (a), (b) and (c) |

The company is established for the general purposes of promotion and business development of the financial services sector. The power and discretion to issue written guidance to the Company in relation to Strategic Objectives, the Strategic Plan or the Budget is vested in the Government rather than a Minister and necessary to the operation of the scheme of the legislation.

| Law | Discretionary Provisions | Section |
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| Contractor General Act 2021 | 1. The Premier acting on the recommendations of the Leader of the Opposition may, with the approval of Cabinet, appoint the Contractor General on such terms and conditions as he or she thinks fit | 3(2) |
| | 2. The Minister may amend the Schedule to the Act by Order published in the Gazette | 33 |

The power vested in the Premier to appoint the Contractor General on such terms and conditions as he or she thinks fit is constrained by the fact that he or she must act on the recommendations of the Leader of the Opposition and with the approval of Cabinet. This is a necessary power the exercise of which is adequately controlled by the mandated procedure.

The schedule to the Act is concerned with the constitution and membership of the Appeals Tribunal which is empowered to review the decisions of the Contractor General. The discretion to amend the Schedule is necessary to the operation of the scheme of the legislation. It is impracticable to further restrict that discretion by anticipating the type of amendments that might become necessary.

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| Data Protection Act, 2021 | 1. The Minister may by Order published in the Gazette exclude the Application of subsection 1(b)(i), (vii) or (viii) in such cases as may be specified in the Order. | 20(2) |
| | 2. The Minister may amend the Schedule by Order published in the Gazette. | 48 |
| | 3. The Minister may with the approval of Cabinet make regulations for giving effect to the provisions of this Act. | 49 |

The Minister is empowered by Section 20 (2) to disapply or to add further conditions to the requirements for compliance with the Act in specific cases with regard to the processing of personal data by data controllers. This discretionary power adds necessary flexibility to the operation of the legislation.

The discretion to amend the Schedule and with the approval of Cabinet to make regulations for giving effect to the provisions of the Act is necessary to facilitate the operation of the Act.

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| Electronic Transfer of Funds Act, 2021 | No provisions for discretionary powers by elected public official | |
| Electronic Transactions Act, 2021 | <ol style="list-style-type: none"> 1. The Minister may prescribe methods for identifying persons for the purposes of subsection (1) 2. Where the Minister is notified in respect of any information under subsection (2), the Minister may direct the intermediary or electronic commerce service provider to <ol style="list-style-type: none"> (a) remove the electronic record from any information processing system within the control of the intermediary or electronic commerce service provider; (b) cease to provide services to the person to whom the intermediary or electronic commerce service provider was supplying services in respect of that electronic record; (c) cease to provide services in respect of that electronic record. 3. The Minister may direct an intermediary or electronic commerce service provider to cease and desist or otherwise to correct that | |

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| | <p>intermediary’s or electronic commerce service provider’s practices within such period as may be specified in the direction.</p> <p>4. If the Minister is satisfied that a body or organization represents intermediaries or electronic commerce service providers, the Minister may by notice in writing, given to the body or organization, direct the body or organization to</p> <ul style="list-style-type: none"> (a) develop a code of conduct that applies to intermediaries or electronic commerce service providers who deal with one or more specified matters relating to the provision of services by those intermediaries or electronic commerce service providers; and (b) provide a copy of that code of conduct to the Minister within such time as may be specified in the notice. <p>5. If the Minister is satisfied with the code of conduct provided under subsection 4, the Minister may approve the code of conduct by Notice published in the Gazette.</p> <p>6. If the Minister is satisfied that</p> <ul style="list-style-type: none"> (a) no body or organization represents intermediaries or electronic commerce service providers; or (b) a body or organization to which notice is given pursuant to subsection (4) has not complied with the notice, <p>the Minister may, by Notice published in the Gazette, specify a standard that applies to the concerned intermediaries or electronic commerce service providers or both.</p> <p>7. If the Minister has approved a code of conduct or specified a standard that applies to intermediaries or electronic commerce service providers or both and</p> <ul style="list-style-type: none"> (a) the Minister receives notice in writing from a body or organization representing intermediaries or electronic commerce service providers | |
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| | <p>of proposals to amend the code of conduct or standard; or</p> <p>(b) the Minister no longer considers that the code of conduct or standard is appropriate</p> <p>the Minister may by Notice published in the Gazette revoke or amend the existing code of conduct or standard as the case may be.</p> <p>8. The Minister may by Order specify security procedure providers or classes of security procedure providers for the purposes of this Act.</p> <p>9. The Minister may with the approval of Cabinet, make Regulations for the giving effect to the provisions of this Act.</p> | |
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The power granted to the Minister to prescribe methods for identifying persons for the purposes of validating electronic signatures as provided for in in Section 21(2) of the Act is necessary to facilitate the operation of the Act.

The discretion conferred upon the Minister in Section 28 (3) to direct a service provider to cease to provide services “...in circumstances from which the likelihood of civil or criminal liability in respect of the information in an electronic record ought reasonably to have been known...” is clearly necessary to facilitate the regulatory functions of the act”

The further provisions in Sections 29 (2) through Section 30 and Section 35 (1) inclusive are necessary provisions to render operative the legislative scheme of the Act.

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| Virgin Islands Gaming and Betting Control Act, 2020 | 1. The Minister shall be instrument in writing appoint one of the Members of the Board to be the Chairman of the Board. | 4(4) |
| | 2. The Commission shall prepare a budget in accordance with such form as the Minister may direct. | 21(2) |
| | 3. The Minister may guarantee the repayment of the principal and the payment of interest of any authorized borrowings of the Commission. | 26(3) |
| | 4. The Minister may by Order, subject to negative resolution of House of Assembly, amend the categories of licences. | 30(5) |
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| | 5. The Minister may by order amend the Schedules of this Act, subject to affirmation resolution and the House of Assembly. | |
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Ministerial powers to appoint a chairman of the Board of the Gaming and Betting Control Commission, to guarantee the repayment of the principal and the payment of interest of any authorized borrowings of the Commission. To amend categories of gaming licences are necessary to facilitate the operation of the scheme of the Act. The schedule of the Act is concerned with staffing and other operational aspects of the Act, and it is necessary that the Minister have power to amend them as circumstances may require. The Minister's power to do so is controlled by the requirement that amendment be subject to affirmative resolution by the House of Assembly.

| Name of Document | Discretionary Provisions | Section |
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| Immigration and Passport Act 2013 | 1. The Minister may from time to time give to the Chief Immigration Officer, any Deputy Chief Immigration Officer or immigration officer general or special directions not inconsistent with the provision of the Act as to the exercise or performance of their powers, discretions, or functions under the Act. | 4(2) |
| | 2. The Board shall cause to be made enquiries as they think expedient or as the Minister may require in respect of any matters concerning or connected with any of the designated matters or in respect of other matters of which permission, approval or consent or the permit, approval or consent of any immigration officer is required under the Act. | 15(1)(a) |
| | 3. The Board shall in respect of the matters connected with the designated matters, cause such statistical data to be obtained and recorded by the Department of Immigration and such records or reports to be published as the may think expedient or as the Minister may from time to time require. | 15(1)(b) |
| | 4. A person shall be entitled to land or embark in the Territory and shall be permitted by any immigration officer so to land or embark, if the person satisfies the immigration officer that he or she is a person employed in the service of such Caribbean inter-regional organisations as the Minister may by Notice in the Gazette designate. | 21(1)(f) |

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| | <p>5. An immigration officer may grant leave to any person to land and remain in the Territory for such period as the Immigration Officer may determine in accordance with subsection to upon being satisfied that the person is a person who falls within any of the categories enumerated in section 21(1)(c) to (i) or is not a person whose presence in the Territory would in the opinion of the Chief Immigration Officer and on the direction of the Minister be undesirable and not conducive to the public good.</p> | 23(1)(n) |
| | <p>6. The period for which an immigration officer may grant to any person leave to remain in the Territory under subsection (1) shall be where such person does not produce to the immigration officer such permit, such period not exceeding 6 months as immigration officer may, subject to any direction the Minister determines.</p> | 23(2)(b) |
| | <p>7. Any person applying for a permit under section 31 may be required by the Chief Immigration Officer to furnish such evidence of good character in respect of himself or herself and his or her dependants as the Minister may consider necessary.</p> | 31(2)(a) |
| | <p>8. Any person applying for a permit under section 31 may be required by the Chief Immigration Officer to furnish medical certificates with respect to himself or herself and his or her dependants certified by medical authorities acceptable to the Minister and with such particulars as the Minister may consider necessary.</p> | 31(2)(b) |
| | <p>9. Any person applying for a permit under section 31 may be required by the Chief Immigration Officer to give a bond or such sum and with such sureties as the Minister may approve. The Minister may cancel any such bond at any time on being satisfied that the necessity for the bond no longer exists.</p> | 31(2)(e) |
| | <p>10. Any person applying for a permit under section 31 may be required by the Chief Immigration Officer to furnish such particulars as the</p> | 31(2)(f) |

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| | Minister may consider material to the consideration of any application | 31(3) |
| | 11. No permit under subsection 1 shall be granted to any person if the Minister has notified the Chief Immigration Officer in writing that such a permit shall not be granted to such person. | 32(1)(b) |
| | 12. Any permit granted under section 31 may be granted subject to such conditions or restrictions in addition to any conditions or restrictions which may be prescribed as the Minister may in any case direct. | 32(1)(c) |
| | 13. Any permit granted under section 31 shall be subject to any special conditions or restrictions which the Minister may require the Chief Immigration Officer to impose in respect of any particular person | |

The powers and discretions provided for in these provisions are conventional in the context of Immigration Acts and are necessary for the operation of the system of Immigration.

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| Immigration and Passport (Prohibition of Entry) (Amendment) Order, 2021 | No provisions for discretionary powers by elected public officials | |
| Immigration and Passport (Authorised Ports of Entry) (Amendment) Regulations 2020 | No provisions for discretionary powers by elected public officials | |
| Immigration and Passport (Prohibition of Entry) Order, 2020 | No provisions for discretionary powers by elected public officials | |
| Immigration and Passport (Prohibition of Entry) Order, 2020 | No provisions for discretionary powers by elected public officials | |
| Immigration and Passport (Prohibition of Entry) (No. 2) Order 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 3) Order, 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 4) Order, 2020 | Legislation specific to Covid. N/A | |

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| Immigration and Passport (Prohibition of Entry) (No. 5) Order, 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 6) Order, 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 7) Order, 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 8) Order, 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 9) Order, 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 2) Order, 2021 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 3) Order, 2021 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Prohibition of Entry) (No. 4) Order, 2021 | Legislation specific to Covid. N/A | |
| Prohibition or Restriction of Commercial Vessels or Aircraft (COVID-19) Order, 2020 | Legislation specific to Covid. N/A | |
| Immigration and Passport (Amendment) Regulations 2021 | No provisions for discretionary powers by elected public officials | |

| Name of Document | Discretionary Provisions | Section |
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| Encouragement of Industries Act, Cap 287 | No provisions for discretionary powers by elected public officials | |
| Hotel Aid Act, Cap 290 | All powers of the Minister under this act are to be exercised by the Minister acting on the advice of the Executive Council as provided in the Act | |

The discretion is necessary for the operation of the scheme of the Act and is constrained by the requirement that the Minister act on the advice of the Executive Council

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| Integrity in Public Life Act, 2021 | The Minister may make regulations not inconsistent with the Act to give effect to the provisions of the Act. | 43(1) |
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The power conferred on the Minister to make regulations to give effect to the provisions of the A is necessary to facilitate the operation of the Act.

| Law | Discretionary Provisions | Section |
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| Marine Parks and Protected Areas Act, Cap 85 | No provisions for discretionary powers by elected public officials | |
| Protection of Trees and Conservation of Soil and Water, Cap 86 | No provisions for discretionary powers by elected public officials | |
| Turtles Act, Cap 87 | No provisions for discretionary powers by elected public officials | |
| Endangered Animals and Plants Act, Cap 89 | <ol style="list-style-type: none"> 1. A licence issued under subsection 2 may be to any degree, general or specific, may be expressed to be valid for such period as may be stated therein and may be modified or revoked at any time by the Minister. 2. The Minister may from time to time by Order published in the Gazette make such modifications in any Schedule as he considers necessary for any of the purposes in this section. 3. In respect of a licence issued under Section 3(3) where the Minister considers that it is desirable to prevent commercial exploitation, he may issue the licence subject to the condition specified in this section. 4. The Minister may establish such body or bodies, consisting in each case of such members as he may from time to time appoint and it shall be the duty of any body established under this section to advise the Minister on any question which he may refer to it and on any question on which it considers it should offer its advice in connection with the administration of this Ordinance or otherwise in connection with the importation and exportation of animals and plants of kinds | <p>3(3)</p> <p>4</p> <p>5(1)</p> <p>6</p> |

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| | which appear to him or, as the case may be, the body to be endangered and articles derived wholly or partly from them | |
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The Schedules to the Act list categories of animals, plants and articles the importation and/ or exportation of which are restricted. The powers granted to the Minister to make modifications to the Schedules as he may consider necessary from time to time provide necessary flexibility for the Minister to achieve the objectives of the legislation. The power to restrict or to prevent commercial exploitation of certain plants or animals by imposing conditions in a license is a necessary part of the regulatory regime. The power to appoint an advisory body enables the Minister to draw upon a pool of specialist knowledge.

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| Protection of endangered animals, plants and articles (removal and possession), Cap. 95 | 1. A licence may be general or specific and shall be valid for such period as stated therein and may be modified or revoked at any time by the Minister. | 3(2) |
| | 2. The Minister may from time to time amend, add to or make such modifications to the Schedule by Order published in the Gaze | 4 |

The schedules list the animals, plants and articles the importation and exportation of which are restricted. These provisions, and the discretion to vary the animals, plants and articles listed are necessary to facilitate the operation of the scheme of the Act

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| Wild Birds Protection Act, Cap. 96 | No provisions for discretionary powers by elected public officials | |
| Non-Belongers Land Holding Regulation, Cap 122 | No provisions for discretionary powers by elected public officials | |
| Non-Belongers Land Holding Regulation (Amendment) Act, 2009 | | |
| Land Surveyors Act Cap 215 | No provisions for discretionary powers by elected public officials | |
| Land Surveyor's (Amendment) Act, 2005 | <ol style="list-style-type: none"> 1. The Minister may appoint an alternate for a member appointed under subsection 1(c), (d) or (e) who shall have the same qualifications and be nominated in the same manner and by the same nominating authority as the substantive member. 2. Where a member of the Board other than a member appointed under subsection 1(e) is by | 4(6) |

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| | illness or otherwise unable to perform his functions or unable to attend meetings of the Board the Minister may without declaring the office vacant and after consulting the Chief Surveyor appoint another suitably qualified person to act as an alternate member for the remainder of the term of a member | |
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The discretion provided for in these provisions is necessary for the efficient operation of the Act.

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| Land Acquisition, Cap 222 | No provisions for discretionary powers by elected public officials | |
| Land Adjudication, Cap 223 | No provisions for discretionary powers by elected public officials | |
| Land Settlement, Cap 224 | No provisions for discretionary powers by elected public officials | |
| Long Look Lands Commission and Titles, Cap 225 | No provisions for discretionary powers by elected public officials | |
| Partition Act, Cap 226 | No provisions for discretionary powers by elected public officials | |
| Real Estate Charges, Cap 227 | No provisions for discretionary powers by elected public officials | |
| Registered Land Act, Cap 229 | No provisions for discretionary powers by elected public officials | |
| Settled Estates Act, Cap 230 | No provisions for discretionary powers by elected public officials | |
| Title by Registration Act, Cap 231 | No provisions for discretionary powers by elected public officials | |

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| Beach Protection Act, Cap 233 | 1. The Minister shall consider all applications made to him under subsection (1) and may grant the permit applied for upon such terms (including as to the quantity of sand, stone, gravel or shingle to be taken) as he thinks fit or he may refuse the application | 3(2) |
| | 2. The Minister may in writing delegate to the Development Control Authority or any body replacing that Authority any of his functions under this Ordinance. | 9 |

These provisions empower the Minister to give effect to and implement the policy of the Government as regards beach protection within the context of the general development strategy for the Territory..

