

No. 5 of 1993 British Virgin Islands
 Community College
 (Amendment) Act, 1993

I Assent
Peter A. Penfold
Governor
7th October, 1993

VIRGIN ISLANDS

No. 5 of 1993

An Act to amend the British Virgin Islands Community College Act, 1990.

[Gazetted 21st October, 1993]

ENACTED by the Legislature of the Virgin Islands as follows -

1. This Act may be cited as the British Virgin Islands Community College (Amendment) Act, 1993.

Short title.

2. Subsection (1) of section 3 of the British Virgin Islands Community College Act, 1990 is amended by deleting the words "British Virgin Islands Community College" and substituting therefor the words "H. Lavity Stoutt Community College".

Amendment of section 3 of Act No. 140f1990.

3. Where in any document or in an enactment or instrument (statutory or other) passed or made before the date of commencement of this Act refers to the British Virgin Islands Community College, is to be read as referring, as from that date, to H. Lavity Stoutt Community College.

Reference to British Virgin Islands Community College in any documents etc.

4. This Act shall be deemed to have come into operation on 21st day of December, 1990.

Date of commencement.

Passed the Legislative Council this 27th day of September, 1993.

K.L. FLAX,

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HUGH A. HODGE,
Clerk of the Legislative Council

No. 14 of 1990

VIRGIN ISLANDS

BRITISH VIRGIN ISLANDS
COMMUNITY COLLEGE ACT, 1990

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
2. Interpretation.
3. Establishment of the College.
4. Eligibility.
5. No religious, political or racial test.
6. Establishment of Board.
7. Incorporation.
8. Power to appoint committees.
9. Power to delegate.
10. Protection of the Board and its members.
11. Funds and resources of the Board.
12. Borrowing powers.
13. Guarantee by Minister for Finance of borrowings by Board and repayment of sums issued to meet guarantees.
14. Accounts and audit.
15. Annual report, statement of accounts and estimates.
16. Minutes of Board receivable in evidence.
17. Minister may give directions.
18. Saving of existing agreement of President.

FIRST SCHEDULE

SECOND SCHEDULE

No. 14 of 1990

British Virgin Islands
Community College
Act, 1990

Virgin
Islands

I Assent

J. M. A. Herdman

Governor

21st December, 1990

VIRGIN ISLANDS

No. 14 of 1990

An Act to provide for the establishment of an educational institution to be known as the British Virgin Islands Community College and for matters connected therewith or incidental thereto.

[Gazetted 28th February, 1991]

ENACTED by the Legislature of the Virgin Islands as follows: -

1. This Act may be cited as the British Virgin Islands Community College Act, 1990 and shall come into operation on such date as the Governor may appoint by proclamation published in the Gazette.

Short title and
commence-
ment.

2. In this Act-

"academic term" and "academic year" mean respectively the periods prescribed as such under paragraph 11 (d) of the First Schedule;

Interpreta-
tion.

"the Board" means the Board of Governors of the College established under section 6;

First
Schedule.

"the Chairman" means the Chairman of the Board and "Deputy Chairman" shall be construed accordingly;

"the Minister" means the Minister who is for the time being charged with responsibility for the College;

"the President" means the President of the College;

"the Registrar" means the Registrar of the College.

3. (1) There is hereby established an educational institution to be called the British Virgin Islands Community College (in this Act referred to as "the College").

(2) The aim of the College shall be to provide for a place

Establishment
of the
College.

of education offering instruction in all or any of the following fields of education, that is to say -

- (a) Agriculture;
- (b) Arts and Science and General Studies;
- (c) Health Sciences;
- (d) Marine Studies;
- (e) Hospitality Management;
- (f) Teacher Education and Educational Administration;
- (g) Technical Education and Management Studies,

and in such other fields of education as the Minister may from time to time determine.

4. Men and women shall be eligible for appointment to any office of, or employment under, the Board.

Eligibility.

5. No religious, political or racial test shall be imposed on or required of any person in order to entitle him to be a student of the College or to occupy any position in or on the staff of the College.

No religious, political or racial test.

6. (1) There shall be established for the purposes of the management of the College a body to be called the Board of Governors.

Establishment of Board.