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| Government Salt Ponds Act, Cap 240 | No provisions for discretionary powers by elected public officials | |
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| Land Development Control Act, Cap 241 | No provisions for discretionary powers by elected public officials | |
| National Parks Act, Cap 243 | No provisions for discretionary powers by elected public officials | |
| Trustee Act, Cap 303 | No provisions for discretionary powers by elected public officials | |

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| Labour Code, 2010 | 1. The Minister may, by Order published in the <i>Gazette</i> , designate a public officer who is trained and certified as a labour inspector to assist the Commissioner in the execution of his or her duties | 12 |
| | 2. The Commissioner may from time to time compile, analyse and tabulate statistics collected by way of returns submitted under this section and, subject to the directions of the Minister, cause the statistics or abstracts to be published in a form determined by the Commissioner, without disclosing the identity of the employer, employee or agricultural or industrial undertaking. | 19(7) |
| | 3. The Commissioner shall, on or before 30th April in each year, prepare and furnish the Minister with a report, in such form as the Minister may approve, on the operations of the Labour Department during the preceding calendar year | 24 |
| | 4. On receipt of a report transmitted by the Commissioner under section 26(3), the Minister may (a) himself or herself attempt to achieve a voluntary settlement of the issue, taking the necessary steps he or she deems appropriate; (b) refer the matter to a Board of Inquiry or the Tribunal within twenty-one days in accordance with the provisions of section 28; or (c) permit the parties to submit their dispute to mediation. | 27 |
| | 5. The Minister, in accordance with the provisions of section 27(b) or section 28(1)(b), may appoint a Board of Inquiry (in the Code referred to as a “Board”). | 31 |
| | 6. A Board shall consist of such number of members, who shall be appointed by the Minister, as he may determine | 31(2) |

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| | <p>7. A Board shall enquire into any matter referred to it and shall, within thirty days or a longer period as the Minister may approve in writing.</p> <p>8. The Minister may appoint an Advisory Committee to investigate or review the matters outlined in Section 38.</p> <p>9. Subject to subsection (3), a Committee shall consist of an equal number of employers and employees and representatives of such other interest groups as the Minister deems appropriate.</p> <p>10. The Minister may, upon approval of the Cabinet, vary the provisions of an Order made under this Part, but only with like advice and in the manner set out in this Part</p> <p>11. The Minister may, after considering the recommendations of an Advisory Committee appointed under Part III, vary the standards prescribed in this section by issuing an Order to that effect.</p> <p>12. The Minister may, after considering the recommendations of an Advisory Committee appointed under Part III, and after approval of the Cabinet, vary the standards prescribed in this section by issuing an Order to that effect.</p> <p>13. The Minister may, in his or her discretion, approve in writing a temporary increase in the hours of work authorised by the Code in any establishment in following circumstances outlined in Section 50(2)(a) to (c).</p> <p>14. The Minister may make Regulations for the granting of leave to the adoptive parent of a child and paternity leave</p> <p>15. The Minister may approve light work for children not below the age of fourteen years and subject to the number of hours and other conditions determined by the Minister after consultation with employers' and employees' representative organisations, where practicable;</p> | <p>31(5)</p> <p>38</p> <p>38(2)</p> <p>41</p> <p>47(3)</p> <p>49(2)</p> <p>50(2)</p> <p>73(6)</p> <p>128(2)(a)</p> |
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| | <p>16. The Minister may approved artistic performances subject to conditions determined by the Minister after consultation with employers' and employees' representative organisations, where practicable</p> <p>17. The Minister may make Regulations prescribing the standards to be achieved in respect of any of the obligations set forth in this Part and the methods required to attain them, and he or she may establish advisory committees on which employers and employees are represented to assist him or her in this function</p> <p>18. Notwithstanding subsections (1) and (2), the Minister may, by Order, require an employer to establish and maintain one or more joint workplace safety and health committees for a workplace and may, in the Order, provide for the composition, practice and procedure of any committee so established.</p> <p>19. The Minister may, by Order, exempt a workplace from the application of one or more of the provisions of this Part</p> <p>20. The Minister may vary the conditions of a work permit granted under this section at any time.</p> <p>21. The Minister may, by Order, delegate any of his or her functions under section 171 or this section to the Commissioner.</p> <p>22. A work permit shall be effective for a period not exceeding three years at a time and the permit may, upon application duly filed under section 171, be renewed or extended by the Minister from time to time.</p> <p>23. The Minister may specify different fees for different persons or categories of persons and for persons receiving different wages or salaries.</p> <p>24. Where a work permit is granted for any period less than one year, the amount of fees payable</p> | <p>128(2)(b)</p> <p>151</p> <p>153(3)</p> <p>158(1)</p> <p>171(12)</p> <p>173(1)</p> <p>173(5)</p> <p>177(2)</p> <p>177(4)</p> |
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| | shall be pro-rated from time to time as the Minister may by Order determine. 25. The Minister may make Regulations giving effect to the principles and provisions of the Code | 186(1) |
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The discretionary powers conferred on the Minister (a) to appoint a public officer trained and certified as a labour inspector to assist the Labour Commissioner in the execution of his or her duties (b) to direct the Labour Commissioner as to the form in which labour statistics or abstracts are to be published (c) to facilitate the settlement of labour disputes by attempting to achieve a voluntary settlement, referring the dispute to be adjudicated by a board of inquiry or the labour tribunal or permitting the parties to pursue mediation are necessary operational provisions. So are the provisions enabling the Minister to appoint a Board of Inquiry, to appoint advisory Committees and to make regulations prescribing the standards to be achieved or generally for giving effect to the principles and provisions of the Code.. The other areas of ministerial discretion, viz. to vary terms of work permits, to set permit fees, to require an employer to establish and maintain joint workplace safety and health committees; to by Order, exempt a workplace from the application of one or more provisions of the part of the labour code dealing with basic conditions of employment are all necessary to the operation of the scheme of the legislation and grant necessary flexibility to achieve the objectives contemplated by the enactment

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| Labour Code (Arbitration Tribunal) (Procedure) Rules, 2020 | 1. The Minister may refer a complaint under section 28(1)(a)(i) or (ii) of the Act to the Tribunal for hearing and consideration. | 10 |
| | 2. The Minister may refer a complaint under section 28(1)(a)(iii) of the Act to the Tribunal for hearing and consideration. | 11 |
| | 3. The Minister may refer a complaint under section 28(1)(c) of the Act, including any inquiry as a result of section 49(5) of the Act, to the Tribunal for hearing and consideration | 12 |

This statutory discretion vested in the Minister to refer complaints under the Labour Code to the tribunal for hearing and consideration fulfills the purpose for which the tribunal was created and is necessary for the operation of the statutory scheme.

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| Property (Miscellaneous Provisions) Act 2003 | No provisions for discretionary powers by elected public officials | |
| Trade in Endangered Species (Cites) Act, 2020 | 1. The Minister may in writing authorize the Permanent Secretary or any other public officer within the Ministry to exercise the functions under subsection (3) | 5(2) |
| | 2. The Minister may by instrument in writing designate persons to serve as authorized officers for purposes of this Act | 29(1) |
| | 3. The Minister may on the advice of the Management Authority or the Scientific Authorities amend the Schedules by Order published in the Gazette | 44 |

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| | 4. The Minister may make regulations to provide for the better carrying out of the provisions of this Act. | 47(1) |
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The discretion conferred upon the Minister to designate persons to serve as authorized officers for purposes of this Act, to amend schedules listing endangered species and generally to make regulations to provide for the better carrying out of the provisions of the Act are necessary provisions to facilitate the achievement of the purposes of the Act.

| Law | Discretionary Provisions | Section |
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| Parole Act 2009 (repealed) | 1. A member of the Board shall be remunerated as proposed by the Minister and approved by Cabinet. | 26 |
| | 2. On the recommendation of the Governor or Minister the Cabinet may make Rules addressing the matters referred to in Section 29(1) | 29(1) |

The power given to the Minister to make recommendations to the Cabinet is useful to facilitate the operation of the Act and is not an unnecessary discretion.

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| Parole (Amendment) Act, 2014 | No provisions for discretionary powers elected public officials | |
| Prison Act, Cap 166 | No provisions for discretionary powers by elected public officials | |
| Prison (Amendment) (No. 2) Rules, 2020 | No provisions for discretionary powers by elected public officials | |
| Prison Act, 2017 | 1. The Minister may by Order published in the Gazette with the approval of Cabinet, alter, enlarge or rebuild any prison in the Territory or if necessary, build new prisons in lieu of, or in addition to, any existing prisons. | 4(2) |
| | 2. The Director may with the approval of the Minister order the temporary release of a convicted prisoner in the circumstances outlined in Section 22(1). | 22(1) |
| | 3. The Minister may issue a Code of Practice with respect to the duties, conduct and discipline of prison officers and other employees at the prison. | 37(1) |

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| | 4. The Minister may with the approval of Cabinet by Order published in the Gazette, amend the Schedule. | 40 |
| | 5. The Minister, may with the approval of Cabinet, make rules for the effective administration of this Act, the good management of prisons and the discipline and safe custody of prisoners. | 41(1) |

The powers of the Minister to build new prisons or to enlarge or rebuild existing prisons if necessary; and to make rules for the effective administration of this Act and prison system are to be exercised only with the approval of Cabinet. The power to issue a Code of Practice with respect to the duties, conduct and discipline of prison personnel and to amend the schedule (which provides for a Prison Independent Monitoring Board) are incidental to proper administration of the prisons. These provisions confer discretion on the Minister to make decisions necessary for the good management of the prison system and are neither superfluous or overly broad.

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| Social Security Act, Cap 266 | 1. The Investment Committee shall, in addition, meet at such time or times as the Chairman or the Minister may request, to give consideration and advice on such matters relating to the operation of this Ordinance as the Minister may require. | 13(4) |
| | 2. The Minister may at any time direct that the period to be covered by any review and the report under this subsection shall be reduced and that the making of that and subsequent reviews shall be accelerated accordingly. | 17(1) |
| | 3. Regulations may provide for modifying the classifications in relation to cases where it appears to the Minister desirable by reason of the nature or circumstances of a person's employment or otherwise. | 18(5) |
| | 4. The Minister may make regulations modifying in such manner as he thinks proper the provisions of this Ordinance in relation to persons who are or have not been employed on board any ship, vessel, or aircraft. | 41(1) |
| | 5. The Minister may make regulations as are required by this Ordinance to be made. | 44(1) |

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| | <p>6. Without prejudice to any specific provision of this Ordinance any regulation may contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the regulations.</p> <p>7. In this Act the expression “the appointed day” means subject to the provisions of this section, such day as the Minister may by Order published in the Gazette appoint, and different days may be appointed for different provisions of this Ordinance.</p> <p>8. Any Order made under Section 48(1) may contain such incidental or supplementary provisions as appear to the Minister to be necessary or expeditious for orderly implementation of the provisions and purposes of this Ordinance.</p> <p>9. Regulations may provide for such other matters as may appear to the Minister to be incidental to or consequential on provisions included in the regulations by virtue of the provisions of this section.</p> <p>10. The Board shall consist of seven persons appointed by the Minister.</p> <p>11. The members representing employers shall be appointed after consultation with such associations or employers, or such persons or bodies, as appear to the Minister likely to produce representation for employers generally throughout the Territory.</p> <p>12. The members representing employed persons shall be appointed after consultation with such persons or bodies, as appear to the Minister to be representative of employees throughout the Territory.</p> <p>13. The representative members of the Board shall hold office for such period not exceeding three years as may be determined by the Minister.</p> <p>14. If a member becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the</p> | <p>44(5)</p> <p>48(1)</p> <p>48(2)</p> <p>54(d)</p> <p>Schedule, para 1</p> <p>Schedule, para 2</p> <p>Schedule, para 3</p> <p>Schedule, para 5</p> <p>Schedule, para 6</p> |
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| | <p>Minister shall in such manner as he thinks fit declare the office of the member vacant.</p> <p>15. A substitute member may be appointed by the Minister after consultation with the appropriate body, for any one meeting which a member is unable to attend.</p> | Schedule, para 8 |
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These provisions confer necessary discretion on the Minister to make decisions required for the effective operation of the social security department and system

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| The Social Security (Modifications of Insurance and Voluntary Contributions) Regulations, 1981 | No provisions for discretionary powers by elected public officials | |
| Social Security (Self-Employed Persons) Regulations, 1994 | No provisions for discretionary powers by elected public officials | |

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| Social Security (Amendment) Act, 2014 | The Minister may with the approval of the Cabinet, make regulations for the efficient administration of the provisions of this Part and for prescribing anything that is required to be prescribed. | 71(1) |
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This provision is essential to the operation of the system and the Ministers discretion is circumscribed by the need to obtain the approval of the Cabinet

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| Social Security (Employment Injury Benefits) Regulations | 1. The Chairman of the medical appeal tribunal shall be appointed by the Minister. | 57(1) |
| | 2. The Chairman and member of a medical appeal tribunal shall hold office for such period as the Minister may direct provided that at any time the Minister may terminate the appointment of the Chairman or member of the medical appeal tribunal. | 57(2) |

The discretion to appoint a chairman of the Medical Appeals tribunal as provided for in these provisions is necessary to facilitate the regulation and efficient operation of the social security system.

The power vested in the Minister to remove the chairman or any member of the tribunal at any time without the requirement to assign any reason therefor and without any other type of restraint on the exercise of the power may compromise the independence of the tribunal. This would be inappropriate because the Tribunal performs an adjudicatory function. It may be preferable for exercise of the power to be made subject to the consent of the Cabinet.

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| Social Security (Financial and Accounting) Regulations | The Minister may request an actuarial review if any major changes in the range of benefits payable under the Ordinance are being contemplated or where any abnormal or unforeseen reduction in contribution income occurs or at any other time he considers it necessary, and the distribution of income among the benefit branches shall be revised by the actuary in the light of the review | 15(2) |
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This provision vests an important and necessary power in the Minister to monitor and to promote the efficient operation of the system in the event of any major changes in the range of benefits payable thereunder

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| Social Security (Registration of Employers and Employees) Regulations | No provisions for discretionary powers by elected public officials | |
| Social Security (Contributions) Regulations | No provisions for discretionary powers by elected public officials | |
| Adoption of Children Act, Cap 269 | No provisions for discretionary powers by elected public officials | |
| The Age of Majority Act, 1994 | No provisions for discretionary powers by elected public officials | |

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| Child Maintenance and Access Act, 2017 | 1. The Minister may with the approval of Cabinet amend the Schedule by Order published in the Gazette. | 34 |
| | 2. The Minister may with the approval of Cabinet make Regulations for giving effect to the provisions of this Act. | 35(1) |

The power to make amendments to the Schedule of the Act and to make regulations to give effect to it is restrained by the requirement that it must be exercised with the approval of Cabinet. The powers provided for in these provisions are necessary to facilitate the operation of the Act.

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| Children and Young Persons Act, 2005 | The Minister may by Order appoint any suitable place in the Virgin Islands to be a place of safety for the purposes of this Act. | 15(3) |
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The power to designate a suitable place of safety is necessary to facilitate the operation of the Act.

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| Probation of Offender Act, Cap. 61 | No provisions for discretionary powers by elected public officials | |
| Probation of Offenders (Amendment) Act, 2005 | No provisions for discretionary powers by elected public officials | |

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| Public Assistance Act, 2013 | 1. The Minister may designate a Secretary for the Committee. | 3(4) |
| | 2. The functions of the Committee includes to perform such other duties as the Minister may direct. | 4(f) |
| | 3. The Minister may, by written notice, remove a member, other than an ex officio member, from office if satisfied that the member has done one of the acts provided for in this section. | 8(3) |
| | 4. The Chief Social Development Office shall perform such other duties as the Minister may from time to time assign. | 12(d) |
| | 5. The Minister may, by Order, prescribe any other form of assistance he or she considers necessary to assist a person in need. | 15(2) |
| | 6. The Minister may, in exceptional circumstances, grant assistance to a person who does not qualify for assistance under subsection (3) | 15(4) |
| | 7. The Minister may, by Order, after consultation with the Committee, prescribe categories of persons in need. | 16(1) |

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| | 8. The Minister may in exceptional circumstances, by Order, direct the Committee to provide assistance to a person who is not eligible for assistance, in accordance with the terms of the Order. | 16(3) |
| | 9. The Committee may provide emergency assistance, for a period not exceeding one month to, or for the benefit of a person, subject to such conditions as the Minister may by Order prescribe. | 17(3) |
| | 10. Public assistance shall be paid by cheque, direct bank deposit or any other manner which the Minister may by Order prescribe and shall be given at such place or places and on such days as the Minister may by Order prescribe. | 25(1) |
| | 11. Where the Chairperson or any other member is absent from the Virgin Islands or for any other reason is unable to act, the Minister may appoint a person to act in his or her place for the period of his or her absence or inability to act. | 30(6) |
| | 12. The Minister may, by Order, with the approval of Cabinet, specify the rates of assistance that may be granted under this Act. | 35 |
| | 13. The Minister may make such regulations generally for the purposes of carrying out the objectives of this Act | 41(1) |

By these provisions the Minister is empowered to prescribe categories of persons in need of public assistance and in exceptional circumstances to direct the Committee to provide assistance to a person who is not eligible for assistance; with the approval of Cabinet, to specify the rates of assistance that may be granted and in exceptional cases to prescribe any other form of assistance he or she considers necessary to assist a person in need; to designate a Secretary for the Public Assistance Committee and to fill temporary vacancies on the Committee ; to direct the Committee to perform functions additional to those listed in the statute;

These provisions encompass necessary Ministerial powers to facilitate the operation of the Act and for the achievement of its objectives and are neither overly broad or unnecessary.