(2) The provisions of the First Schedule shall have effect as to the constitution, functions and procedures of the Board and as to the organisation and staff of the College and otherwise in relation thereto.

First Schedule.

(3) Until the appointment of the Board under subsection (2) is made the first Board of Governors shall consist of the persons whose names are specified in the Second Schedule.

Second Schedule.

(4) The Minister may from time to time by order amend the provisions of the First Schedule.

(5) An order made under subsection (4) shall be published in the Gazette.

7. (1) The Board shall be a body corporate and the provisions of section 21 of the Interpretation Act, 1985 shall apply thereto.

Incorporation. No. 15 of 1985.

(2) The seal of the Board shall be kept in the custody of its Secretary and may be affixed to instruments pursuant to a resolution of the Board and in the presence of the Chairman or Deputy Chairman.

(3) The seal of the Board shall be authenticated by the signature of the Chairman or Deputy Chairman and one other member of the Board.

8. (1) The Academic Committee and the Finance and Development Committees shall be Standing Committees of the Board.

Power to
appoint
committees.

(2) In addition, the Board may appoint a committee of the Board to examine and report to it on any matter arising out of or connected with any of its powers and duties under this Act.

(3) Any such committee appointed pursuant to subsection (1) or (2) shall consist of at least two members of the Board together with such other persons, whether members of the Board or not, whose assistance or advice the Board may desire.

(4) Where persons, not being members of the Board, are members of a Standing Committee or a committee appointed under subsection (2), the Board may with the approval of the Minister, by resolution declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Board.

(5) The Board may by resolution reject the report of any such committee appointed pursuant to subsection (2) or adopt it either wholly, or with such modifications, additions or adaptations as the Board may think fit.

9. Subject to the provisions of this Act, the Board may delegate to any member or committee of the Board the power and authority to carry out on its behalf such duties as the Board may determine provided that the delegation of any such power or authority shall not prevent the Board from itself exercising the power of authority.

Power to
delegate.

10. (1) No act done or proceedings taken under this Act or the First Schedule shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case.

Protection of
the Board and
its members.

(2) No suit or prosecution or other legal proceeding shall lie against any member of the Board, or of any committee thereof, for anything which is in good faith done or purported to be done under this Act.

Funds and resources of the Board.

11. The funds and resources of the Board shall consist of -

- (a) such sums as may be voted for the purposes of the College by the Legislative Council;
- (b) such sums as may be allocated out of the British Virgin Islands College Fund established under the British Virgin Islands College Fund Act, 1989;
- (c) sums borrowed by the Board for the purpose of meeting any of its obligations or discharging its functions;
- (d) such sums as may be received by the Board or the College by way of loans, donations, gifts, or grants from any source, whether in or outside the Territory; and
- (e) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions.

No. 14 of 1989.

Borrowing powers.

12. (1) Subject to the provisions of subsection (2), the Board may borrow sums required by it for meeting any of its obligations or discharging any of its functions. ;:

(2) The power of the Board to borrow shall be exercisable only with the approval of the Minister in charge of the subject of Finance as to the amount, the source of the borrowing and the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of subsection (2) may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Guarantee by Minister for Finance of borrowings by Board and repayment of sums issued to meet guarantees.

13. (1) 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.

(2) Where the Minister in charge of the subject of Finance is satisfied that there has been default in the repayment of any principal moneys or payment of interest guaranteed under the provisions of this section he shall direct the repayment or payment as the case may be out of the Consolidated Fund of the amount in respect of which there has been such default.

(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 issued in

fulfillment 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.

14. (1) The Board shall keep accounts of its transactions to the satisfaction of the Minister in charge of the subject of Finance and such accounts shall be audited annually by the Auditor.

Accounts and audit.

(2) The members, officers and servants of the Board shall grant to the Auditor or to any public officer on the staff of the Audit Department access to all books, documents, moneys and property of the Board and shall give him or such officer on request all such information as may be within their knowledge in relation to the operation of the Board.

(3) If any person fails or refuses to comply with any request of the Auditor or any member of the staff of his Department made pursuant to subsection (2) or otherwise impedes or obstructs any of them in the exercise of his functions under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars.

(4) In this Act "Auditor" means the person appointed under section 3 (1) of the Audit Ordinance, 1971.