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| Status of Children Act, 2014 | 1. The Minister may approve any laboratory recommended by an accreditation agency for the purpose of carrying out parentage testing procedures. | 12(1) |
| | 2. The Minister may make Regulations generally for the better implementation of the provisions of this Act and without prejudice to the generality of the foregoing with respect to matter outlined in this section. | 18 |

The power vested in the Minister to make regulations provisions for the better implementation of the provisions of the Act including the designation of facilities for carrying out parentage testing procedures are appropriate and are necessary to facilitate the operation of the Act.

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| Status of Children (Parentage Testing Procedure) Regulations, 2014 | No provisions for discretionary powers by elected public officials | |
| Virgin Islands Red Cross Act, 2020 | No provisions for discretionary powers by elected public officials | |
| Youth Courts Order, 2005 | No provisions for discretionary powers by elected public officials | |
| Youth Courts (Amendment) Act, 2013 | Section 2(1)(d) and Section 2(2) amended to replace nominated by the Executive Council with the words “recommended by the Minister and approved by the Cabinet. | 4 |

By this amendment the Minister is empowered only to make a recommendation which must be approved by Cabinet.

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| Youth Courts Act, 2005 | No provisions for discretionary powers by elected public officials | |
| Burial Grounds Regulations, 1978 | No provisions for discretionary powers by elected public officials | |
| Burial Grounds (Amendment) Regulations 2015 | No provisions for discretionary powers by elected public officials | |

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| Cemeteries Act, Cap 177 | 1. The Minister may for the purposes of this Act, by Order, declare for use as public or private cemeteries such areas in the Territory as he considers appropriate for such use. | 3(1) |
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| | <p>2. If after an examination has been made under paragraph (a) of subsection (2) and upon consideration of any objections lodged, the Minister is satisfied that an area in respect of which an application is made is suitable for use as a private cemetery he may issue a licence to the applicant authorizing the use of the area for that purpose; but if the Minister is not so satisfied he shall refuse the application.</p> | 4(3) |
| | <p>3. Where at any time it appears to the Minister that for the protection of the health of the public or otherwise a cemetery should no longer be used as such, the Minister may Order, declare that cemetery closed.</p> | 9(1) |
| | <p>4. The Minister may make regulations generally for the effective operation of this Act and specifically for the matters referred to in this section.</p> | 12 |

These provisions are necessary to facilitate the operation of the Act and to regulate activities covered thereunder.

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| Non-Profit Organisations Act, 2012 | <p>1. Where the Leader of the Opposition fails to provide the name of the nominee pursuant to subsection (5), the Minister may appoint any person he or she considers suitable.</p> | 3(6) |
| | <p>2. The functions of the Board are to discharge such other functions as may be assigned to it by the Minister under this Act.</p> | 4(f) |
| | <p>3. The Minister may by written notice, remove a member other than an ex-officio member from office if satisfied of the matters outlined in this section.</p> | 5(3) |

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| | 4. A member who is not a public officer may be paid such stipend as determined by the Minister, acting on the advice of the Minister of Finance. | 9 |
| | 5. An organization may appeal to the Minister against the decision of the Board under subsection (1) within twenty-one days of receipt of notice of the decision of the Board. | 14(4) |
| | 6. The Minister may by Order and after consultation with the Board and with the approval of Cabinet, amend the Schedules to this Act in such manner as he or she considers necessary. | 32 |
| | 7. The Minister may after consultation with the Board and with the approval of Cabinet, make Regulations for the matters outlined in this section. | 25 |

The powers conferred upon the Minister by this act, viz-. (a) to appoint a suitable person to sit on the Non-Profit Organisation Registration Board if the Leader of the Opposition fails to avail himself or herself of the statutory entitlement to do so;(b) to assign functions to the Board additional to those listed in the statute’;(c) to remove Board members who have become bankrupt or otherwise unqualified or incapable of performing their duties (d) after consultation with the Board and with the approval of Cabinet, to make Regulations for the matters are appropriate and necessary to facilitate the operation of the Act.

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| Derelict Vehicles (Disposal) Act, 2000 | 1. The Minister may by Order published in the Gazette prescribe the fee referred to in subsections (1) and (2) and may prescribe different fees for different classes of motor vehicles. | 5(3) |
| | 2. There shall be established a fund to be known as the Derelict Vehicles Fund into which all fees paid pursuant to section 4 shall be deposited and which shall be maintained in an interest bearing account in such bank as may be approved by the Minister responsible for finance. | 6(1) |
| | 3. The Minister responsible for finance may with the approval of the Legislative Council invest or otherwise expend for | 6(2) |

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| | <p>public purposes such portion of the Derelict Vehicles Fund as is not needed for the implementation of this Act.</p> <p>4. The Minister may make Regulations generally for the purpose of giving effect to the provisions of this Act.</p> | 14 |
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These provisions are necessary to facilitate the operation of the Act and to regulate activities covered thereunder.

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| Derelict Vehicles (Disposal) Act, 2000 | No provisions for discretionary powers by elected public officials | |
| Derelict Vehicles (Disposal) Regulations, 2001 | No provisions for discretionary powers by elected public officials | |
| Litter (Abatement) (Amendment) Act, 2009 | No provisions for discretionary powers by elected public officials | |

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| British Virgin Islands Community College Act, 1990 | 1. The Minister may from time to time by order amend the provisions of the First Schedule. | 6(4) |
| | 2. With the approval of the Legislative Council the Minister in charge of the subject of Finance may guarantee in such manner and on such conditions as he may think fit, the repayment of the principal and payment of interest in respect of any authorised borrowing by the Board. | 13(1) |
| | 3. The Board shall make to the Accountant General, at such times and in such manner as the Minister in charge of the subject of Finance may direct, payments of such sums as may be so directed in or towards repayment of any sums issue in fulfilment of any guarantee given under this section, and payment of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as regards different sums and as regards interest for different periods. | 13(3) |

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| | <p>4. The Board shall submit to the Minister within three months after the end of each academic year, or within such further time as the Minister may allow, a report on the activities of the College during that academic year.</p> <p>5. The Minister may, after consultation with the Board, give the Board - (a) directions of a general character as to the policy to be followed in the exercise and performance of its functions in matters appearing to him to concern the public interest; (b) directions for the remedying of any defect or failure in the performance of its functions, and the Board shall give effect to such directions.</p> <p>6. The Minister may appoint any person to act temporarily in the place of any member of the Board in the case of the absence or inability to act of such member.</p> <p>7. The Minister may, if he thinks it expedient, revoke the appointment of any member of the Board</p> | <p>15(1)(a)</p> <p>17(1)</p> <p>First Schedule, Section 2</p> <p>First Schedule, Section 3(2)</p> |
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The First Schedule concerns the constitution, functions and procedure of the board and the organisation and staffing of the institution. It involves matters such as the procedure for the conduct of board meetings, the functions of the board generally, powers of the board, subject to the approval of the Minister, to make rules and devise procedures for the management and staffing of the college, for appointment and disciplinary control of staff and for ancillary matters. It is necessary for operational flexibility that the Minister be empowered to make adjustments to the provisions in the schedule from time to time.

The Act provides for the board to furnish annual reports on the activities of the College to the Minister, for the Minister to attend or be represented at board meetings, to give general directions on matters of policy to the board, to appoint and to remove members from the board “if he thinks it expedient” and to fill temporary vacancies in the board, These discretion granted the Minister with regard to the composition of the board is broad but not unduly so given the responsibility of the Minister to ensure a functioning governing body for the College.

Provision is made for Minister of Finance to guarantee authorized borrowing by the Board but this power is subject to approval of the Legislative Council.

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| British Virgin Islands Community College (Amendment) Act, 1993 | No provisions for discretionary powers by elected public officials | |
| Education Ordinance, Chapter 116 - Repealed by the Education Act, 2004 | | |
| Scholarship Trust Fund Ordinance, Chapter 118 | No provisions for discretionary powers by elected public officials | |

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| Education Act 2004 | <ol style="list-style-type: none"> 1. In addition to the responsibilities referred to in subsections (1) and (2) and the several duties imposed on the Minister under this Act, the Minister is responsible for (d) establishing and maintaining or assisting in the establishment and maintenance of schools, institutions or other facilities for tertiary, adult and continuing education and special education as the Minister considers necessary; (e) taking such other action as the Minister considers necessary for ensuring that the requirements of teachers in public schools are satisfied. 2. For the purpose of the performance of his responsibilities and duties under this Act, the Minister may exercise the powers provided or in this section. 3. The Minister may delegate in writing to the Chief Education Officer any responsibility or duty conferred on the Minister by this Act or regulations, but this does not preclude the Minister from exercising any or all of the duties so delegated where the Minister considers it necessary. 4. In cases of emergency and after consultation with the Permanent Secretary and the Chief Education Officer, the Minister may give general or special directions in writing to any public officer in the Ministry respecting the Minister's duties under this Act and the public officer shall carry out the Minister's directions. 5. The Minister may require the Education Advisory Board to hold a public hearing | <p>4(3)(d) and (e)</p> <p>5(1)</p> <p>8(1)</p> <p>8(2)</p> <p>12(2)</p> |
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| | <p>respecting any matter affecting the promotion of education and when so required, the Education Advisory Board may adopt the procedure outlined in subsection (1) which it considers most appropriate.</p> <p>6. The Minister is not bound to accept the advice of the Education Advisory Board, and where he considers it advisable, he may refer a matter back to the Education Advisory Board for reconsideration.</p> <p>7. Where after reconsideration, pursuant to subsection (1) the Education Advisory Board adheres to the advice it had previously given, the Minister may reject the advice or adopt it either wholly or with such modification, additions or adaptations as he thinks fit.</p> <p>8. Notwithstanding section 10, the Minister may appoint such special committees as he considers necessary to advise him with respect to any specific matter that may arise from time to time.</p> <p>9. The Minister may refer any matter to a special committee appointed under subsection (1) notwithstanding that the Education Advisory Board considered or has power to consider that matter.</p> <p>10. Tuition fees may be payable in such amounts, for such purposes and by such persons or classes of persons who are not citizens of any Member State or Associated Member State of the Caribbean Community as the Minister may prescribe by Order published in the Gazette.</p> <p>11. Notwithstanding subsection (1), if the Minister is satisfied that it has become necessary or expedient to raise or lower the compulsory school age, the Minister may, by Order, subject to affirmative resolution of the Legislative Council within sixty days of the making of the Order, direct that subsection (1) has effect as if for references therein there</p> | <p></p> <p>13(1)</p> <p>13(2)</p> <p>14(1)</p> <p>14(3)</p> <p>17(2)(a)</p> <p>28(2)</p> |
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| | were substituted a reference to any age prescribed in the Order. | |
| | 12. The Minister may, notwithstanding anything contained in this or any other enactment, direct that the school be temporarily or permanently closed, as the case may be, and the school shall, with effect from the date of the direction, in the event of the circumstances provided for in this section. | 36(1) |
| | 13. Without affecting subsection (1), the Minister may delegate to the Chief Education Officer the power conferred on the Minister by that subsection to temporarily close a school referred to in subsection (1). | 36(4) |
| | 14. The Minister may by Order introduce a scheme of zoning for the admission and transfer of students to public schools and assisted private schools, whether primary or secondary. | 37(1) |
| | 15. A parent who is dissatisfied with a refusal under subsection (3) may appeal to the Minister, who may overrule the refusal. | 39(5) |
| | 16. The Minister may, by Order, designate school attendance officers to assist in the enforcement of the compulsory attendance provisions of this Act. | 40 |
| | 17. The Minister may in consultation with the Chief Education Officer prescribe rules to govern the attire, conduct and discipline of students attending a public or an assisted private school. | 54(1) |
| | 18. The Minister may by Order designate school security officers to assist the principal and teachers of any school, whenever he considers it necessary, in ensuring that students uphold the rules and regulations of the school. | 59 |
| | 19. The Minister may by notice, if the Minister considers it necessary, appoint a Board of Management for any primary | 66(1) |

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| | <p>school that is a public school where it appears to him to be desirable to do so in the interest of economy, efficiency, and for the participation of the community in the management of education.</p> <p>20. Notwithstanding subsection (1), the Minister may appoint one Board of Management to administer more than one primary school if the Minister is satisfied that the general interest of education in the area in which these institutions are situated will be best served by a single Board</p> <p>21. A Board of Management appointed under Section 66 shall include one member who shall be a representative nominated by the Parent Teacher Association of the school, provided that if no such association exists the Minister may appoint a parent after consultation with the principal.</p> <p>22. The Minister may by notice, if the Minister considers it necessary, appoint a Board of Management for each public secondary school established under this Act where it appears to the Minister to be desirable to do so in the interest of economy, efficiency, and for the participation of the community in the management of education.</p> <p>23. Notwithstanding subsection (1), the Minister may appoint one Board of Management to administer more than one secondary school if the Minister is satisfied that the general interest of education in the area in which these schools are situated will be best served by a single Board.</p> <p>24. Notwithstanding sections 79 and 80, the Minister may appoint a Board of Management to administer more than one assisted private school in the circumstances provided for in this section.</p> | <p></p> <p>66(2)</p> <p>67(1)(b)</p> <p>73(1)</p> <p>73(2)</p> <p>82(1)</p> |
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| | <p>25. The Minister may establish and maintain, in accordance with this Act and regulations, colleges, technical institutions, universities, and any other institution of higher education at such places as the Minister may determine.</p> <p>26. The Minister may, as resources permit, include as part of the system of public education the forms of public education provided for in this section.</p> <p>27. The Minister may, when the Minister considers it necessary, establish a Council on Early Childhood Education to advise him on policies to guide the implementation of this Division.</p> <p>28. The Minister may make regulations generally for the proper carrying out of the purposes of this Division.</p> <p>29. The Minister may establish a Council on Special Education to advise him on guidelines for the implementation of this Division.</p> <p>30. Where a Council on Special Education is established the Minister may by Order provide for its - (a) membership; (b) procedures for its business; and (c) powers and functions.</p> <p>31. A person who, at the commencement of this Act, is keeping a private school, shall, within one year of the commencement of this Act or of such further period as the Minister may by notice allow, comply with section 101.</p> <p>32. The Chief Education Officer shall annually certify a copy of the Private Schools Register and the copy so certified shall be published in the Gazette on such date as the Minister may determine.</p> <p>33. The Minister may refuse to issue a permit if, during the three years preceding the application, a permit held by the applicant was revoked.</p> | <p>83(1)</p> <p>84(2)</p> <p>87(1)</p> <p>88(1)</p> <p>94(1)</p> <p>94(2)</p> <p>103(1)</p> <p>104(2)</p> <p>107(1)</p> |
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| | <p>34. Notwithstanding section 101, the Minister may refuse to issue a permit authorising, in a primary school or in general education at the secondary school level, instructions limited to certain subjects or classes, or the Minister may subject the issue of such a permit to the conditions that he determines.</p> <p>35. The Minister may determine the maximum number of students who may be admitted to educational services or categories of educational services provided by the private school.</p> <p>36. Where the applicant fails to determine such capacity, the Minister may refuse to issue the permit.</p> <p>37. Notwithstanding subsections (1) and (2), the Minister may issue or renew a permit for a different period or without a date of expiry where the Minister on the approval of the Executive Council considers it expedient.</p> <p>38. The Minister may, at the request of a permit holder, modify the permit upon payment of the fees fixed by regulations.</p> <p>39. Where the Minister is satisfied that a private school registered under this Act has ceased to be conducted in accordance with this Act or regulations, the Minister may serve on the proprietor of the school a notice of that fact, requiring him within the time specified in the Education Act, 2004.</p> <p>40. Where an appeal is brought under this section against a cancellation of registration or a refusal to grant a permit, the Minister may not enforce the refusal or cancellation until the appeal is determined or withdrawn.</p> <p>41. Where the Minister is satisfied that the notice served under section 117 has been complied with, the Minister may re-register the private school subject to any</p> | <p>108</p> <p>109</p> <p>109(3)</p> <p>112(3)</p> <p>113(1)</p> <p>117</p> <p>119(4)</p> <p>120(4)</p> |
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| | condition which the Minister may specify. | |
| | 42. The Minister may, on the advice of the Director of Health Services, require the closure of any private school or classroom at the school, or the exclusion of certain students for a specified time with a view to preventing the spread of disease or any danger to health. | 122(2) |
| | 43. If upon consideration of an application for financial assistance under this section, the Minister is satisfied that the purpose for which the assistance is required ought to be carried out, the Minister may arrange to obtain a grant from the Government for that purpose. | 129(2) |
| | 44. The Minister may make regulations in respect of the matters in this section. | 131 |
| | 45. The Minister may establish a Technological and Vocational Education and Training Council. | 132(1) |
| | 46. In the case of the inability of any member to act, the Minister may appoint a person to act temporarily in the place of that member. | 132(3) |
| | 47. The Minister may give directions of a general or specific nature to the Technological and Vocational Education and Training Council and it shall comply with those directions. | 134 |
| | 48. The Minister may make regulations in respect of the matters provided for in this section. | 142 |
| | 49. The Minister may revise the national curriculum whenever the Minister considers it necessary and expedient to do so. | 149(3) |
| | 50. For the purpose of creating and revising the national curriculum from time to time, the Minister may constitute subject panels to develop syllabuses for the core and foundation subjects. | 153(1) |