No. II of 1971.

15. (1) The Board shall submit to the Minister-

(a) 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;

Annual report, statement of accounts and estimates.

(b) on or before 1 st July in each year, a statement of its accounts audited in accordance with the provisions of section 14, for the financial year ending in such year;

(c) on or before 30th September in each year, its estimates of revenue and expenditure for the College in respect of the next financial year, for the approval of the Minister.

(2) Copies of the reports and statements mentioned in subsections (1) (a) and (1) (b) together with the Auditor's reports thereon shall be laid on the table of the Legislative Council.

16. Minutes made of meetings of the Board shall, if duly signed by the Chairman or Deputy Chairman, be receivable in evidence in all legal proceedings without further proof and every meeting of the Board in respect of which minutes have been so signed shall be deemed to have been duly convened and held and

Minutes of Board receivable in evidence.

all members present thereat to have been duly qualified to act.

Minister may
give
directions.

17. (1) 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,

(2) Where the directions issued under subsection (1) are of an academic nature, the Minister shall not, except on the advice of the Board, give such directions.

Savings of
existing
agreement of
President.

18. On and after the commencement of this Act, the agreement entered on 1st December, 1989, between the Board of Governors of the British Virgin Islands Community College and Dr. Theodore Provo, the person appointed as the President of the College, and in force at the commencement shall be deemed to be an appointment made under paragraph 14 of the First Schedule, for the unexpired term of the agreement, as at the commencement, on the terms and conditions contained in the agreement.

FIRST SCHEDULE (Section 6 (2))

**PROVISIONS HAVING EFFECT AS TO THE
CONSTITUTION, FUNCTIONS AND PROCEDURE OF
THE BOARD AND AS TO THE ORGANISATION AND
STAFF OF THE COLLEGE**

1. (1) The Board shall consist of a Chairman, a Deputy Chairman and not less than twelve members to be appointed by the Minister from among persons of proven capacity in matters relating to the aim of the College as set out in section 3 and who are likely to contribute to the furtherance thereof.

Constitution of the Board.

(2) The Registrar shall be the Secretary of the Board but without the right to vote at meetings of the Board.

2. 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.

Temporary membership.

3. (1) A member of the Board shall hold office for three years, but shall be eligible for reappointment.

Duration and termination of membership.

(2) The Minister may, if he thinks it expedient, revoke the appointment of any member of the Board.

(3) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

(4) A member of the Board, other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Board.

4. No member of the Board may be appointed to any office of, or employment under, the Board.

A member not to hold employment under the Board.

5. (1) The Board shall meet at least twice a year and at such other times as may be necessary or expedient for the transaction of its business and such meetings shall be held of its business and such meetings shall be held at such places and times and on such dates as the Board may determine.

Meetings.

(2) The Chairman may at any time summon a meeting of the Board and shall summon a meeting within seven days -

- (a) of a request for that purpose addressed to him by any seven members of the Board; or
- (b) of a direction to that effect addressed to him by the Minister.

(3) The Chairman, or in his absence the Deputy Chairman, shall preside at a meeting of the Board.

(4) At any meeting of the Board, in case of the absence of inability to act of both the Chairman and the Deputy Chairman, the members of the Board present shall elect one of their number to preside at that meeting.

(5) The decisions of the Board shall be by a majority of votes of the members present, and in any case in which the voting is equal, the Chairman, or in his absence the Deputy Chairman or other member presiding at that meeting, shall have a casting vote.

Quorum.

6. At any meeting of the Board seven members thereof shall form the quorum.

Minutes.

7. (1) Minutes in proper form of each meeting of the Board shall be kept by the Secretary of the Board and shall be confirmed by the Chairman or Deputy Chairman, as the case may be, as soon as practicable thereafter at a subsequent meeting,

(2) A copy of the minutes of every meeting of the Board shall be submitted to the Minister within fourteen days after such meeting.

Minister to be represented at meeting.

8. The Minister may be represented at any meeting of the Board by any person authorised by him in that behalf and that person may take part in the proceedings at that meeting but shall not vote on any matter.

Functions of the Board.