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| | <p>51. In respect of public schools the Minister may constitute a standing advisory council on religious matters connected with the religious instruction to be given in accordance with an agreed syllabus and in particular, as to methods of teaching, the choice of books, and the provision of lecturers or teachers.</p> <p>52. The Minister may solicit and consider nominations for the membership of the Education Appeal Tribunal from groups interested in education in the Virgin Islands.</p> <p>53. Subject to the provisions of this Act, the Minister may make regulations generally as he considers necessary or expedient for carrying out the purposes of this Act Subject to the provisions of this Act, the Minister may make regulations generally as he considers necessary or expedient for carrying out the purposes of this Act.</p> <p>54. Without restricting the generality of subsection (1), the Minister may make regulations in respect of the matters provided for in this section.</p> <p>55. In the absence or in the case of the inability to act of a member, the Minister may appoint any person from the group that member represents to act temporarily in place of such member.</p> <p>56. The Minister may grant leave of absence to a member of the Council and may appoint a person to act temporarily in the place of that member.</p> | <p>155(2)</p> <p>161(4)</p> <p>173(1)</p> <p>173(2)</p> <p>First Schedule, Section 4</p> <p>Third Schedule, Section 3</p> |
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The Minister is made responsible for the overall administration of the Act and must do so with the objective of promoting the establishment of a varied, relevant and comprehensive education system characterized by excellence. For this purpose, he is given wide responsibility for the establishment, management, maintenance, supervision of schools, their teaching staff and support personnel, students and generally with

regard to every aspect of the system. He or she is empowered to appoint boards of management for primary, secondary and assisted private schools; to establish a Council on Special Education to advise him on guidelines for the implementation of policy objectives. He or she is entitled to advice from the Education Advisory Board or from a special committee appointed by him to advise on particular aspects of his responsibilities but is not bound to act on such advice. He or she is empowered to delegate such part of his powers and responsibilities as he sees fit to the Chief Education Officer and may in circumstances of emergency after consultation with the Permanent Secretary and the Chief Education Office give general or special directions in writing to any public officer in the Ministry respecting the Minister's duties. He or she may subject to affirmative resolution of the Legislative Council within sixty days of the making of the Order raise or lower raise or lower the compulsory school age, direct that a school be temporarily or permanently closed or may delegate the power to temporarily close a school to the Chief Education Officer He or she is empowered to introduce a scheme of zoning for the admission and transfer of students to public schools; to take steps to ensure security and discipline in schools by designating school attendance officers to enforce the compulsory attendance provisions of the Education Act, and (after consultation with the Chief Education Officer) to prescribe rules to govern the attire, conduct and discipline of students attending a public or an assisted private school. He may by Order designate school security officers to assist the principal and teachers of any school, The Minister may revise the national curriculum whenever he or she considers it necessary and expedient to do so and or that purpose may constitute subject panels to develop syllabuses for the core and foundation subjects. Moreover, he or she is empowered to constitute a standing advisory council on religious matters connected with the religious instruction to be given in schools and may give directions of a general or specific nature to the Technological and Vocational Education and Training Council. As can be seen the Minister is given sweeping powers in relation to the implementation of the declared objectives of the Act regarding the development, management, and operation of the education system. Given the breadth of his or her responsibilities, the impossibility of anticipating in advance the situations in which ministerial or bureaucratic judgment may be needed and the consequent requirement for flexibility in implementation of the government's educational policy, the discretion vested in the Minister is neither overly broad nor unnecessary.

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| Education (Amendment) Act, 2014 | No provisions for discretionary powers by elected public officials | |
| Education (Amendment) Act 2015 | Notwithstanding subsection (1) Tuition fees may be payable in such amounts for such purposes and by such persons as the Minister may prescribe by Order published in the Gazette. | 17(2) |
| Education (Student Code of Conduct) Rules, 2006 | No provisions for discretionary powers by elected public officials | |
| Education (Amendment) Act 2015 | No provisions for discretionary powers by elected public officials | |

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| Higher Education Licensing Act, 2016 | 1. Notwithstanding subsection (4), the Minister may direct the Board to meet at such | 7(7) |
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| | times as the Minister may consider necessary. | |
| | 2. The Minister with the approval of the Cabinet may revoke the appointment of members, other than an ex officio member, if satisfied of any of the matters provided for in this section. | 8(4) |
| | 3. The Minister may recognize any accreditation body or authority to accredit programmes of study and qualifications offered by a provider in the Virgin Islands. | 26(1) |
| | 4. The Minister may after consultation with the Board, designate public officers as Sureveillance Officers for the purposes of monitoring compliance with the provisions of this Act. | 27(1) |
| | 5. The Minister may with the approval of Cabinet, by Order published in the Gazette amend the Schedules to this Act in such manner as he or she considers necessary. | 31 |
| | 6. The Minister may with the approval of Cabinet, make Regulations for the better carrying out of the purposes of this Act. | 34(1) |

The Act is intended to provide for the licensing of providers of tertiary education in the Territory empowers the Minister with the approval of Cabinet to appoint members of the Higher Education Licensing Board; to revoke the appointment of members other than the ex officio member for non-attendance of three consecutive meetings, or if satisfied that he or she has become disqualified or incapable of discharging the duties of the office or “ is, in the opinion of the Minister not acting in the best interest of the Board.”

The Minister is further empowered to designate Surveillance Officers to monitor compliance with the Act to recognize any accreditation body and to amend the Schedules to the Act . These are unexceptional powers

which are required to facilitate the operability of a system of licensing of providers of tertiary education in the Territory.

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| <p>Education (Early Childhood Education) Regulations, 2015</p> | <p>1. The Minister may request any permit holder who is seeking a renewal under sub regulation (1) to furnish him with any register, record book or other relevant document and the documents shall be supplied within the time stipulated in the written request.</p> <p>2. Where a facility informs the Minister in writing that it is unable to comply with the standards specified under this regulation, the Minister may, on the advice of the Chief Education Officer or a person designated by the Chief Education Officer, exempt the facility, subject to such conditions as he considers necessary, from strict compliance with the standards specified under this regulation.</p> <p>3. The Minister may, in a particular case, approve (a) the use of a building that is above ground level, if he considers the building safe and suitable for early childhood care and education; (b) the use of a building that is also used as a dwelling house, if (i) the part of the building used as a dwelling has a separate entrance; and (ii) the part of the building and outdoor space used for early childhood care and education is not used for domestic purposes when children are attending the facility.</p> | <p>4(3)</p> <p>9(6)</p> <p>11(2)</p> |
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| | 4. The Minister on the advice of the Council, may exempt a principal from any qualification requirement specified under subregulation (1). | 48(2) |
| | 5. The Minister on the advice of the Council, Chief Education Officer or a person designated by the Chief Education Officer, may exempt any teacher from any qualification requirement specified under sub regulation (1). | 49(2) |
| | 6. Every aide or volunteer shall have completed at least two years of secondary education unless the Minister on the advice of the Council, exempts the aide or volunteer from such qualification requirement. | 50 |

The regulations confer upon the Minister the power to enforce compliance with the standards specified under the Act for early childhood care and education as to the quality and suitability of facilities and the qualification of persons providing or supervising the delivery of the same. In this regard he or she is given discretion to adjust the requirements for strict compliance with the standards in appropriate situations. In exercising these powers with regard to non-compliant premises the Minister must act on the advice of the Chief Education Officer or a person designated by the Chief Education Officer. With regard to exempting certain persons from qualification requirement the Minister must act on the advice of the Council. In my view the powers given to the Minister in these regulations are neither overly broad nor unnecessary

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| Education Regulations 2016 | 1. The Minister may direct that the aggregate scheduled instructional time for each class during a school day shall not be less than five hours. | 5(7) |
| | 2. The Minister may on a written application by the Management Authority approve in writing different instructional sessions and | 6(3) |

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| | <p>hours for the commencement of the sessions for assisted private schools.</p> <p>3. The summer vacation shall commence not later than the second Monday in July and end on the thirty-first day of August in the year, unless the Minister provides otherwise.</p> <p>4. The student disciplinary policy of a public or assisted private school shall be based on (a) such rules as the Minister in consultation with the Chief Education Officer may prescribe pursuant to section 54(1) of the Act.</p> <p>5. The Minister may direct the temporary or permanent closure of a school if any of the conditions set out in section 36 of the Act have occurred and in the case of the matters outlined in this section.</p> <p>6. The Minister may on the advice of the Chief Education Officer cause a school to be closed if the Minister is satisfied of the matters outlined in the section.</p> <p>7. Except as otherwise provided in the Act or these Regulations, the Management Authority of a private or assisted private school may not discontinue such a school unless the Management Authority of the school gives the Minister not less than six months' notice in writing or</p> | <p>8(4)</p> <p>37(a)</p> <p>53(1)</p> <p>53(2)</p> <p>53(4)</p> |
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| | <p>such shorter notice as the Minister may accept, of the intention to discontinue the school.</p> <p>8. The Minister may grant annually to an assisted private school such sums of money as circumstances may permit.</p> <p>9. Where money granted to an assisted private school is misappropriated the Minister may (a) discontinue future grants to the school; (b) reduce by the amount misappropriated any future grants made to the school.</p> <p>10. The Minister subject to the advice of the Director of Public Works and Chief Physical Planner may from time to time such decisions relating to specifications, plans, sites and methods of construction and equipment of school buildings as may in the opinion of the Minister be appropriate to the requirements of the level of education that the buildings are intended to support.</p> <p>11. Where a school plant is not maintained in a sanitary condition and repair or does not fit the purpose of the school to the satisfaction of the Minister, the Minister may, after consultation with the Management Authority order the school to be closed.</p> <p>12. Where a permit is issued to an applicant to operate a private school under section</p> | <p></p> <p>55(1)</p> <p>55(3)</p> <p>57(3)</p> <p>57(5)</p> <p>63(1)</p> |
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| | <p>106 of the Act, the permit holder shall administer and operate the private school in accordance with the Act, these Regulations and such conditions as the Minister may stipulate in the permit.</p> <p>13. The Minister may in writing request any permit holder who is seeking a renewal under subregulation (1) to furnish him with any register, record, book or relevant document and the permit holder shall furnish the documents within the time stipulated in the written request.</p> <p>14. Where the minister has reasonable grounds to believe that a permit holder does not, or fails to operate or manage a private school in accordance with the provisions of regulation 63(1), the Minister may give the permit holder notice of such failure and such reasonable time as the Minister considers necessary to remedy the failures.</p> <p>15. Where after the expiry of the time referred to in sub regulation (1) the permit holder fails or is unable to remedy the failures within the time, the Minister may, subject to sub regulation (3), revoke the permit.</p> | <p>64(2)</p> <p>65(1)</p> <p>65(2)</p> |
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The powers given to the Minister enable him or her to ensure the proper management and maintenance of school facilities, to direct the student disciplinary policy and to set the aggregate scheduled instructional time for each class in a relevant school, The Minister is empowered, after due process, to revoke the permits of persons who fail to operate or manage a private school in compliance with regulatory requirements, The discretionary powers given to the Minister in in these regulations are neither overly broad nor unnecessary.

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| Public Procurement Act, 2021 | <ol style="list-style-type: none"> 1. For the purposes of subsection (2)(e) membership shall be rotated among the Permanent Secretaries, in such order as may be determined by the Minister. 2. The Central Tenders Board is responsible for any other functions the Minister may assign. 3. The Minister may extend the period referred to in subsection (5) (relating to hearing and determination of applications for review). 4. The Cabinet may make regulations not inconsistent with this Act, for giving effect to the provisions of this Act.. | <p>5(4)</p> <p>5(5)(i)</p> <p>27(6)</p> <p>56(1)</p> |
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The Public Procurement Act, 2021 establishes a Tenders Board in place of the one established by the Regulations made under the Public Finance Management Regulations, 2005. The Board is to be staffed inter alia by the Financial Secretary, The Attorney General, the Director of Public Works and the Permanent Secretary in the Ministry responsible for the relevant tender. The Act sets out alternative procurement methods and clear rules as to the circumstances in which a particular procurement method may be used. , Where a tenderer requests a review of the decision of a procuring entity the Minister must refer the request to a Procurement Appeals Board to be determined within 28 days or within such extended time as he or she may permit. The Minister may assign to the Tenders Board functions additional to those set out in the Act. These powers and discretions are appropriate and not unnecessarily broad.

Until new regulations are promulgated the Public Procurement Act 2021 continues the regulations made under the Public Finance Management Act.

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| Cinematographs Ordinance, Chapter 236 | No provisions for discretionary powers by elected public officials | |
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| Antigua Diocesan Synod Incorporation | No provisions for discretionary powers by elected public officials | |
| Pilgrim Holiness Church Incorporation | No provisions for discretionary powers by elected public officials | |
| Roman Catholic Bishop of St. John’s Incorporation and Vesting | No provisions for discretionary powers by elected public officials | |
| Virgin Islands Missionary Diocese Incorporation | No provisions for discretionary powers by elected public officials | |

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| Audio Visual Link Act, 2017 | No provisions for discretionary powers by elected public officials | |
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| Recreation Trust, Chapter 278 | No provisions for discretionary powers by elected public officials | |
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| Water and Sewerage Authority Act, 2022 | 1. The Minister may request with respect to a particular matter relating to the activities and business of the Authority and the Chairman shall furnish the Minister with such information requested. | 3(2) |
| | 2. The Cabinet may at any time revoke the appointment of any Board Member if it thinks it expedient to do so, where (a) there has been failure by the Board to comply with or to give effort to any direction or requirement of the Minister pursuant to section 33; or (b) with respect to any water production or supply, the Board is for any reason unable to unwilling to act | 4(3) |

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| | <p>and that such conduct on the part of the Board is contrary to the interest of the Virgin Islands.</p> <p>3. For the purposes of making advances to the Authority under this section, the Minister responsible for finance may authorise advances out of the proceeds of any loan raised for the purpose or out of the Consolidated Fund, reserve fund, revenues or surplus balances of the Virgin Islands.</p> <p>4. Pending the raising of any such loan, the Minister responsible for finance may by warrant under his or her hand authorise the Accountant General to make advances out of the revenues of the Virgin Islands to the Authority in such sums and on such terms and conditions as the Minister responsible for finance may think fit for the purposes authorised by this Act.</p> <p>5. The Authority shall as soon as practicable, but not exceeding three months after the end of each financial year, make and transmit to the Minister a report dealing generally with the activities of the Authority during the preceding financial year and containing such information relating to the operations and policy of the Authority as the Minister may from time to time direct.</p> | <p>13(2)</p> <p>13(3)</p> <p>22(1)</p> |
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| | <p>6. The Minister may give to the Authority such policy directions in the performance of its functions as appear to the Minister to be necessary in the interests of the Virgin Islands and the Authority shall give effect to such directions.</p> <p>7. The Minister after consultation with the Authority may make regulations generally for giving effect to the provisions of this Act and, without prejudice to the generality of such power, may make regulations in respect to all or any of the matters outlined in this section.</p> | <p>33(1)</p> <p>38(1)</p> |
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The Minister is entitled to request and receive information concerning any matter relating to the activities and business of the Authority.

By Section 33 of the Act the Minister may give to the Authority such policy directions in the performance of its functions as appear to him or her to be necessary in the interests of the Virgin Islands. Cabinet is given the qualified power to revoke the appointment of any Board Member if it thinks it expedient to do so, where (a) there has been failure by the Board to comply with or to give effort to any direction or requirement of the Minister pursuant to section 33 and (b) the Board is unable to unwilling to act with regard to respect to any water production or supply and Cabinet concludes that such conduct on the part of the Board is contrary to the interest of the Virgin Islands.