9. Without prejudice to any other functions conferred or imposed on the Board under this Act, the functions of the Board shall be-

- (a) to deal with the appointment of the President under paragraph 14;
- (b) to determine the salaries, terms and conditions of all employees of the College and of the Board;
- (c) to manage, conduct and supervise the activities of the College;
- (d) to have general supervision of the buildings, premises

and grounds of the College; and

- (e) to inquire into and adjudicate upon disciplinary charges against students or members of the staff of the College.

10. (1) The Board may delegate such of its functions as it thinks expedient for the purpose of effectively transacting the day to day business of the Board to the Chairman, the President or a Committee appointed by the Board.

Delegation of functions.

(2) Nothing contained in sub-paragraph (1) shall authorise the Board to delegate to any person the exercise of any power to make rules or to do any act involving extraordinary expenditure.

11. The Board may, with the approval of the Minister, make rules -

Rules.

- (a) governing the proceedings of the Board and the manner and transaction of its business;
- (b) prescribing the manner in which documents, cheques and instruments of any description shall be signed, executed or kept for the purpose of its functions;
- (c) prescribing for the due custody of moneys forming part of the funds and resources of the Board;
- (d) prescribing the academic years and terms, and the vacations and holidays to be recognised for the purposes of the College;
- (e) providing for the grant and conditions of leave for the President and staff of the College;
- (f) prescribing the subjects of instruction, the relative prominence and value to be assigned to each subject or group of subjects and the extra-curricular activities of the College;
- (g) generally for the exercise of its functions under this Act.

12. (1) The staff of the College shall consist of a President, Vice-President, Registrar, Bursar and such number of Deans, Professors, Senior Tutors, Tutors and other employees as the Board, subject to the approval of the Minister, may from time to time determine.

Staff of the College.

(2) The Vice-President shall perform such functions as may be assigned to him by the President.

Organisation of
the College.

13. The Board may cause the College to be organised in Divisions corresponding as nearly as practicable with the fields of education specified in section 3 (2).

President.

14. (1) The President shall be appointed by the Board with the prior approval of the Minister.

(2) The President shall be the academic and administrative head of the College.

(3) The President may terminate his appointment by giving one complete academic term's notice to the Board.

(4) The President shall not hold any other appointment or engage in any other occupation which in the opinion of the Board is likely to interfere with the performance of his functions under this Schedule or is prejudicial to the welfare of the College.

Dismissal of
President.

15. The President may, with the prior approval of the Minister, be dismissed by the Board subject to the following conditions -

(a) the President shall be given due notice that his dismissal is under consideration together with a statement of the charges alleged against him; and

(b) the President shall be given an opportunity to defend himself against any such charges.

Functions of
President.

16. Without prejudice to any other functions conferred or imposed upon him under the provisions of this Schedule, the President shall be responsible for-

(a) the implementation of policy pursuant to section 17;

(b) the operation, administration, supervision, maintenance and promotion of the College programmes, as well as for the introduction of such measures, mechanisms and procedures as are necessary for the effective discharge of these functions;

(c) the provision of leadership in matters relating to the curriculum of the College;

(d) the promotion of the interests of the College within and outside the Territory; and

(e) exercising such other powers conferred on, or duties delegated to, him by the Board in accordance with this Act.

17. (1) The Vice-President, Registrar, Bursar, and such number of Deans, Professors, Senior Tutors and Tutors (hereinafter referred to as the teaching staff) shall be appointed by the Board.

Appointment of teaching staff.

(2) On first appointment a member of the teaching staff shall be required to serve a probationary period of one year unless the Board dispenses with the requirement to serve a probationary period.

(3) Where a member of the teaching staff is appointed in the first instance for a probationary period, the Board at the expiration thereof, may, on the recommendation of the President, appoint him to a post on the permanent staff of the College.

(4) The appointment to the permanent staff of the College of any member of the teaching staff who was in the first instance appointed for a probationary period, shall be deemed to have taken effect from the date of his appointment on probation.

(5) The appointment of a member of the teaching staff who is serving the probationary period mentioned in sub-paragraph (2) may be terminated by one month's notice given by the card to such member or by such member to the Board.

(6) A notice given under sub-paragraph (5) shall be transmitted through the President.