After consultation with the Authority the Minister may make regulations generally for giving effect to the provisions of the Act. such conduct on the part of the Board is contrary to the interest of the Virgin Islands.

These powers and discretions are in my view appropriate not unnecessarily broad and are required to give effect to the operational requirements for the legislation.

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| Wickham’s Cay Development Authority Ordinance Cap 281 (1975) | No provisions for discretionary powers by elected public officials | |
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| Road Ordinance Cap 217 (1955) | No provisions for discretionary powers by elected public officials | |
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| <p>Road Traffic Act Cap 218 (1988)</p> | <ol style="list-style-type: none"> <li data-bbox="662 254 1062 758">1. If upon such examination, the Minister is satisfied that the motor vehicle is so constructed or is in such a condition as to be a source of danger to any person travelling in the motor vehicle or to other users of the road or to be injurious to the roads themselves or otherwise contravenes any provision of this Act or any regulations, the Minister may cancel or suspend any licence in respect of such vehicle. <li data-bbox="662 789 1062 1188">2. The Minister may prescribe in respect of any motor vehicle the maximum number of passengers or the maximum weight and load to be carried and if the number of passengers or weight and load carried on such vehicle is in excess of such maximum, the driver or other person in charge of the vehicle shall be guilty of an offence. <li data-bbox="662 1220 1062 1524">3. The Minister may by order published in the Gazette provide that any of the provisions of this Act or any regulations relating to motor vehicles shall apply mutatis mutandis to pedal bicycles and the owners or riders thereof. <li data-bbox="662 1556 1062 1894">4. The Minister may (a) by notice published in the Gazette declare any road or any portion thereof to be within a speed limit area and specify the maximum speed limited at which a motor vehicle of any class or description may be driven on any road or any portion | <p>8(2)</p> <p>10</p> <p>19</p> <p>23(1)(a) and (b)</p> |
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| | <p>thereof; (b) designate the limits of such areas by conspicuous and appropriate signs on or near the road both at the commencement and at the termination of such area.</p> <p>5. Every application under section 48 for a permit to operate a transport service shall be made to the Minister in such form as he may provide for the purpose, containing the matter information outlined in this section.</p> <p>6. Subject to subsection (2) on receipt of any application for a permit in terms of section 49 the Minister may having regard to the matters outlined in (a) to (d) of this section issue a permit on such terms and conditions as he may think fit for securing the safety and convenient of the public.</p> <p>7. The Minister may revoke or suspend any permit issued in terms of section 50 for any specified period on the grounds that any of the conditions attached to the permit have not been complied with.</p> <p>8. A police officer or traffic warden may issue in such form as the minister may approve a warning notice in the first instance in respect of offences committed under section 54.</p> <p>9. The Minister may make regulations for any of the purposes or with reference to any of the matters referred to in this section.</p> | <p>49</p> <p>50</p> <p>52(1)</p> <p>55</p> <p>56</p> |
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| | <p>10. The Minister may designate as traffic wardens such number of persons as he deems necessary for the purposes of this Act.</p> | 61(1) |
| | <p>11. A person designated as a traffic warden under subsection (1) shall be remunerated subject to such terms and conditions as may be determined by the Minister.</p> | 61(2) |

The Minister is empowered to take steps to enforce public safety measures for road traffic. To this end he or she is empowered to set speed limits for particular roads or areas, to revoke or suspend any permit issued under the Act and/or to cancel or suspend any license in respect of any motor vehicle if satisfied that the same is a source of danger to the public or any person using the roads. For the same purposes he or she may extend the applicability of regulations relating to motor vehicles to pedal bicycles and may designate and engage traffic wardens upon such terms and conditions of employment as he or she may determine. These powers are among those required to give effect to the operational requirements for the Road Traffic Act and regulations are not overly broad or unnecessary.

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| Road Traffic (Taxi-Cab) Regulations, 1997 | <p>1. The functions of the Commission include to advise the Minister on any matter relating to the taxi-cab industry as the Minister may refer to the Commission.</p> | 4(1)(f) |
| | <p>2. A member ceases to be a member of the Commission if the Minister for any good reason (to be stated by him) removes such member.</p> | 6(3)(e) |
| | <p>3. Where a member of the Commission ceases to be a member under this regulation before the expiration of his term, the Minister may appoint another person to replace such member for the unexpired period of that member's tenure.</p> | 6(4) |
| | <p>4. Where the Minister approves a demerit point system</p> | 8(3) |

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| | submitted to him under sub-regulation (1), he may in writing, authorize the Commission to enforce it in such manner as he may direct. | |
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The legislation provides for the appointment of a Taxi and Livery Commission to advise the Minister on any matter relating to the taxi-cab industry; The Minister is empowered to fill temporary vacancies in the Commission and to remove any member of the Taxi and Livery Commission for” any good reason (to be stated by him)”. Since it is the Minister and not a court which is given this discretion, judicial review of the reason given for its exercise will be limited to the question of whether it was so irrational that no reasonable Minister could have made it. These discretions are part of the legislative scheme to ensure that the regulation of the taxi-cab industry is carried out in conformity with the policy of the government. In my view they are neither too broad or unnecessary.

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| Road Traffic (Taxi-Cab Commission) (Amendment) Regulations, 2009 | The Tribunal is duly constituted by a panel of three persons appointed by the Minister. | 15C(3) |
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The power to appoint members of the Tribunal is among those required to give effect to the operational requirements for the relevant Regulations, .

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| Road Traffic (Taxi-Cab Commission) (Amendment) Regulations, 2009 | The Tribunal is duly constituted by a panel of three persons appointed by the Minister. | 15C(3) |
| Road Traffic (Taxi-Cab) (Amendment) Regulations, 2010 | No provisions for discretionary powers by elected public officials | |
| Road Traffic (Taxi and Livery Commission) (Amendment) Regulations, 2013 | No provisions for discretionary powers by elected public officials | |
| Road Traffic (Taxi and Livery Commission) (Amendment) Regulations, 2017 | No provisions for discretionary powers by elected public officials | |
| Road Traffic (Taxi and Livery Commission) (Amendment) Regulations, 2020 | No provisions for discretionary powers by elected public officials | |
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| The Air Navigation (Overseas Territories) (Amendment) (No. 2) Order 1991 | No provisions for discretionary powers by elected public officials | |
| The Air Navigation (Overseas Territories) Order 2013 | No provisions for discretionary powers by elected public officials | |
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| Telecommunications Act Cap 171 (1951) repealed | No provisions for discretionary powers by elected public officials | |
| Telecommunications (Amendment) Rules 1994 | No provisions for discretionary powers by elected public officials | |
| Telecommunications (Licences and Fees) Order (1977) | No provisions for discretionary powers by elected public officials | |

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| Telecommunications Act 2006 | 1. Subject to this section, the appointment of a Commissioner shall be Tenure of office. on such terms as may be determined by the Minister. | 10(1) |
| | 2. The Minister may, by written notice, remove a Commissioner from office if satisfied that the Commissioner has done any of the act referred to in this section. | 11(2) |
| | 3. Such services as are referred to in subsection (1) may, if the Minister so directs, include a high-quality public telephone service, including a free telephone directory for subscribers of such service, and operator-assisted information services and free access to emergency telecommunications services for subscribers or users of a public telecommunications service whose account is current or whose service has been suspended. | 28(2) |
| | 4. The Minister may, by Order, require that all licensees, or all licensees falling within a specified category of licensee, contribute to the funding of universal service. | 28(4) |
| | 5. The Minister may, by Order subject to affirmative resolution of the Amendment of Legislative Council, | 57 |

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| | <p>amend the penalties set out in this Act.</p> | |
| | <p>6. Notwithstanding any other provision of this Act, when telecommunications services are being provided in the Virgin Islands by persons not located in the Virgin Islands, to the extent that such services jeopardise the provision of, or otherwise compete unfairly with, services licensed under this Act, the Minister may take such action as he deems appropriate.</p> | 87 |
| | <p>7. The Minister may, on the advice of the Commission, make such Regulations as he considers necessary for the effective carrying out of the provisions of this Act.</p> | 91(1) |
| | <p>8. Where the Minister receives a written submission under subsection (2) and , after consultation with the Commission, forms the opinion that there may be merit in the submission, he shall enter into negotiation with the person concerned with a view to reaching an agreement with respect to the submission and for that purpose the Minister may utilise the services of such other person and on such terms and conditions as he may deem necessary.</p> | 93(3) |
| | <p>9. Where pursuant to subsection (3), the Minister forms the opinion that a claim submitted under subsection (2) lacks merit, he may after consultation with the Commission (a) require the person making the</p> | 93(7) |

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| | submission to provide such additional material or information as he may consider necessary; or (b) advise the person making the submission that in the opinion of the Minister the claim lacks merit and is rejected. | |
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The Act establishes a Telecommunications Regulatory Commission supervised by members of a Board of Commissioners appointed by the Minister, The minister is given power to remove any commissioner from office for any one of 7 stated causes. The Commission is to determine the public telecommunications services for which the requirement of universal service shall apply and must for that purpose act in accordance with the policy established by the Minister. The Minister has power to require that all licensees, or all licensees falling within a specified category of licensee, contribute to the funding of universal service, The Commission is required to submit to the Minister of Finance for approval a work program containing a general description of its planned work and activities, and a budget setting out its estimated income and estimated expenditure for each financial year, The approved budget forms the basis for the computation of an industry levy.

Power is conferred upon the Minister to make Regulations for the effective carrying out of the provisions of the Act subject to affirmative resolution of the Amendment of Legislative Council, amend the penalties set out in this Act.

Section 93 empowers the Minister with the power of the Minister to review and negotiate the settlement of claims of persons or entities who had been licensed prior to passing of the legislation who claim to have suffered loss as a result of its coming into force. It is of little practical significance at this stage.

In my view the discretions conferred upon the Minister are required to give effect to the operational requirements for the Act and are not unduly wide or unnecessary.,

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| Telecommunications (Amendment) Act, 2010 | No provisions for discretionary powers by elected public officials | |
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| Fire and Rescue Service Act Cap 164 (1987) | 1. Subject to subsections (6) and (7) the Minister may on a claim made by the owner of property destroyed pursuant to subsection (2) recommend payment of the amount claimed by the owner or any lesser amount in full satisfaction of the claim. | 13(5) |
| | 2. The Minister may authorize at public expense hospital accommodation and medical and dental treatment for the | 20 |

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| | <p>members of the Service as he thinks fit; and in no case shall any deduction be made from the pay of a member of the Service admitted to hospital on account of injury received by him in the performance of his duty.</p> <p>3. The Minister may apply the Fire Service Reward Fund and the interest thereon in making special rewards to the member of the Service (other than Senior Fire Officers) who have rendered exceptional, dangerous or arduous service and in making contributions to the welfare facilities for the members of the Service and their immediate families on the recommendations of the Chief Fire Officer.</p> <p>4. The Minister may make regulations in respect of the matters in this section.</p> | <p>22(2)</p> <p>43(1)</p> |
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The Minister is given power to authorise the payment for hospital accommodation and medical and dental treatment for service members at public expense. He or she is also empowered to apply the Fire Service Reward Fund to make special rewards to rank and file members of the service who have rendered exceptional, dangerous or arduous service and generally for the welfare of service members and their immediate families.

The Act permits the Chief Fire Officer to take necessary measures for the protection of life and property including the power to destroy any house or building in imminent danger of fire. In that event the Minister is given the power to recommend payment of compensation in the amount claimed by the owner or any lesser amount.

The Minister make regulations in respect of the training and conditions of work for Service members and also with regard to the remuneration and benefits of auxiliary service members.

These powers are unexceptional and are necessary to give effect to the operational requirements for the Act.

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| Fire and Rescue Service (Disciplinary) Regulations | No provisions for discretionary powers by elected public officials | |
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| Fire and Rescue Service (Fees for Special Service) (Amendment) Regulations, 1996 | No provisions for discretionary powers by elected public officials | |
| Fire and Rescue Service (Fees for Special Service) (Amendment) Regulations, 1999 | No provisions for discretionary powers by elected public officials | |
| Fireworks Act Cap 127 (1989) | No provisions for discretionary powers by elected public officials | |

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| British Virgin Islands Ports Authority (Amendment) Regulations 2020 | No provisions for discretionary powers by elected public officials | |
| Merchant Shipping Act 2001 | No provisions for discretionary powers by elected public officials | |
| Cruising Permit (Amendment) Act, 2017 | No provisions for discretionary powers by elected public officials | |
| British Virgin Islands Ports Authority (Amendment) Act 2017 | The Minister may by Order amend the First Schedule | 3 |
| British Virgin Islands Ports Authority (Amendment) Regulations 2021 | No provisions for discretionary powers by elected public officials | |
| Cruising and Home Port Permit Act 2021 | No provisions for discretionary powers by elected public officials | |

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| Antibiotics and Therapeutic Substances Act Cap 176 | 1. Any antibiotic or therapeutic substance in respect of which there has been a breach of any of the provisions of this Act or of any regulations made thereunder may be seized by such person authorized as aforesaid and on conviction of the offender shall be forfeited to Her Majesty and shall be dealt with as the Minister may direct. | 10 |
| | 2. The Minister may make regulations for purposes outlined in this section. | 15 |

The Minister’s power to make regulations in connection with the testing, licensing, storage transport and processing of antibiotic or therapeutic substances is necessary for the control and management of those substances and is not excessive.

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| Pioneer Services and Enterprises | No provisions for discretionary powers by elected public officials | |
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| Airports Act 2003 repealed | | |
| Airports (Amendment) Act 2006 | No provisions for discretionary powers by elected public officials | |
| Airport (Fees and Charges) Order 2019 | No provisions for discretionary powers by elected public officials | |
| Protection of Aircraft Act 1973 (Overseas Territories) Order 1973 | No provisions for discretionary powers by elected public officials | |
| Wireless Telegraphy (Colonial Ships and Aircraft) Order, 1954 | No provisions for discretionary powers by elected public officials | |
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| Electronic Filing Act 2021 | 1. For the purposes of subsection (1), the Minister may by Order, prescribe persons or entities to receive payments on behalf of the Government. | 6(2) |
| | 2. The Minister may establish a system of authorised user identifiers and provide for the manner in which authorised user identifiers are assigned to a person or a class of persons. | 7(1) |
| | 3. The Minister may enter into agreements or prescribe the integration of a system of authorised user identifiers established pursuant to this section with any system of person identification established by a public authority. | 7(2) |

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| | <p>4. The Minister may prescribe standards that persons are required to comply with for the purpose of this Act for electronic filing or adopt those standards by reference.</p> | 8(1) |
| | <p>5. The Minister may, with the approval of the Cabinet, make regulations for carrying into effect the provisions of this Act, including prescribing anything required to be prescribed under this Act.</p> | 12 |

The discretionary powers conferred upon the minister are concerned with operational matters and are necessary to facilitate the functioning of the legislation.

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| British Virgin Islands Electricity Corporation Ordinance 1979 | <p>1. The Minister may after consultation with the Corporation give to the Corporation such directions of a general or specific character as to the exercise and performance of its powers in fulfilling its functions as are necessary as a matter of public policy and as are not inconsistent with this Ordinance nor with the contractual or other legal obligations of the Corporation and the Corporation shall give effect to any such directions.</p> | 15. |
| | <p>2. The Corporation shall within a period of six months after the end of the financial year or within such long period as the Minister may</p> | 22(1) |

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| | <p>approve, submit to the Minister a comprehensive report on its operations during such year together with the Auditors' report and the audited accounts as provided for in section 21.</p> <p>3. If within thirty days after the service of notice the person to whom such notice has been given objects or attaches to his consent any terms or conditions to which the Corporation objects, the Corporation may refer the matter to the Minister for his decision and the Minister may make such order as he thinks fit including the provision of payment for such consent.</p> <p>4. The powers conferred upon the Corporation under this section shall except in case of emergency be exercised only under the superintendence of the person owning such road and according to such specifications and such plan showing the route as may be approved by that person or if any dispute arises respecting such specifications plan or route as may be approved by the Minister.</p> <p>5. No person shall erect any building or structure on any land on which a transmission line has</p> | <p>24(3)</p> <p>25(3)</p> <p>26(2)</p> |
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| | <p>been lawfully constructed in such a position or in such a manner as to be likely to interfere with the supply of electricity through such a line or in such a position that an existing line could constitute a hazard to occupants of the building without the permission of the Corporation and if any person so erects a building or structure the Corporation may apply in the prescribed manner to the Minister to order such person to remove or adjust the building or structure and the Minister after making such enquiry as he may deem necessary may make such order as he deems fit..</p> | |
| | <p>6. The Minister may make regulations to prescribe for the matters provide for in this section.</p> | <p>31</p> |
| | <p>7. The Minister may order an inquiry to be held by an investigator to be appointed by him in any case where he deems it advisable in connection with any matter arising under any such accident.</p> | <p>34(2)</p> |

The Minister is given powers to manage the operation of the electricity services. These powers include the authority (after consultation with the Corporation) to give directions of a general or specific character to the Corporation concerning the carrying out of its functions in conformity with public policy. Where a landowner objects to the placement of a transmission line or attaches unacceptable conditions to his consent the Minister has power to negotiate the conditions of consent including arranging payment for the same. If a landowner places a building or structure on land in a manner which interferes with the supply of electricity or endangers occupants of affected structures the Corporation may refer the matter to the Minister to order the removal or adjustment of the building or structure, and the Minister is empowered to make an

appropriate order to resolve the situation. Additionally, the Minister is given the responsibility to make regulations to prescribe for operational matters such as the minimum standards and specifications to be used in electrical installations, the class of wires fittings and apparatus to be used by customers, the qualifications to be possessed by persons engaged in electrical construction alterations or repairs, the testing and certification of electricians and so forth. If an accident occurs which results in loss of life or serious injury the Minister is empowered to order an inquiry. The powers and discretions conferred upon the Minister are required to give effect to the operational requirements of the Corporation and to ensure the safe and efficient operation of the electricity system in the territory..

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| British Virgin Islands Electricity Corporation By-Laws 1984 | No provisions for discretionary powers by elected public officials | |
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| British Virgin Islands Electricity Corporation Regulations 1999 | A person aggrieved by a decision Inspector under this regulation may appeal within 14 days from the date of the decision to the Minister who may uphold, vary or overturn the decision of the Inspector. | 10(3) |
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This provision permits the Minister to review the exercise of discretion by an Inspector to refuse, cancel or suspend a electrician’s licence upon request by an aggrieved licence holder. The Ministers decision is in turn reviewable by a court. The power vested in the Minister is necessary and appropriate.

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| British Virgin Islands Electricity Corporation (Amendment) Regulations, 2006 | No provisions for discretionary powers by elected public officials. | |
| British Virgin Islands Electricity Corporation (Amendment) Regulations, 2011 | No provisions for discretionary powers by elected public officials | |

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| British Virgin Islands Electricity Corporation (Amendment) Act 2015 | 1. The Minister may after consultation with the Corporation and with the approval of the Cabinet make regulations to prescribe any matter required to be prescribed under this Part or which may appear to the Minister expedient for the better carrying out of the provisions of this Part. | 30C(2) |
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| | <p>2. The Minister in consultation with the Corporation may by Order limit or expand the scope of activities under subsection (2).</p> <p>3. Notwithstanding subsection (3) the Minister on the recommendation of the Corporation may for reasons outlined in this section deny the application for a licence to engage in the production of renewable energy.</p> <p>4. The Minister on the recommendation of the Corporation may modify a licence granted under this Act if the modification is permissible under the terms of the licence or is required in the public interest.</p> <p>5. The notice shall be given by a publication in the manner that the Minister considers appropriate.</p> <p>6. Where the Corporation is satisfied that a licensee is not complying with not has not complied with any of the conditions o the licence the Corporation shall recommend to the Minister and the Minister on the recommendation of the Corporation may suspend or cancel the licence.</p> | <p>30F(3)</p> <p>30G(4)</p> <p>30I(1)</p> <p>30I(1)(3)(a)</p> <p>30J(1)</p> |
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| | 7. The Minister shall where the Minister considers it appropriate give a period that the Minister considers reasonable for the compliance with the directions of the Corporation | 30J(3)(b) |
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The purpose of this act is to provide for the development, and management of renewable energy in the Territory and for related matters. The powers conferred upon the Minister to provide policy directions for the achievement of that objective, to limit or expand the scope of activities the activities in the renewable energy industry for which a licence is required , to make regulations to facilitate the operation of the scheme, to grant or deny applications for licences to engage in the production of renewable energy or to on the recommendation of the Corporation to modify suspend or cancel such licences or to give or extend a period for licensees to comply with directions of the Corporation are all concerned with and appropriate for that purpose and are not unduly wide nor superfluous.

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| British Virgin Islands Electricity Corporation (Renewable Energy) Regulations, 2017 | No provisions for discretionary powers by elected public officials | |
| British Virgin Islands Electricity Corporation (Renewable Energy) Regulations 2018 | No provisions for discretionary powers by elected public officials | |
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| Criminal Code 1997 | No provisions for discretionary powers by elected public officials | |
| Criminal Code (Amendment) Act 2014 | No provisions for discretionary powers by elected public officials | |
| Criminal Code (Amendment) Act 2018 | No provisions for discretionary powers by elected public officials | |
| Police Act Cap 165 | No provisions for discretionary powers by elected public officials | |
| Police Regulations Act Cap 165 | No provisions for discretionary powers by elected public officials | |
| Police (Amendment) Act 2001 | No provisions for discretionary powers by elected public officials | |
| Police (Amendment) Act 2013 | No provisions for discretionary powers by elected public officials | |
| Police (Amendment) (No. 2) Regulations 2014 | No provisions for discretionary powers by elected public officials | |
| Police (Amendment) Act 2018 | No provisions for discretionary powers by elected public officials | |

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| Proceeds of Criminal Conduct Act 1997 | No provisions for discretionary powers by elected public officials | |
| Proceeds of Criminal Conduct (Amendment) Act 2007 | No provisions for discretionary powers by elected public officials | |
| Proceeds of Criminal Conduct (Amendment) Act 2012 | No provisions for discretionary powers by elected public officials | |
| Proceeds of Criminal Conduct Act 2020 | No provisions for discretionary powers by elected public officials | |
| Proceeds of Criminal Conduct Regulations 2020 | No provisions for discretionary powers by elected public officials | |
| Anti-Money Laundering Regulations 2020 | No provisions for discretionary powers by elected public officials | |
| Anti-Money Laundering and Terrorist Financing Code of Practice 2020 | No provisions for discretionary powers by elected public officials | |
| Non-Financial Business (Designation) Notice 2020 | No provisions for discretionary powers by elected public officials | |
| Proceeds of Criminal Conduct (Enforcement of External Confiscation Orders) Order 2017 | No provisions for discretionary powers by elected public officials | |

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| Disaster Management Act 2003 | 1. The Executive Council may subject to such amendments if any as it thinks fit approve the National Disaster Management Plan. | 11(4) |
| | 2. Any money credited to the Fund shall be kept in an account at such bank in the Territory as the Minister may approve. | 31(1) |

These powers are necessary to facilitate the implementation and management of the disaster management programme in the Territory.

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| Register of Interests Act 2006 | No provisions for discretionary powers by elected public officials | |
| Register of Interests (Amendment) Act 2021 | No provisions for discretionary powers by elected public officials | |

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| <p>Medical Act 2000</p> | <ol style="list-style-type: none"> <li data-bbox="662 247 1016 751">1. Without prejudice to subsection (1), the Minister may make rules generally for carrying out the provisions of this Part and for any of the following purposes: (a) prescribing the fees payable for registration under this Part; (b) prescribing anything not mentioned in subsection (1) that is by this Part required to be prescribed. <li data-bbox="662 785 1016 1318">2. The Minister, acting after consultation with the Director of Health Services may, by Order, amend Schedule 8 by adding any substance thereto, by deleting any substance therefrom, by altering or modifying the description of any substance therein and by changing the classification of any substance therein from one Part of the Schedule to another. <li data-bbox="662 1352 1016 1759">3. The Minister, acting after consultation with the Director of Health Services may, by Order, amend Schedule 10 by adding any substance thereto, by deleting any substance therefrom and by altering or modifying the description of any substance mentioned therein. <li data-bbox="662 1759 1016 1894">4. The Minister may make Regulations for the purposes of carrying out the provisions of this | <p>52(2)</p> <p>59(2)</p> <p>66(2)</p> <p>78(1)</p> |
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| | <p>Act, and in particular for the matters provided for in this section.</p> <p>5. The Minister may, by Order published in the Gazette, amend Schedules 2, 3, 4, 6, 7 and 9, provided that any amendment to Part II of Schedule 4 shall be made after consultation with the relevant Council.</p> | 78(2) |
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The Minister may make rules prescribing the fees payable for registration of allied health practitioners and generally for registration of such persons; add or remove substances listed in Schedule 8 of the Act and deemed to be poisons and is tasked making regulations for the purposes of carrying out the provisions of the Act. These powers are necessary and appropriate to achieve the legislative purpose.

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| Mental Health Act, 2014 Schedule 1 | 1. The Board consists of two members of the public who the Minister considers suitable. | Schedule 1-1 |
| | 2. The Minister may appoint a public officer to act as the Secretary to the Board. | Schedule 1-7 |
| | 3. The Minister may, with the approval of the Cabinet, make Regulations for the matters outlined in this section. | 50(1) |

The regulations in the Schedule empower the Minister to appoint members having specified qualifications to the Mental Health Review Board. The Act also permits the Minister, with the approval of the Cabinet, to make Regulations regarding specified matters such as for the care, maintenance, custody and treatment of patients during their detention in or discharge from psychiatric facilities, fees payable for certificates, handling of mail and other matters incidental to the operation of the scheme of the Act. These powers are necessary and appropriate to achieve the legislative purpose of the Act.

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| Nurses and Midwives Act 2009 | <p>1. Subject to section 4, where a member of the Council (a) is by reason of illness or otherwise unable to perform his or her member' functions or unable to attend a meeting of the Council; (b) ceases to be a member before the expiration of his or her term of office, the Minister may appoint another person to act as an alternate member for the remainder of the term.</p> <p>2. In the event of the temporary. incapacity of a member, whether by reason of illness or other sufficient cause, or if a member is temporarily absent from the Territory, the Minister may appoint some other person to act as a temporary member for so long as the incapacity or absence continues.</p> <p>3. The Council shall in addition to the other matters provided for in this section, do any other thing as the Minister may direct in accordance with the Act.</p> | <p>5(1)(a) and (b)</p> <p>5(3)</p> <p>6(i)</p> |
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Provisions empower the Minister to deal with operational matters such as filling temporary vacancies in the Nurses and Midwives Council and to direct the Council to perform tasks or functions additional to those set out in the legislation. These powers are necessary and appropriate to achieve the legislative purpose of the Act.

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| Private Hospitals Ordinance Cap 193 | No provisions for discretionary powers by elected public officials | |
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| Noise Control Abatement Act, 1996 | No provisions for discretionary powers by elected public officials | |
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| Cannabis Licensing Act 2020 | 1. The Minister may give the Authority, in writing, such general policy directions as appear to the Minister to be necessary in the public interest and the Authority shall give effect to those directions in the performance of its functions. | 8(4) |
| | 2. The Minister may at any time revoke the appointment of a Member, if the Member does any of the matters specified in this section. | 11(1) |
| | 3. The Minister acting on the advice of Cabinet may give directions of a general nature as to the policy to be followed by the Authority in the performance of its functions, as appear to the Minister to be necessary in the public interest, and the Authority shall comply with and give effect to all such directions. | 21 |
| | 4. The following terms and conditions shall be deemed to be terms and conditions of every licence, in addition to any other terms and conditions that the Minister may determine (a) that the licensee carries out any activity authorised by the licence in accordance with the | 33(2) |

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| | <p>licence; (b) that the licensee complies with any guidelines issued by the Authority; (c) that the licensee displays the licence in a conspicuous location on the premises on which the activity which is the subject of the licence; (d) that the licensee shall notify the Authority as soon as reasonably practicable after any of the following matters come to the attention of the licensee (i) a breach of the licence; (ii) or any other matter that may require or permit the Minister to revoke the licence; (e) that the licensee shall permit an inspector to enter the premises where the activity which is the subject of the licence is being conducted.</p> <p>5. The Appeals Tribunal shall consist of not less than three nor more than five members appointed by the Cabinet, being persons appearing to the Minister to be knowledgeable and experienced in matters relating to medicinal cannabis, law, scientific research and finance.</p> <p>6. There shall be paid to the chairman and other members of the Appeals Tribunal such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.</p> | <p>Schedule para 1</p> <p>Schedule para 8</p> |
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This Legislation contemplates the establishment of a Cannabis Licensing Authority for regulation and control of a medicinal cannabis industry.

In connection with this objective the Minister is empowered to give to the Authority such general policy directions as appear to him or her to be necessary in the public interest ; to set terms and conditions for licences additional to those set out in the statute; to revoke the appointment of a Member who become bankrupt or otherwise unqualified for membership by reason of persistent absenteeism, incapacity, conflict of interest or conviction on indictment for serious crime and generally to oversee the functioning of the Authority. These powers are necessary and appropriate to achieve the legislative purpose of the Act.

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| The Virgin Islands Constitution Order 2007 | Subject to any law for the time being in force in the Virgin Islands, the Governor or the Minister when duly authorised by the Governor by writing under his or her hand, in Her Majesty's name and on Her Majesty's behalf, may, under the public seal, make grants and dispositions of lands or other immovable property in the Virgin Islands or interests in such property that are vested in Her Majesty for the purposes of the Government of the Virgin Islands; but any such grant or disposition shall require the prior approval of the Cabinet. | 41(1) |
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The Minister's discretion to dispose of public lands is constrained by the requirement that such power be exercised when duly authorised by the Governor by writing and with the prior approval of Cabinet. These requirements have been shown to be inadequate. The disposal of public lands should be regulated by overarching legislation setting out a comprehensive body of rules covering the administration, management, sale, leasing exchange or other disposal of Crown land in a coherent and transparent manner.

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| The Virgin Islands Constitution (Amendment) Order 2015 | No provisions for discretionary powers by elected public officials | |
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| Merchant Shipping (Accident Reporting and Investigation) Regulations 2020 | No provisions for discretionary powers by elected public officials | |
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| Buildings Ordinance Cap 234 | No provisions for discretionary powers by elected public officials | |
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| Physical Planning Act, 2004 | 1. Where the Minister rejects a proposal submitted under this section, he may require the Authority to submit a fresh or modified proposal for the same plan or a new proposal for a different plan. | 10(3) |
| | 2. The Minister may at any time when he considers it appropriate, require the Authority to review or to prepare proposals for the modification or revocation of any plan, or part thereof. | 18(1) |
| | 3. The Minister may by Order grant permission to any class of development (hereinafter referred to as “permitted development”) specified in the Order either unconditionally or subject to such conditions or limitations as may be specified in the Order, without the requirement for the making of an application for grant of express development permission. | 20(2) |
| | 4. The Minister may make regulations prescribing | 26(7) |