(7) A member of the teaching staff who is employed by the Board on a whole-time basis shall not hold any other appointment or engage in any other occupation which in the opinion of the Board may interfere with the proper performance of his duties as such member of the teaching staff or is prejudicial to the welfare of the College.

18. (1) A member of the teaching staff may be suspended by the President for -

Discipline.

- (a) gross neglect of duty; or
- (b) misconduct calculated to injure the reputation of the College.

(2) The President shall forthwith upon any such suspension report the same and the circumstances thereof in writing to the Chairman who shall within seven days of the receipt by him of the President's report summon a meeting of the Board to inquire into and adjudicate upon the matter.

Dismissal of a member of the teaching staff

19. Notwithstanding the provisions of paragraph 18 the Board may dismiss any member of the teaching staff appointed to a post on the permanent staff of the College subject to the following conditions -

- (a) such member shall be given due notice that his dismissal is under consideration together with a statement of the charges alleged against him;
- (b) such member shall be given an opportunity to defend himself against any such charges.

Termination in respect of appointment under contract.

20. Notwithstanding the provisions of paragraphs 14 (3) and 17 (5), where the President or any member of the teaching staff is appointed and employed under written contract of service the terms of such contract in relation to the termination thereof shall have effect in substitution for the provisions of those paragraphs.

SECOND SCHEDULE

(Section 6 (3))

FIRST BOARD OF GOVERNORS OF THE COLLEGE

Hon. H. Lavity Stoutt
Dr. Ralph Blocksma
Dr. Gordon Campbell
Mr. James Duffy
Mr. Derek Dunlop
Hon. Merwyn Dyrnally
Dr. Nolen Ellison
Mr. Elton Georges
Mr. Lester Hyman
Dr. Henry Jarecki
Mr. Christopher Lloyd
Mr. Albert Paiewonsky
Miss Myrtle Reese
Mr. Elihu Rhymer
Mr. Christopher Smeets
Mrs. Romalia Smith
Mrs. Gracia Stevens
Dr. Joel Stevens
Mr. Charles Tobias
Mr. McWelling Todman
Mr. Elroy Turnbull
Miss L. Adorothy Turnbull
Dr. John Wallace
Hon. Cyril Louis Walters
Mr. Charles H. Wheatley
Hon. Ralph T. O'Neal
Mr. Ralph M. Paiewonsky

Passed the Legislative Council this 14th day of December, 1990.

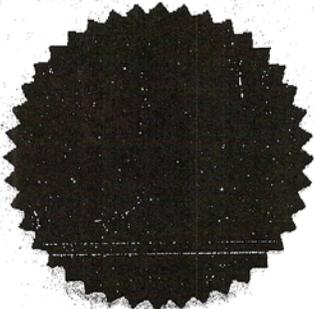
K.L. FLAX,
Speaker.

HUGH A. HODGE,
Clerk of the Legislative Council.

No. 5 of 1993

British Virgin Islands
Community College (Amendment)
Act, 1993

Virgin
Islands



I Assent

Governor

7th October, 1993

PETER A. PENNY

VIRGIN ISLANDS

No. 5 of 1993

A Bill entitled

An Act to amend the British Virgin
Islands Community College Act, 1990.

[Gazetted 21st October, 1993]

ENACTED by the Legislature of the Virgin
Islands as follows: -

Short title.

1. This Act may be cited as the British
Virgin Islands Community College (Amendment)
Act, 1993.

Amendment of
section 3 of
Act No. 14 of
1990.

2. Subsection (1) of section 3 of the
British Virgin Islands Community College Act,
1990 is amended by deleting the words
"British Virgin Islands Community College"
and substituting therefor the words
"H. Lavity Stoutt Community College".

Reference
to British
Virgin
Islands
Community
College in
any documents
etc.

3. Where in any document or in an enactment
or instrument (statutory or other) passed or
made before the date of commencement of this
Act refers to the British Virgin Islands
Community College, is to be read as
referring, as from that date, to
H. Lavity Stoutt Community College.

Date of
commencement.

4. This Act shall be deemed to have come
into operation on 21st day of December, 1990.

Passed by the Legislative Council this
27th day of September, 1993.

K. L. Flax
Speaker

Hugh A. Hodge
Clerk of the Legislative Council