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| | <p>the qualifications, skills, knowledge and experience which shall be possessed by persons preparing environmental impact statements and may cause a register of persons so qualified to be compiled and a person who is on such a register shall be deemed to be approved by the Minister to prepare environmental impact statements in respect of the Territory.</p> <p>5. On the advice of the Authority and the Chief Planner, and with the agreement of any other Government authority who may be a party to the agreement, the Minister may enter into an agreement containing such terms and conditions as he thinks fit with an applicant for development permission or with any other person interested in that land for the purpose of regulating the development of the land proposed by the application.</p> <p>6. The Minister may enforce a bond entered into by an applicant for permission to develop land under section 31, or by a person with whom the Minister has made an agreement under section 32, by all appropriate legal and equitable remedies.</p> <p>7. The Minister may direct the Chief Planner to refer</p> | <p>32(1)</p> <p>33(2)</p> <p>38(1)</p> |
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| | <p>to him (a) any application for development permission; and (b) all such applications of any class specified by the Executive Council to be so referred.</p> <p>8. In determining an application referred to him under this section, the Minister may consult with any body or person he sees fit.</p> <p>9. A determination of the Minister under this section shall be on such terms and conditions as the Minister may determine and may be accompanied by a written statement of the reasons for the determination of the application.</p> <p>10. Whether or not the Authority has exercised or is proposing to exercise any other remedy under this Act, the Minister may in any case that he thinks fit, refer the case to the Attorney General who may apply to the Court (a) for an injunction to restrain any violation of the provisions of this Act; (b) for an order to enforce any compliance notice or stop order issued under this Act.</p> <p>11. Where the Authority has exercised any power under subsection (1), the Minister may recover as a civil debt, from the</p> | <p>38(4)</p> <p>38(5)</p> <p>45</p> <p>46(2)</p> |
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| | <p>person on whom the notice has been served, those expenses reasonably incurred by the Authority in the exercise of such power.</p> <p>12. After considering the representations of the owners and occupiers and any other representation made under subsection (6) and the comments of the Authority on any such representation, the Minister may confirm with or without modifications or cancel, the interim preservation order.</p> <p>13. If any person upon whom an amenity order is served fails to comply with the requirements of the order, within the time specified in that order or any extension thereof approved by the Authority, the Authority may arrange for the work to be carried out at the expense of the person who is in default, and the Minister may recover the cost of so doing as a civil debt from the person in default.</p> <p>14. Subject to this section, provision may be made by regulations for restricting or regulating the display of advertisements so far as appears to the Minister to be expedient in the interest of amenity or public safety, and without restricting the</p> | <p>52(7)</p> <p>55(5)</p> <p>56(1)</p> |
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| | <p>generality of the foregoing, any such regulations may provide for the matters outlined in this section.</p> <p>15. Regulations made under this section may make different provisions with respect to different areas, and in particular, may make special provision with respect to areas defined for the purposes of the regulations as areas of special control, being areas which appear to the Minister to require special protection on the grounds of amenity.</p> <p>16. Where the Authority has exercised the power conferred by subsection (1), the Minister may recover as a civil debt from the person on whom the notice was served, the expenses reasonably incurred by the Authority in the exercise of the power.</p> <p>17. Where the Minister is of the opinion that it is desirable to afford special protection to any beach designated as an environmental protection area in a development plan on account of the matters set out in section 12 (3), he may by Order, declare that beach an environmental protection area.</p> <p>18. Where it appears to the Minister that reasonable</p> | <p>56(5)(b)</p> <p>57(4)</p> <p>59(1)</p> <p>63(1)</p> |
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| | <p>steps are not being taken for the proper preservation of a building or site which is the subject of a preservation order, the Minister may either by agreement with the owner, or compulsorily, acquire the building or site and any contiguous or adjacent land which appears to him to be required for preserving the building or site and its amenities or for affording access to it or for its proper control or management.</p> | |
| | <p>19. Without prejudice to the provisions of sections 61, 62 and 63, the Minister may acquire by agreement or compulsorily any land within the Territory which is suitable for and is required in order to secure one or more of the purposes provided for in this section.</p> | <p>64(1)</p> |
| | <p>20. The Minister may make regulations for carrying into effect the provisions of this Act.</p> | <p>80(1)</p> |
| | <p>21. Without prejudice to the generality of subsection (1), the Minister may make regulations for the matters provided for in this section.</p> | <p>80(2)</p> |
| | <p>22. For the purpose of subsection (2)(k), the Minister may, by Order published in the Gazette and in a local newspaper circulating in the</p> | <p>80(3)</p> |

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| | <p>Territory, amend the definition of “beach” under section 2(1) in such manner as he considers fit.</p> <p>23. In the event of the temporary incapacity of a member, whether by reason of illness or other sufficient cause, or the temporary absence from the Territory of any member, the Minister may appoint some other person to act as a temporary member for so long as the incapacity or absence continues.</p> <p>24. The Minister may remove from office any member of the Authority for inability, misbehavior, or on the ground of any employment or interest which is incompatible with the functions of a member of the Authority or for any other good cause.</p> <p>25. The Minister may remove from office any member of the Appeals Tribunal for inability, misbehaviour, or on the ground of any employment or interest which is incompatible with the functions of a member of the Appeals Tribunal.</p> <p>26. For each sitting of the Appeals Tribunal the members, other than ex officio members, shall be paid such remuneration as may be</p> | <p>Schedule 1 para 1(7)</p> <p>Schedule 1 para 1(9)</p> <p>Schedule 4 para 1(6)</p> <p>Schedule 4 para 5</p> |
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| | prescribed by the Minister, and such remuneration shall be a charge on the Consolidated Fund | |
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The Minister is given overall responsibility for securing the stated objectives of the Physical Planning Act and in this connection is required to frame and implement policies with respect to the use and development of all land in the Territory in accordance with a development plan. He or she has a statutory duty to apply the provisions of the Act fairly, uniformly and equally to all persons. For this purpose he or she is empowered through the instrumentality of the Planning Authority to review, approve with or without modification or to reject specific development proposals, enter into development agreements with applicants for development permission; give approval for the engagement of foreign personnel on a long-term or on temporary engagement for a prescribed period;.. direct the Chief Planner to refer to him or her any application for development permission or all applications for a specific class of development; give blanket authorization, with or without conditions, for classes of developments without the requirement for the making of an application for permission' compulsorily, acquire any building or site and any contiguous or adjacent land which appears to him or her to be required for preserving a building that is subject of a preservation order if it appears to him that that reasonable steps are not being taken for the proper preservation of the same; to declare any beach to be an environmental protection area; make regulations prescribing the qualifications, skills, knowledge and experience which shall be possessed by persons preparing environmental impact statements or generally for carrying into effect the provisions of the Act; remove any member of the Authority from office for inability, misbehavior, conflict of interest or other good cause or fill temporary vacancies in the membership of the Planning Authority. These and the other powers conferred upon the Minister by the Act are directed towards and are necessary for the carrying out of the broad responsibilities placed on the Minister with regard to development of land preservation of designated buildings or sites and protection of the environment in the Territory.

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| Virgin Islands Recovery and Development Agency Act 2018 | The Minister may, on the advice of the Board, amend the Schedule by Order published in the Gazette. | 25 |
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This Act creates a Recovery and Development Agency to assist in the recovery and development of the Virgin Islands following the Hurricanes of September 2018. The Minister is given the power, in consultation with the Board to amend the Schedule to the Act, which schedule regulates the proceedings of the Board. The power is neither unnecessary or overly broad.

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| Statistics Act 2005 | 1. The Minister may by Order published in the Gazette direct that a census of population shall be taken for the Territory or any part thereof or any class of inhabitants thereof and | 8(1) |
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| | any such Order shall prescribe the matters provided for in this section. | |
| | 2. The Minister may make regulations for the purposes of carrying out or giving effect to the principles and provisions of this Act. | 16(1) |
| | 3. In particular and without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations for or in respect of all or any of the matters provided for in this section. | 16(2) |

The Act empowers the Minister to direct censuses of the population from time to time and to make regulations for such matters as the forms to be used for the purposes of the act, the way in which information is to be collected and arranged, the manner of communication of notices and generally for giving effect to the principles and provisions of the Act. These powers are necessary and appropriate to achieve the legislative purpose of the Act.

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| Tourist Board Ordinance Cap 280 | No provisions for discretionary powers by elected public officials | |
| Tourist Board (Amendment) Act 1996 | No provisions for discretionary powers by elected public officials | |
| Tourist Board (Amendment) Act 2009 | No provisions for discretionary powers by elected public officials | |

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| Virgin Islands Trade Commission Act 2020 | 1. The Minister may, give to the Commission, in writing, such directions not inconsistent with this Act, with respect to the performance of the Commission’s functions as the Minister considers necessary. | 3 |
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| | <p>2. For the purposes of this section and section 43 the Minister may by Order published in the Gazette, prescribe one or more appropriate laboratory, as may be recommended by an accreditation body or authority.</p> <p>3. The Minister may amend the Schedules by Order published in the Gazette.</p> <p>4. The Minister, on the advice of the Board, may make regulations not inconsistent with this Act, for giving effect to the provisions of this Act.</p> <p>5. The Minister may, at any time, revoke the appointment of a member of the Tribunal if that member (a) is incapable, by reason of mental or physical capacity, of carrying out his or her duties; (b) is convicted of an offence under this Act or under the Criminal Code; or (c) is guilty of misconduct.</p> <p>6. Where a member of the Tribunal, other than the Chairperson, is unable to act, the Minister may appoint another person to act temporarily for such member.</p> <p>7. The members of the Tribunal shall be paid such remuneration, whether by way of honorarium, salary or fees and such allowances</p> | <p>42(4)</p> <p>51</p> <p>52</p> <p>Schedule 3 para 3(4)</p> <p>Schedule 3 para 4(1)</p> <p>Schedule 3 para 9</p> |
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| | as the Minister may determine. | |
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The Minister is empowered to give general directions consistent with the policy of the Act to the Trade Commission. If an appellant before the Trade Commission Tribunal alleging a defect in goods, which allegation cannot be determined without proper testing, the Minister may designate one or more appropriate laboratories for the purpose. He or she may revoke the appointment of any member of the Tribunal for incapacity, misconduct, or if he or she is convicted of a criminal offence and may fill temporary vacancies in the membership of the Tribunal. Moreover, the Minister is given the power to make regulations for giving effect to the provisions of the Act. These powers are neither unnecessary nor overly broad.

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| Business Licensing Act 2020 | 1. The Minister may by Order, on the advice of the Board, amend the Schedules to this Act in such manner as the Minister considers necessary. | 28 |
| | 2. The Minister, on the advice of the Board, may make regulations not inconsistent with this Act, for giving effect to the provisions of this Act. | 29(1) |
| | 3. Without limiting the generality of subsection (1), the Minister may make regulations in respect of the matter provided for in this section. | 29(2) |

The powers conferred upon the Minister to amend the Schedule confer necessary flexibility in designating the categories of businesses made subject to the Act and the fees made chargeable for licenses. The power to make regulations to give effect to the provisions of the Act including operational provisions as to forms etc. is necessary and appropriate power to achieve the legislative purpose of the Act.

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| Virgin Islands Investment Act, 2020 | 1. The Minister may give the Commission general directions, in writing, as to the performance of its powers under this Act, on matters which appear to the Minister to affect | 4(1) |
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| | <p>the public interest and the Commission shall give effect to such directions.</p> <p>2. The functions of the Commission include to carry out such other functions as the Minister may assign from time to time.</p> <p>3. The Cabinet on the advice of the Minister, and in recognition of the sustainable economic sectors, business activities and development objectives of the Territory, its national security interests and the public interest, may, by regulations, reserve certain categories of (a) economic sectors; or (b) business activities.</p> <p>4. The Minister may prescribe time periods for the approval of any application or review of any decision relating to the approval of investment under this Act.</p> <p>5. Notwithstanding subsection (3), the Minister responsible for labour, after consultation with any relevant minister as the circumstances may require, may on application authorise an investor to employ natural persons who are not belongs to perform in the Territory (a) scarce key professional</p> | <p></p> <p>5(2)(j)</p> <p>8(1)</p> <p>15</p> <p>25(1)</p> |
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| | <p>and managerial functions; or (b) specialised services, scarce skills or specialities, required for the operation of the investment.</p> <p>6. The Minister, after consultation with the Minister responsible for immigration and the Minister responsible for education, respectively, may give approval to the engagement of foreign personnel in a written agreement with the investor to be included in the performance agreement of the investment in respect of the positions available for (a) a long-term engagement of foreign personnel; or (b) a temporary engagement of foreign personnel for a prescribed period.</p> <p>7. The Minister, after consultation with the Ministers responsible for immigration and education, respectively, may generally prescribe positions as temporary in respect of foreign personnel within various investments to which section 27 applies even in the absence of the agreement referred to in subsection (2).</p> <p>8. Despite subsection (1), the Minister, on the advice of the Commission, may delay or prevent a transfer and any affected person may</p> | <p>26(2)</p> <p>26(3)</p> <p>28(3)</p> |
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| | <p>seek any redress through the judicial process, or through a fair, non-discriminatory and good faith application of measures, to delay or prevent a transfer (a) to protect the rights of the creditors in the event of actual or anticipated bankruptcy or insolvency; (b) to ensure the compliance with judgments concerning criminal offences; (c) to ensure the compliance with tax obligations; Transfer of funds 25 (d) to comply with lawful administrative decisions and facilitate execution of judicial judgments; (e) in exceptional circumstances, to prevent movements of capital that causes or threaten to cause serious difficulties for macroeconomic management of the economy</p> <p>Despite subsection (1), the Minister, on the advice of the Commission, may delay or prevent a transfer and any affected person may seek any redress through the judicial process, or through a fair, non-discriminatory and good faith application of measures, to delay or prevent a transfer (a) to protect the rights of the creditors in the event of actual or anticipated bankruptcy or insolvency; (b) to ensure the compliance with judgments concerning</p> | |
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| | <p>criminal offences; (c) to ensure the compliance with tax obligations; Transfer of funds 25 (d) to comply with lawful administrative decisions and facilitate execution of judicial judgments; (e) in exceptional circumstances, to prevent movements of capital that causes or threaten to cause serious difficulties for macroeconomic management of the economy.</p> <p>9. Where the Minister is of the belief that an effort has been made in good faith to ensure compliance within the period referred to in subsection (2), the Commission may delay any further enforcement of any action it intends to take under this section.</p> <p>10. The Minister may amend the Schedule by Order published in the Gazette.</p> <p>11. The Minister, with the approval of Cabinet, may make regulations not inconsistent with this Act, for giving effect to the provisions of this Act.</p> | <p>34(3)</p> <p>35</p> <p>36(1)</p> |
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The Minister is given power to give general directions, in writing to the Virgin Island Trade Commission as to the performance of its powers under this Act, in relation to matters which appear to the him or her to affect the public interest; He or she has power to require the Commission to carry out tasks or perform

functions additional to those set out in the legislation. He or she may advise the Cabinet on regulations directed towards reserving certain categories of economic sectors; or business activities ; give approval for the engagement of foreign personnel on a long-term or on temporary engagement for a prescribed period and after consultation with the Ministers responsible for immigration and education, respectively, may prescribe certain positions as temporary in respect of foreign personnel within various investments These powers are unexceptional and not superfluous or unnecessary.

The legislation further empowers the Minister on the advice of the Commission, to delay or prevent a foreign investor from transferring funds outside of the Territory in certain circumstances including in “ exceptional circumstances, to prevent movements of capital that causes or threaten to cause serious difficulties for macroeconomic management of the economy” It is to be noted that Section 25 of the Constitution of the Virgin Islands confers protection from deprivation of any “interest in or right to or over property of any description” except in certain listed circumstances. In our view the application of the power contained in this section may well lead to a constitutional challenge in foreseeable situations.

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| Whistleblowers Act 2021 | For the purposes of this Act, the Minister may with the approval of Cabinet give instructions not in consistent with the provisions of this Act, for the management of the Fund | 28(1) |
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The Minister’s power to give instructions for the management of the Whistleblower Reward Fund is constrained by the fact that it is to be exercised with the approval of the Cabinet.

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| Merchant Shipping (Adoption of United Kingdom Enactments (Amendment) Order, 2010 | No provisions for discretionary powers by elected public officials | |
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| Merchant Shipping (Amendment) Act 2018 | 1. The Minister with the approval of Cabinet, may make regulations providing for the issue of certificates to ships, the inspection of ships, and the authorisation of recognised organisations, in accordance with regulation 5.1.1, 5.1.2, 5.1.3, and 5.1.4 of the International Labour Organization’s Maritime Labour Convention 2006 and may provide in those regulations for compliance with all of | 88A(1) |
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| | <p>the requirements of those regulations.</p> <p>2. The Minister with the approval of Cabinet may make regulations with respect to the matters outlined in this section.</p> <p>3. The Minister with the approval of Cabinet may make regulations with respect to the matters outlined in this section.</p> <p>4. Subject to subsection (3), the Minister with the approval of Cabinet may make regulations relating to safe manning, training and certification and the matters outlined in this section.</p> <p>5. A member of such a body (appellate body) may be paid such remuneration and allowances as the Minister may determine.</p> <p>6. Any costs which a person is ordered to pay under subsection (3) (e) may be recovered from him by the Minister.</p> <p>7. Where an inquiry has been held under section 117 or 119, the Minister may order the whole or part of the case to be reheard, and shall do so (a) if new and important evidence which could not be produced at the inquiry has been discovered; or (b) if there appear to the Minister to be other grounds for suspecting</p> | <p>90(1)</p> <p>105(1)</p> <p>106(1)</p> <p>116(6)</p> <p>119(4)</p> <p>120(1)</p> |
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| | <p>that a miscarriage of justice may have occurred.</p> <p>8. The Minister with the approval of Cabinet may make rules for the conduct of inquiries under sections 117 and 119, and appeals and for any re-hearing under section 120.</p> <p>9. The Minister with the approval of Cabinet may make regulations prescribing the particulars to be entered in English in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.</p> <p>10. The Minister with the approval of Cabinet may make regulations for the matters outlined in this section.</p> <p>11. The Minister with the approval of Cabinet may make regulations providing for the matters outlined in this section.</p> <p>12. The Minister with the approval of Cabinet may make regulations providing for the matters outlined in this section.</p> | <p>121(1)</p> <p>131(2)</p> <p>132(2)</p> <p>133(1)</p> <p>134(1)</p> |
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The Minister is given power to make regulations providing for the issue of certificates to ships, the inspection of ships, and the authorisation of recognised organisations, in accordance with regulation 5.1.1, 5.1.2, 5.1.3, and 5.1.4 of the International Labour Organization’s Maritime Labour Convention 2006; to

make regulations with respect to the matters such as recruitment and placement of seafarers, seafarers employment agreements and/or compensation entitlement, resulting from the loss or foundering of ships and, with the approval of Cabinet to may make regulations relating to safe manning, training and certification. The regulations so made might require ships to carry a stipulated number of qualified officers such as qualified doctors and qualified cooks and to the extent necessary or expedient in the interests of safety a required number of other seafarers;. prescribe standards of competence to be attained and other conditions to be satisfied by officers and other seafarers and prescribe medical fitness requirements for seafarers.

The Act contemplates the establishment of a disciplinary body for the purpose of maintaining discipline on board Virgin Islands ships; The Minister is empowered to determine compensation payable to members of that disciplinary body, to recover costs from people ordered by that Body to pay the same.

In relation to disciplinary matters to be determined by that body the Minister may make rules for the conduct of inquiries and appeals and for any re-hearing. In this regard the Minister may order the whole or part of the case to be reheard, if, inter alia, he or she has reason for suspecting that a miscarriage of justice may have occurred. There is some concern that the intervention by the Minister is not required to be the outcome of any formal process of review or appeal. There being no rules to guide the process by which the Minister may arrive at his conclusion, and no requirement for him or her to set out reasons for his or her decision, there is a risk that the Minister’s discretion may be seen to be arbitrary and his or her power to be unduly wide.

The Minister is given power to deal with operational matters such as making,(with the approval of Cabinet) regulations prescribing the particulars to be entered in English in official log books; regulations concerning the list of crew, including the particulars to be entered in such and the time for which such may remain in force; regulations for the issue to and use by Virgin Islands seafarers of Virgin Islands seafarers’ cards and matters incidental to the same and for the issue of discharge books to persons who are proposed to or have been employed in Virgin Islands registered ships. Save for the concerns expressed with regard to the power of the Minister to intervene in the adjudication of disciplinary matters, the powers and discretions granted to the Minister are in my opinion necessary and appropriate for the achievement of the objects of the legislation.

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| Merchant Shipping (International Safety Management Code) Regulations 2020 | No provisions for discretionary powers by elected public officials | |
| Merchant Shipping (Maritime Labour Convention) Regulations 2019 | No provisions for discretionary powers by elected public officials | |
| Public Finance Management Regulations 2005 | 1. If an Accounting Officer considers expenditure essential under an expenditure vote for which he is responsible, but which has been limited, he shall apply to the Minister for the | 37(2) |

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| | <p>release of the whole or part of the amount withheld and the Minister may grant such release as he thinks fit.</p> <p>2. An advance may be made to a public or police officer on such terms and conditions as may be approved by the Minister on the recommendation of the Financial Secretary.</p> <p>3. The Minister may, in accordance with section 11(5) of the Act, declare that a special fund is to be wound up and closed, and thereupon Winding-up of special funds. (a) after the liabilities of the fund have been paid, the fund is to be taken to have been closed accordingly; and (b) any balance standing to the credit of the fund is to be paid into the Consolidated Fund.</p> <p>4. Membership of the Central Tenders Board under sub regulation (2)(e) shall be rotated among the Permanent Secretaries, in such order as may be determined by the Minister.</p> <p>5. The Central Tenders Board shall evaluate all tenders that are deemed to be responsive and submit its recommendations thereon to the Minister, who shall forward those</p> | <p>105</p> <p>163</p> <p>174(3)</p> <p>175 (2)</p> |
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| | <p>recommendations to Executive Council.</p> <p>6. The Executive Council shall consider the recommendations of the Central Tenders Board and make such decision as it thinks fit.</p> | 175 (3) |
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Minister is given power to limit expenditure by indicating limitations on warrant or by letter but may permit release funds upon application by accounting officer if convinced that expenditure is essential. He or she may approve an advance to be made to a public or police officer on such terms and conditions as may be recommended by the Financial Secretary.

The Public Finance Management Act, 2004 empowers the Minister with the approval of the Legislative Council, to establish special funds for specific purposes. The regulations grant to the Minister the power to order that such a fund be wound up and closed after its liabilities have been paid and balances standing to its credit paid into the Consolidated Fund.

The Minister is also given the responsibility of determining the order of rotation of the permanent secretaries serving as ex officio members of the Tenders Board.

The powers vested in the Minister for these purposes are not unduly wide nor unnecessary.

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| Public Health Ordinance, Cap 194 | <p>1. The Minister may (a) delegate to any Board or Committee established under section 8(1) such of his functions under subsection (1) as he thinks fit; and (b) give directions to any Board or Committee established under section 8(1) as to the exercise and performance of any function delegated to it under paragraph (a) and the Board or Committee so directed shall give effect to such directions.</p> | 4(2) |
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| | <p>2. The Minister may establish at suitable places in any area the hospitals, centres etc provided for in this section.</p> <p>3. The Minister may (a) cause sewers to be constructed, repaired and maintained; and (b) make provision by means of sewerage disposal works or otherwise for effectively dealing with the contents of such sewers.</p> <p>4. The Minister may establish such Boards and Committees as he thinks fit for the purposes of this Ordinance, consisting of such members not exceeding five as may be appointed by him by Notice published in the Gazette and in the like manner, he may revoke the appointment of any such member at any time without assigning any reason therefor.</p> <p>5. The Minister may make regulations for the better carrying out of the provisions of this Ordinance and without limiting the generality of the foregoing may make regulations in relation to the matters outlined in this section.</p> <p>6. Where it appears to the Minister that for the protection or in the interest of public health any works in or on any</p> | <p>5(1)</p> <p>6(1)</p> <p>8(1)</p> <p>10(1)</p> <p>11(1)</p> |
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| | <p>premises are necessary, the Minister may serve or cause to be served on the owner or occupy of such premises a notice in writing signed by the Minister or any person authorized by hi in that behalf requiring him to execute such works as the Minister considers necessary.</p> <p>7. If at the expiration of the period specified in the notice under subsection (1) or directed by a Judge in the determination of any appeal under subsection (3), the work specified in the notice as varied by a Judge has not been executed, the Minister may cause such work to be carried out and on completion thereof may recover the reasonable costs as a debt due to the Crown in civil proceedings before a Court of competent jurisdiction.</p> <p>8. Where any Board or Committee established under this Ordinance reports to the Minister the matters outlined in (a) and (b) of this section the Minister may by Order published in the Gazette direct the enforcement of any measures recommended by the Board or Committee or any other measurers that he thinks expedient for removing or otherwise guarding against any such</p> | <p>11(11)</p> <p>13(1)</p> |
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| | <p>condition and the probable consequences thereof or for preventing or mitigating as possible any such disease.</p> <p>9. Where he has reasonable cause to believe that there is prevalent in the Territory or in any part thereof any communicable disease in epidemic proportions the Minister may by Order published in the Gazette prohibit the assembly of persons exceeding such number as may be prescribed in that Order at any place specified therein and such prohibition may be applicable to the whole Territory or to any part thereof.</p> <p>10. Where he has reasonable cause to believe there is prevalent in the Territory or in any part thereof, any communicable disease in epidemic proportions and is satisfied that it is in the interest of public health to do so, the Minister may by Order published in the Gazette direct that any public place or any school in the Territory or in the area in which such disease is prevalent shall be closed for such period as he thinks necessary.</p> | <p>14(1)</p> <p>15(1)</p> |
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The Minister is given power to establish such advisory Boards or Committees as he thinks fit for the purpose of the Act and may appoint any person to or remove any appointee from any such board or committee as he sees fit without assigning any reason therefor. (a) delegate to any such Board or Committee such of his

or her administrative functions as he thinks fit or she ; give direct any such Board or Committee as to the exercise and performance of the functions so delegated and the Board or Committee must comply with such direction; to establish and decide upon suitable locations for hospitals and other publicly operated health facilities. He or she may establish public health infrastructure such as sewers and sewerage works and authorize breaking up of roads, pavements or all other acts required for that purpose.

The Minister may make regulations for the better carrying out of the provisions of this Ordinance including for the treatment and prevention of communicable diseases and the isolation of persons suffering therefrom prevention of overcrowding and measures for ensuring the purity of water supplies, abatement of nuisances control of mosquitoes. Interment of the dead, protection against radiation, environmental pollution and all other matters relating to the improvement and enhancement of public health. For this purpose, the Minister is authorized to by notice require the owner or occupier of dangerous or derelict premises to carry out such works as the Minister deems necessary and in default of such action to carry out such works at the reasonable expense of such owner or occupier. In the event of an outbreak of communicable disease in epidemic proportions the Minister may by Order prohibit the assembly of persons exceeding a stated number and if satisfied that it is in the interest of public health to do so may order the closure of public places in the affected area or in the Territory.

These are necessary powers for the operation of the system of public health in the territory.

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| Nurses and Midwives Act 2020 | <ol style="list-style-type: none"> 1. In the event of the temporary incapacity of a member whether by reason of illness or other sufficient cause or if a member is temporarily absent from the Territory the Minister may appoint some other person to act as a temporary member for so long as the incapacity or absence continues. 2. The Minister may with the approval of Cabinet any by an Order published in the Gazette amend the Schedules in such manner as the Minister considers necessary. | <p>5(3)</p> <p>45(1)</p> |
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The Act establishes a Council to be known as the Nurses and Midwives Council. The Minister is empowered to fill temporary vacancies in the Council and, with the approval of Cabinet to (by Order) amend the Schedules as he or she considers necessary. The schedules contain forms of licences, forms for

application for registration or renewal of licences, , forms for enrollment and certification, list of fees payable, specifications as to nursing or assistive nursing disciplines and so forth. The powers conferred upon the Minister are necessary for the operation of the legislative scheme.

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| Prospect Reef Resort Management Act 2005 | No provisions for discretionary powers by elected public officials | |
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| British Virgin Islands Ports Authority Act 1990 | 1. The Minister responsible for Finance may with the approval of the Legislative Council guarantee in such manner and on such conditions as he thinks fit, the payment of the principal and of interest and other on any borrowings of the Authority under sections 8 and 10. | 9(1) |
| | 2. Where the Government has guaranteed a loan, the Minister responsible for Finance may, from time to time, give general or special directions in writing to the Authority to furnish him with such returns and information with respect to the steps being taken to repay the loan and the Authority shall carry out every such direction. | 9(4) |
| | 3. Where it is made to appear to the Minister responsible for Finance that there is reasonable cause to believe that the Government is or may become liable under any guarantee given under | 9(5) |

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| | <p>this section, the Minister responsible for Finance may give in writing such directions to the Authority to ensure that satisfactory arrangements are made by the Authority to enable it to duly discharge its obligations under this section and the Authority shall comply with such directions.</p> <p>4. For the purposes of making advances to the Authority, the Minister responsible for Finance may authorize advances out of the Consolidated Fund or from the proceeds of any loan to be raised for the purposes of the Authority.</p> <p>5. Where advances are to be met from the proceeds of a loan, the Minister responsible for Finance may, pending the raising of that loan, by warrant under his hand authorize the Accountant- 18 General to make advances out of the Consolidated Fund to the Authority in such sums and on such terms and conditions as he thinks fit.</p> <p>6. Where services are provided by the Authority in any place or places, and the Minister is satisfied of the matters in this section then, subject to the provisions of this section, the</p> | <p>10(3)</p> <p>10(4)</p> <p>14(1)</p> |
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| | <p>Minister may from time to time with the concurrence of the Minister responsible for Finance undertake to make grants to the Authority in respect of the provision of the required service during that period not exceeding three years at a time as the Minister may think fit.</p> <p>7. The aggregate amount payable by way of grants in pursuance of an undertaking under subsection (1) shall be the 20 amount by which it is estimated, on such basis and in such manner as the Minister, with the concurrence of the Minister responsible for Finance and after consultation with the Authority may determine, that the expenditure properly attributable to the provision of the required service will exceed the revenue properly so attributable.</p> <p>8. The Minister may give the Authority general directions in writing as to the performance of its powers under this Act on matters which appear to him to affect the public interest and the Authority shall give effect to such directions.</p> <p>9. The Minister may, from time to time, direct the Authority to furnish to</p> | <p>14(2)</p> <p>19(1)</p> <p>19(2)</p> |
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| | <p>him, in such form as he may require, returns, accounts and other information with respect to its property and business, and the Authority shall carry out every such direction.</p> <p>10. The Minister may by order amend the Second Schedule by extending the limits of an existing harbour or by adding thereto or deleting therefrom any harbour.</p> <p>11. Notwithstanding anything contained in the Regulations, the Minister with the approval of the Governor in Council, may order the removal of any foreign vessel, or seaplane from the territorial waters and may specify the time limit within which the removal is to be effected.</p> <p>12. In specifying the time limit referred to in subsection (1), the Minister may take due account of any limitations of the vessel, sea-plane and of the crew.</p> <p>13. In the case of a failure to comply with any order given under subsection (1) the Minister is satisfied that it is urgent and necessary and in the public interest or for the protection of the marine environment so to do, he may, without prejudice to any proceedings being</p> | <p></p> <p>23(2)</p> <p>25(1)</p> <p>25(2)</p> <p>25(5)</p> |
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| | <p>instituted against any person, request the Authority or the Managing Director to take such measure and action as may be reasonable and necessary for the purpose of having the order complied with; and any measure and action taken at the request of the Minister shall be at the risk and expense of the person against whom the order under subsection (1) was directed.</p> <p>14. This section does not apply to a vessel in distress in the territorial waters, if the vessel is removed by the owner or person in charge of it within such period of time as the Minister considers reasonable.</p> <p>15. The Minister may, after hearing an appeal, either himself or by some person assigned by him for the purpose, affirm, vary or reverse the decision of the Authority but, before varying any decision of the Authority in such a way as to be detrimental to the pilot, the Minister shall give the pilot an opportunity to be heard.</p> <p>16. The Minister may make Regulations in respect of matters required by this Act to be prescribed or in respect of which regulations are authorised to be made</p> | <p>25(6)</p> <p>67(3)</p> <p>94(1)</p> |
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| | <p>and in particular in respect of all or any of the matters provided for in this section.</p> <p>17. If any difficulty arises with respect to any of the provisions of this Act, the Minister may, within one year from the commencement of the Act, make such order as he considers necessary to remove the difficulty and such order may modify the provisions of this Act so far as may appear to the Minister to be necessary or expedient for removing the difficulty.</p> | <p>99(6)</p> |
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The Minister has the task of overseeing the operation of the Port Authority, and in furtherance of that function may give the Authority general directions in writing as to the performance of its powers under the Act on matters which appear to him or her to affect the public interest, He or she is entitled from time to time, direct the Authority to furnish to him, in such form as he may require, returns, accounts and other information with respect to its property and business,

Provision is made for Government financing of the Authority in that the Minister of Finance is given power to authorise advances to the Authority out of the Consolidated Fund or from the proceeds of any loan to be raised for the purposes of the Authority. In such a case the Minister may, with the concurrence of the Minister of Finance advance monies to the Authority pending the raising of that loan. Further provision is made for the Minister of Finance (with the approval of the Legislative Council) to guarantee the repayment monies borrowed by the Authority and interest thereon; for the Minister of Finance to require returns and information with respect to the steps being taken to repay the loan, and where he or she has reason to believe that that the Government is or may become liable under any guarantee, to give written directions to the Authority with a view to ensuring that it is making satisfactory arrangements to discharge its obligation.

The Minister is further empowered from time to time with the concurrence of the Minister responsible for Finance to undertake to make grants to the Authority in respect of the provision of unremunerative services performed for the public benefit and may with the concurrence of the Minister of Finance and after consultation with the Authority determine the aggregate amount payable by way of grants in such cases.

The minister also has power to deal with environmental or other hazards caused by vessels in the territorial waters. Thus he or she may, with the approval of the Governor in Council, order the removal of any foreign vessel, or seaplane from the territorial waters and may specify the time limit within which the removal is to be effected and in default of compliance may request the Authority or Managing Director to take necessary action

The Minister is given a measure of discretion with regard to the disciplinary control of pilots. If satisfied after inquiry into the conduct of a pilot that misconduct, failure, neglect or incompetence on the pilot's part has been shown, the Authority may suspend or cancel the pilot's licence. In that event the Minister may, after hearing an appeal, either himself or by some person assigned by him for the purpose, affirm, vary or reverse the decision of the Authority.

The above powers and discretions are necessary for the functioning of the Authority and the legislative scheme and are not overly broad.

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| British Virgin Islands Ports Authority (Amendment) Regulations 2020 | No provisions for discretionary powers by elected public officials | |
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